

TITLE 14. UTILITIES

CHAPTER 14-200. SEWERS AND WASTEWATER TREATMENT.

Part 14-210. Administration.

14-211. Power to Promulgate Ordinances, Rules, and Regulations. The City Council shall have power to and retains the right to adopt regulations controlling the manner and circumstances under which the sewer system may be used in addition to the regulatory provisions set forth expressly in this Chapter.

14-212. Sewer Collection Department and Wastewater Treatment Plant (WWTP) Department . The Sewer Collection Department and Wastewater Treatment Plant Department is hereby created. It shall administer the operation and maintenance of the sewer collection system and wastewater treatment plant of the City.

14-213. Sewer System and Wastewater Treatment Plant (WWTP). The Tremonton City Sewer Collection System and Wastewater Treatment Plant shall include, respectively, all of the property, equipment and personnel necessary to the maintenance and operation of the City's sewer collection and wastewater treatment. The respective Department shall administer the operation and maintenance of the City sewer collection system and wastewater treatment plant.

(1) **Ownership of Connecting Lines.** Unless provision is expressly made for ownership of mains or lines by owner of the adjacent property by means of a written agreement, all lines and mains connecting the sewer collection system to a land owner or resident's premises which are situated on the public way between the main and the property line shall be deemed to be the property of Tremonton City and subject to its absolute control and supervision even though actual installation may have been performed by the owner or resident of the premises.

(2) **Permits for Installations.** It shall be unlawful for any person to directly or indirectly engage in the laying, repairing, altering or connecting of any drain or sewer pipe connected with or part of the City sewer collection system without first having received a permit from the Public Works Director or their designee.

(3) **Trial Sewer Survey.** In order to determine the feasibility of connecting a basement or proposed basement to the sewer collection system, the owner or plumber may make an application for a trial sewer survey, the cost of which shall be as established from time to time by Resolution of the City Council. The result of a trial sewer survey shall not constitute a permit to connect to the sewer and is merely for information purposes.

(4) **Qualified Plumbing Necessary.** It shall be unlawful for any person to connect any drain or sewer pipe with the City sewer collection system unless the person is a duly licensed plumber or unless, in the absence of a duly licensed plumber a licensed contractor which is approved by the Public Works Director or their designee. After such approval, the installation or work done shall be subject to inspection by the Public Works Director or their designee.

(5) **Revocation of Permits.** All construction permits for sewer connections or installations shall be issued to the plumber who is to do the work or in the absence of a duly licensed plumber, a licensed contractor which is approved by Public Works Director or their designee. All work is, subject to the supervision and inspection by the Public Works Director or their designee. The Public Works Director or their designee may at any time revoke a permit because of defective work or because of undue delay in completing the permitted work.

(6) **When Permits Shall Not Be Issued.** Permits to connect to the City sewer collection system shall not be issued unless the plumbing in the house or building to be connected is in accordance with the provisions of the Building and Plumbing Codes of the City.

(7) **Pipes to Be Kept in Good Repair.** All users of the sewer collection services shall keep their service pipes, connections, and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the Public Works Director or their designee, shall be allowed to dig into the street for the purpose of removing or repairing any sewer service pipe or main.

(8) **Quality of Service Pipe.** All service and other pipes used in conjunction with the sewer collection services of the City shall be of such material, quality and specifications defined in the City's Land Use Code or as required by the Public Works Director or City Engineer and shall be installed at such distances below ground as may be specified by regulations relating to the Sewer Department. All work, alterations or extensions affecting sewer pipes shall be subject to the acceptance of the Public Works Director or their

designee.

(9) Sewer Manholes. It shall be unlawful for any person to open any sewer manhole without permission from the Public Works Director or their designee. It shall be unlawful for any person to discharge any substance directly into a sewer manhole with the expressed permission of the Public Works Director or their designee.

(10) Department to Have Free Access. The Public Works Director or their designee and his agents shall at all ordinary hours or at any time during an emergency event have free access to places supplied with sewer collection services from the City system for the purpose of examining the apparatus, ascertaining the sewer collection service being used and the manner of its use.

Part 14-220. Billing for Sewer Service.

14-221. Application for Sewer Collection Service.

Any person who desires or is required to secure new sewer connection to or sewer service from the City's sewer collection system, shall file the with City for each such connection a written and signed application, as authorized by Utah Code Annotated § 10-7-10.5, on forms prepared and by either the City Manager, Public Works Director, or City Treasurer and approved by the City Attorney.

14-222. Rates and Connection Fees. The rates, penalty fee for delinquency in payment and connection fees for sewer collection services and wastewater treatment services shall be fixed from time to time as contained in the City's Consolidated Fee Schedule adopted by Resolution of the City Council.

14-223. Billing Process. The billing process for the Sewer Collection Services and Wastewater Treatment Services shall be the same as contained in Chapter 14 Water.

14-224. Board of Equalization on Sewer Collection and Wastewater Billing.

The Public Works Director, City Manager, and City Treasurer are hereby constituted a Board of Equalization of sewer collection and wastewater treatment bills to hear complaints and make corrections of any assessments or charges deemed to be illegal, unequal, or unjust. Aggrieved individuals may appeal the Board of Equalization's decision to the Mayor who shall hear the complaint as de novo (meaning starting from the beginning: a new). After hearing the complaint the Mayor shall determine if the sewer collection and wastewater treatment billed was

illegal, unequal, or unjust and shall reduce or rebate the sewer collection and wastewater treatment bill accordingly. The Mayor is also granted discretion to consider additional factors in the complaint on a case by case basis and may pardon an individual use of sewer collection and wastewater treatment and reduce or rebate their bill. The Mayor's decision shall be final.

Part 14-230. Regulation and Control of Sewer.

14-231. Prohibited Uses.

(1) Inflammables. It shall be unlawful for any person to injure, break or remove any part or portion of any sewer appliance or appurtenance, or to discharge into a sewer any inflammable gas, gasoline or oil, any calcium carbide or residue therefrom, or any liquid or other materials or substance which will emit an inflammable gas when in contact with water, sewage or fire. Oil separators installed in any building where volatile fluids are used shall not be connected directly or indirectly with a sewer.

(2) Waste Pipes from Enumerated Establishments. The contents of waste pipes from water filters, gas engines, air compressors, vacuum or dry cleaners, garages, wash racks, stores or warehouses containing inflammable substances, car barns, buildings for the stabling or keeping of horses, cows and other animals, or plants using milk or processing milk products, and all similar establishments shall not be disposed of through connection with a sanitary sewer unless such contents are discharged into settling tanks properly trapped and vented. The construction of such tanks must be approved by the Public Works Director or their designee, and shall be subject to their inspection, approval, or condemnation before cement is poured and at all times thereafter until completion of such construction. Upon condemnation by the Public Works Director or their designee, the sewage from the tanks shall not be allowed to flow into the City's sewer collection system until satisfactory alterations have been made and the construction approved by the Public Works Director or their designee.

(3) Obstructive Material. It shall be unlawful for any person to empty or discharge into the City's sewer collection system any garbage, refuse or other similar matter or substance likely to obstruct the sewer, or any substance, solid or liquid, other than the waste products for which the sewer is provided.

(4) Drainage Waters and Destructive Materials. It shall be unlawful for any person to connect to the City's sewer collection system any drain or pipe which discharges rain water, cellar or surface water,

acids, alkalis, lye or other injurious liquids, or the contents of any spring, flowing well, creek, ditch, or other water courses. No boiler or heating plant shall be directly connected to the City's sewer collection.

14-232. Use of Sewer System Mandatory. It shall be unlawful for the owner or other person having charge of or occupying any real property, with any building used for human occupancy on it and with any part of the property line of which is within three hundred feet (300') of a public sewer then in existence and used in the City, to construct or permit to be constructed or to use, or to permit to be used, any privy vault, septic tank or cesspool connection with such building. Each such owner or other person shall, within sixty (60) days after having been given notice by the City that public sewer is available within three hundred feet (300') of such property line and ready to receive connections, cause such building to be connected with said sewer and it shall thereafter be unlawful for such owner or other person to have the plumbing in such building remain unconnected to the public sewer or to maintain or use or permit to exist any privy vault, septic tank or cesspool to which said building is connected or which is used by the occupant thereof. Whenever public sewer is available to receive connections therewith, the Public Works Director or their designee shall cause appropriate notice to be served upon the owner, agent, or other person having charge of or occupying all property coming within scope of this section, that said public sewer is ready to receive connections therewith and then all plumbing must be connected with such sewer.

TREMONTON CITY INDUSTRIAL WASTEWATER/PRETREATMENT REGULATIONS

Part 14-250. Tremonton City Industrial Wastewater/ Pretreatment Regulations.

14-251. General Provisions.

(1) Purpose and Policy. This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the Tremonton City and enables Tremonton City to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 *et seq.*), the General Pretreatment Regulations found in the U.S. Code of Federal Regulations (CFR) 40 CFR Part 403, and the Utah Administrative Code R317-8-8. The objectives of this ordinance are:

(a) To prevent the introduction of pollutants into the POTW that will interfere

with the operation of the POTW;

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

(c) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations found in 40 CFR Part 503;

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

(e) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

(f) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and

(g) To enable Tremonton City to comply with its Utah Pollution Discharge Elimination System Permit (UPDES) conditions, sludge use and disposal permit conditions and any other Federal or State laws to which the POTW is subject.

This ordinance shall apply to all significant industrial users of the POTW, and to such other users as required herein or as determined by the PWD, the City Engineer, State Officials and/or Federal Officials, as the case may be. This ordinance authorizes issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Administration. Except as otherwise provided herein, the Public Works Director (heretofore and hereafter "PWD") shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the PWD may be delegated by the PWD to other Governing Agency personnel.

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

(a) Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

(b) Approval Authority. The Executive Secretary of the Water Quality Board as the authorized agent for the State of Utah, which has an approved State Pretreatment Program, or his designee.

(c) Authorized Representative of the Industrial User or Authorized Representative.

(i) If the Industrial User is a corporation, Authorized Representative shall mean:

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

(B) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) If the Industrial User is a partnership, or sole proprietorship, an Authorized Representative shall mean a general partner or proprietor, respectively;

(iii) If the Industrial User is a Federal, State or local governmental facility, an Authorized Representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the collection and treatment of wastewater activities of the government facility, or his/her designee;

(iv) The individuals described in paragraphs 1-3 above may designate another authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Tremonton City Recorder.

(d) Biochemical Oxygen Demand (BOD).

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of mass and concentration [milligrams per liter (mg/l)]. This test must be performed in accordance with approved procedures found in 40 CFR Part 136.

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

(f) Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

(g) Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, to minimize the effect or the variability of the individual samples. This sampling should be in accordance with 40 CFR Part 403 Appendix E Subpart I - Composite Method.

(h) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.

(i) Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical Pretreatment Standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(j) Tremonton City, Box Elder County, Utah. The official name of the Governing Agency, which operates under the direction of the Tremonton City Council.

(k) Grab Sample. A sample which is taken from a waste stream on a one-time basis, over 15 minutes or less, without regard to the flow in the waste stream and without consideration of time. This sampling should be in accordance with 40 CFR Part 403

Appendix E Subpart II - Grab Method.

(l) Indirect Discharge (Discharge). The introduction of pollutants into the POTW from any non-domestic source regulated by the UPDES program and/or the U.S. Water Quality Act 307 B, C, and D.

(m) Industrial User (User). A source of Indirect Discharge.

(n) Instantaneous Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample collected.

(o) Interference. A Discharge which, alone or in conjunction with a Discharge or Discharges from other sources both: 1) inhibits or disrupts the POTW and 2) causes a violation of Tremonton City's UPDES permit or prevents sewage sludge use or disposal in compliance with any of the following statutory/state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); 40 CFR Part 503 governing the use and disposal of sewage sludge; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(p) Medical Waste. Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(q) New Source.

(i) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(A) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility or installation totally replaces the

process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(ii) Construction on a site at which an Existing Source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (i)(B) or (iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a new source as defined has commenced if the owner or operator has begun, or caused to begin as part of a continuous on site construction program

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(C) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(r) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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

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

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

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

(w) Pretreatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes, or any other means, except as prohibited by 40 CFR 403.6(d).

(x) Pretreatment Requirements: Any substantive or procedural requirement related to Pretreatment imposed on an Industrial User, other than a National Pretreatment Standard.

(y) Pretreatment Standards or Standards. Pretreatment Standards shall mean Categorical Pretreatment Standards, State Pretreatment requirements, and Local Limits established by the Tremonton City Council.

(z) Prohibited Discharge Standards or Prohibited Discharges. Absolute

prohibitions against the discharge of certain substances or wastewater characteristics; these prohibitions appear in Section 14-252(1) of this ordinance.

(aa) Publicly Owned Treatment Works (POTW). A treatment works which is owned by the State, a municipality, or other political subdivision of the State. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal/domestic sewage or industrial wastes of a liquid nature discharged into the stated system. Also included are any conveyances, such as pipelines, conduits or channels which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the Indirect Dischargers to such a system and the discharges from the treatment works.

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

(cc) Sewage. Human excrement and gray water (household showers, dish washing operations, etc.)

(dd) Significant Industrial User. Shall apply to: a) Industrial Users subject to Categorical Pretreatment Standards; and b) any other Industrial User that i) discharges an average of 25,000 gpd or more of process wastewater(excludes sanitary, noncontact cooling and boiler blowdown wastewater, ii) contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment Plant or, iii) is designated as significant by Tremonton City 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.

(ee) Slug Load/Discharge. Any discharge at a flow rate or concentration which could cause a violation of the Prohibited Discharge Standards in 14-252 of this ordinance or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

(ff) Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

(gg) Storm Water. Any flow which occurs during, or following any form of natural

precipitation, and results from such an event, including snow melt.

(hh) Public Works Director (PWD). The person designated by Tremonton City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance or his duly authorized representative.

(ii) Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

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

(kk) Treatment plant effluent. Any discharge from the POTW into waters of the State of Utah.

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

(mm) Wastewater Treatment Plant or Treatment Plant. That portion of the POTW designed to provide treatment including recycling and reclamation of sewage and industrial waste.

Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(4) Abbreviations. The following abbreviations shall have the designated meanings. Some of the abbreviations are included in the definition section but are repeated here for the sake of clarity.

BOD	-	Biochemical Oxygen Demand
CFR	-	Code of Federal Regulations
COD	-	Chemical Oxygen Demand
EPA	-	U.S. Environmental Protection Agency
gpd	-	Gallons Per Day
L	-	Liter
mg	-	Milligrams
mg/l	-	Milligrams Per Liter
NPDES	-	National Pollutant Discharge Elimination System or the Utah Pollutant Discharge Elimination System

O&M	-	Operation and Maintenance
POTW	-	Publicly Owned Treatment Works
RCRA	-	Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classification
SWDA	-	Solid Waste Disposal Act (42 U.S.C. 6901, <i>et seq.</i>)
TSS	-	Total Suspended Solids
USC	-	United States Code

14-252. General POTW Use Requirements

(1) Prohibited Discharge Standards. No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not the source is subject to categorical Pretreatment Standards or any other National, State or local Pretreatment Standards or requirement. Furthermore, no user may contribute the following substances to the POTW:

(a) Pollutants which create a fire or explosive hazard in the POTW system, including, but not limited to waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21. At no time shall two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

(b) Any pollutants which will cause, but in no case discharges with a pH of less than 5.0 or more than 10.0, corrosive structural damage to the POTW or equipment, or endangering Tremonton City personnel unless the POTW is specifically designed to accommodate such discharges.

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch (0.5") or 1.27 centimeter(s) (1.27 cm) in any dimension.

(d) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

(e) Any wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case heat in such quantity that it causes the temperature at the treatment plant to

exceed 104°F (40°C). This temperature will be determined by the PWD, based on flow and location of the facility to the POTW.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute or chronic worker health and safety problems.

(h) Any trucked or hauled pollutants, except at discharge points designated by Tremonton City in accordance with Section 14-253(5).

(i) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.

(j) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating Tremonton City's UPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) percent from the seasonably established norm for aquatic life.

(k) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the PWD in compliance with applicable State or Federal regulations.

(l) Storm water, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the PWD.

(m) Any sludges, screening, or other residues from the pretreatment of industrial wastes.

(n) Any medical wastes, except as specifically authorized by the PWD in a wastewater discharge permit.

(o) Any wastewater causing the treatment plant effluent to fail a toxicity test.

(p) Any wastes containing detergents, surface active agents, or other substances

which may cause excessive foaming in the POTW.

(q) Any discharge of fats, oils, or greases of animal or vegetable origin is limited to 100 mg/l.

Pollutants prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW. If the industrial user storing the specified pollutant does not have a pretreatment facility, the floor drain shall be either plugged with concrete or valved. The valve shall be locked closed at all times and opened only with permission from the Tremonton City.

(2) Categorical Pretreatment Standards. The national categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(3) State Pretreatment Requirements. State of Utah Pretreatment Standards contained in the Utah Administrative Code R317-8-8 are hereby incorporated.

(4) Tremonton City Local Limits. The following pollutant limits, as necessary, shall be established as a part of the program on an individual basis, as approved by the State, for each applicant to protect against pass through and interference. The established limits may be for some or all of the stated pollutants and limits for pollutants not listed may also be included in the local permit.

<u>Grab Sample Limit</u>	<u>Composite Sample Limit</u>
0.63 mg/l arsenic	0.25
0.75 mg/l BETX	0.75
300 mg/l BOD ₅	300
0.25 mg/l cadmium	0.10
0.63 mg/l chromium (total)	0.25
2.50 mg/l copper	1.00
0.63 mg/l cyanide	0.25
1.08 mg/l lead	0.43
0.063 mg/l mercury	0.025
0.25 mg/l molybdenum	0.10
2.50 mg/l nickel	1.00
100 mg/l oil and grease	100
0.25 mg/l silver	0.10
300 mg/l total suspended solids	300
3.80 mg/l zinc	1.50

Local limits apply at the point where the indirect discharge is introduced to the POTW before mixing with other wastewaters. All concentrations for metallic substances are for "total" metal unless

indicated otherwise. In addition to, or in place of, concentration based limitations, the PWD may impose mass limitations.

(5) Tremonton City's Right of Revision. Tremonton City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 14-251(1) or this ordinance or the general and specific prohibitions in Section 14-252(1) of this ordinance.

(6) Special Agreement. Tremonton City reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a Pretreatment Standard or requirement. However, the industrial user may request a net gross adjustment of a categorical standard in accordance with 40 CFR 403.15. They may also request, from EPA, a variance from the categorical Pretreatment Standard. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that particular Pretreatment Standard. An industrial user requesting a variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

(7) Dilution. No industrial user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or requirement. The PWD may impose mass limitations on industrial users which are using dilution to meet applicable Pretreatment Standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

14-253. Pretreatment of Wastewater.

(1) Pretreatment Operations.

(a) Industrial users shall provide wastewater treatment as needed to comply with this ordinance, and shall achieve compliance with all the prohibitions stated in Section 14-252 within the time limitations specified by the EPA, the State, or according to compliance schedules as specified by the PWD - whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to Tremonton City for review, and shall be

acceptable to Tremonton City before construction of the facility. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to Tremonton City under the provisions of this ordinance.

(b) The PWD may require industrial users to restrict their discharge during peak flow periods, designate certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate municipal waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and secure the industrial user's compliance with the requirements of this ordinance.

(c) Each person discharging into the POTW greater than ten percent (10%) of the average daily flow in the POTW, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least one hundred percent (100%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the PWD. A wastewater discharge permit may be issued solely for flow equalization.

(d) Grease, oil and sand interceptors shall be provided when, in the opinion of the PWD, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interceptor units shall be of type and capacity approved by the PWD and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected and cleaned annually or more often, if necessary, and as needed, by the owner at his expense, and proof of such inspection and cleaning shall be provided to the PWD within fifteen (15) days of completion.

(e) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(f) At no time shall two readings on an explosion hazard meter at the point of

discharge into the POTW, or at any point in the POTW, be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

(2) Slug Load Control Plans. The PWD may require any industrial user to develop and implement a slug control plan. At least once every two (2) years the PWD shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement a slug control plan shall submit a plan which addresses, at a minimum, the following:

- (a) Description of discharge practices, including nonroutine batch discharges.
- (b). Type and quantity of stored chemicals.
- (c) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which could violate any of the Prohibited Discharge Standards in 14-252 of this ordinance.
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to:
 - Inspection and maintenance of storage areas,
 - Handling and transfer of materials, loading and unloading operations,
 - Control of plant site run-off,
 - Worker training,
 - Building of containment structures or equipment,
 - Measures for containing toxic organic pollutants (including solvents), and/or
 - Measures and equipment for emergency response.

(3) Tenant Responsibility. Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

(4) Hauled Wastewater.

(a) Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the PWD, provided such wastes do not violate 14-252 of this ordinance or any other requirements established or adopted by Tremonton City. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the PWD.

(b) The discharge of hauled industrial wastes as "industrial septage" requires prior

approval and a hauler wastewater discharge permit from Tremonton City. The PWD shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation or violate 14-252 of this ordinance. Waste haulers are subject to all other sections of this ordinance.

(c) Fees for dumping septage will be established as part of the industrial user fee system as authorized in 14-265.

(5) Vandalism. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in 14-260 – 14-262, below.

14-254. Wastewater Discharge Permit Application.

(1) Industrial Waste Survey. When requested by the PWD any or all industrial users must submit information on the nature and characteristics of their wastewater by completing a questionnaire and a baseline monitoring report prior to commencing discharge. The PWD is authorized to prepare a form(s) for this purpose and may periodically require industrial users to update the survey or baseline monitoring report. Failure to complete this application questionnaire shall be reasonable grounds for IU permit revocation or terminating service to the industrial user and shall be considered a violation of the ordinance.

(2) Application Questionnaire Contents. The PWD shall approve a form to be used as a permit application. In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the following information:

(a) Identifying Information: The name and address of the facility including the name of the operator and owners.

(b) Hours of Operation: Number and type of employees, hours of operation, either proposed or actual hours.

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

(d) Description of Operations: A description of the activities, facilities and processes on the premises, average rate of production, and standard industrial Classifications of the operation(s) carried out by the industrial user. This description should include a schematic process diagram which indicates all points of discharge to the

POTW from the regulated processes.

(e) Facility Plans: The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(f) Raw Materials: Type and amount of raw materials processes (average and maximum per day) and chemicals used or stored at the facility.

(g) Products: Each product produced by type, amount, process or processes, and rate of production.

(h) Pretreatment Standards: Identify the categorical Pretreatment Standards applicable to each regulated process.

(i) Pollutants: Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by Tremonton City of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with procedures set out in 14-256.

(j) Flow Measurement: Time, duration and quantity of discharge. In addition, measured average daily and maximum daily flow, in gallons per day, to the POTW from each waste stream, as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

(k) Certification: A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis in accordance with subsection (3) below. If not, state whether additional O & M and/or additional pretreatment is required to meet the Pretreatment Standards and requirements.

(l) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

(m) Additional Information: Any other information as may be deemed necessary by

the PWD to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and shall be returned to the industrial user for revision. Should any of the information requested or supplied be considered by the industrial user to be of a confidential nature, the industrial user should request confidential status in accordance with 14-258 of this ordinance.

(3) Certification. All wastewater discharge permit applications and permit required industrial user reports shall contain the following certification statement and be signed by an authorized representative of the industrial user.

"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 people who manage the system, or those people 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."

(4) Public Works Director Evaluation. The PWD will evaluate the data furnished by the industrial user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the PWD will determine whether or not to issue a wastewater discharge permit. The PWD may deny for cause any application for a wastewater discharge permit. The basis for denial shall be provided to the industrial user.

14-255. Wastewater Discharge Permit.

(1) Wastewater Discharge Permit Requirement.

(a) It shall be unlawful for any significant industrial user to discharge wastewater into Tremonton City's POTW without first obtaining a wastewater discharge permit from the PWD. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 14-260 – 14-262. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to

comply with all Federal and State Pretreatment Standards or requirements nor with any other requirements of Federal, State or local law.

(b) Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a categorical determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical Pretreatment Standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to obtain a wastewater discharge permit.

(c) At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical or significant industrial users subsequent to the issuance of this ordinance, shall be required to submit to the Tremonton City an application for a wastewater discharge permit. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable Pretreatment Standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(d) The PWD may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(2) Connections.

(a) Existing: Any significant industrial user which has an indirect discharge into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to Tremonton City for a wastewater discharge permit in accordance with 14-254(2) and (3), and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance, except in accordance with a wastewater discharge permit issued by the PWD.

(b) New: Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin. Tremonton

City has the right to place conditions on new or increased contributions from existing users.

(c) Extrajurisdictional:

(i) Any existing significant industrial user located outside Tremonton City boundaries shall submit a wastewater discharge permit application, in accordance with 14-254(2) and (3), within ninety (90) days of the effective date of this ordinance. New significant industrial users located beyond Tremonton City limits shall submit such applications to the PWD ninety (90) days prior to any proposed discharge into the POTW.

(ii) Alternately, the PWD may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

(3) Contents. Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the PWD to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

(a) Wastewater discharge permits shall contain the following conditions:

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

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from Tremonton City and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(iii) Effluent limits, applicable to the user, based on applicable Federal, State, and local law.

(iv) Self monitoring, sampling, reporting criteria, notification of potential problems and noncompliance, and record keeping and retention requirements. These requirements shall include an identification of pollutants to be monitored, exact sampling location, sampling frequency, resampling conditions and sample type based on

Federal, State, and local law.

(v) Statement of applicable civil, criminal, and administrative penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(vi) A statement that the wastewater discharge permit may be revoked upon violation of the terms and conditions of the permit as stated in 14-255(7).

(vii) A statement that grants the PWD the right of entry into all industrial user properties, facilities, buildings, etc. when wastewater is known or expected to be generated and/or discharged.

(viii) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit.

(b) Wastewater discharge permits may contain, but need not be limited to, the following:

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

(ii) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

(iii) A compliance schedule for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(iv) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.

(v) Development and implementation of waste minimization or pollution prevention plans to reduce the amount of pollutants discharged to the POTW.

(vi) The unit charge or schedule of

industrial user charges and fees for the management of the wastewater discharged to the POTW.

(vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

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

(4) Modification. The PWD may modify the wastewater discharge permit for good cause including, but not limited to, the following:

(a) To incorporate any new or revised Federal, State, or local Pretreatment Standards or requirement

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

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge

(d) Information indicating that the permitted discharge poses a threat to Tremonton City's POTW, Tremonton City personnel, or the receiving waters

(e) Violation of any terms or conditions of the wastewater discharge permit

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting

(g) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13

(h) To correct typographical or other errors in the wastewater discharge permit

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

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(5) Duration.

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

(b) Reissuance: A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with Section 14-254 a minimum of ninety (90) days prior to the expiration of the industrial user's existing wastewater discharge permit.

(c) Transfer: Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least ninety (90) days advance notice to the PWD and the PWD approves the wastewater discharge permit transfer. The notice to the PWD must include a written certification by the new owner and/or operator which:

- (i) States that the new owner and/or operator has no immediate intent to change facility's operations and processes
- (ii) Identifies the specific date on which the transfer is to occur
- (iii) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

(6) Wastewater Discharge Permit Appeals. Any person, including the industrial user, may petition Tremonton City to reconsider the terms of a wastewater discharge permit within ninety (90) days of its issuance.

- (a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (d) If Tremonton City fails to act within ninety (90) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.

(e) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the First Judicial District Court in and for Box Elder County.

(7) Revocation. Wastewater discharge permits may be revoked for the following reasons:

- (a) Failure to notify Tremonton City of significant changes to the wastewater prior to the changed discharge
- (b) Failure to provide prior notification to Tremonton City of changed condition pursuant to 14-256(5)
- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application
- (d) Falsifying self-monitoring reports
- (e) Tampering with monitoring equipment
- (f) Refusing to allow Tremonton City timely access to the facility premises and records
- (g) Failure to meet effluent limitations
- (h) Failure to pay fines
- (i) Failure to pay sewer charges
- (j) Failure to meet compliance schedules
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application
- (l) Failure to provide advance notice of the transfer of a permitted facility
- (m) Violation of any Pretreatment Standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon non-operation of permitted facility, cessation of operations, or transfer of business ownership.

14-256. Reporting Requirements.

- (1) Baseline Monitoring Reports (BMR).
 - (a) The PWD may require the submission of additional, more current BMRs from time to time from an industrial user. Revised BMRs should use historical data where the data provides information sufficient to determine the need for additional industrial pretreatment measures.
 - (b) The BMR shall indicate the time, date, and location of all sampling provided, methods of analysis, and shall certify that the sampling and analysis is representative of the normal work cycles and expected pollutant discharges to the POTW.
 - (c) All baseline monitoring reports must be

signed and certified in accordance with 14-254(3) of this ordinance.

(2) Compliance Schedule Progress Report. The following conditions shall apply to the compliance schedule required by the Wastewater Discharge Permit Application 14-254(2)(l). The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the PWD no later than fourteen (14) days following each date in the schedule, and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the PWD.

(3) Categorical Pretreatment Standard Compliance Report. Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any categorical industrial user subject to such Pretreatment Standards and requirements shall submit to Tremonton City a report containing flow measurement, sampling, and analysis of pollutants regulated in the industrial users wastewater discharge permit. For categorical industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the categorical industrial user's long term production rate. For all other industrial users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with 14-254(3).

(4) Periodic Compliance Report.

(a) Any significant industrial user subject to a Pretreatment Standard shall, at a frequency determined by the PWD but in no case less than twice per year (in June and December), submit a report indicating the

nature and concentration of pollutants in the discharge which are limited by such Pretreatment Standards, the measured or estimated average, and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified accordance with 14-254(3).

(b) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. Failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are not representative of its discharge.

(c) If an industrial user, subject to the reporting requirement in and of this Section, monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in 14-257(2) of this ordinance, the monitoring results shall be included in the report.

(5) Changed Conditions Report. Each industrial user is required to notify the PWD of any planned changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least thirty (30) days before the change.

(a) The PWD may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under 14-254.

(b) The PWD may issue a wastewater discharge permit under 14-254(4) or modify an existing wastewater discharge permit under 14-255(4).

(c) No industrial user shall implement the planned changed condition(s) until and unless the PWD has approved the industrial user's change.

(d) For purposes of this requirement, flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants, shall require a changed condition report.

(6) Slug Discharge Report.

(a) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the

prohibited discharge standards in 14-252(1) of this ordinance), it is the responsibility of the industrial user to immediately telephone and notify the PWD, or his designee of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

(b) Within five (5) days following such discharge, the industrial user shall, unless waived by the PWD, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user or any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.

(c) Failure to notify Tremonton City of potential problem discharges shall be deemed a separate violation of this ordinance.

(d) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

(7) Nonpermitted Industrial Users Reports. All industrial users not subject to categorical Pretreatment Standards, not classified as SIU, and not required to obtain a wastewater discharge permit shall provide appropriate reports to Tremonton City as the PWD may require.

(8) Repeat Sampling Report. If sampling performed by an industrial user indicates a violation, the industrial user must notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis within thirty (30) days after becoming aware of the violation and submit the results of the repeat analysis to the Control Authority. The industrial user is not required to resample if the POTW performs monitoring at the industrial user's at least once a month, or if the POTW performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling.

(9) Hazardous Waste Discharge Notification.

(a) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and the State Department of Environmental Quality, Division of Solid and Hazardous Waste authorities 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. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than ten (10) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, and estimation of the mass and concentration of such constituents in the waste stream discharged during the calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than thirty (30) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Section 14-256(5), above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of sections 14-256(1), (3), and (4), above.

(b) Dischargers are exempt from the requirements of paragraph (a) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the industrial user discharges more than such

quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State Department of Environmental Quality, Division of Solid and Hazardous Waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

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

(10) Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

(11) Record Keeping. Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any enforcement action concerning compliance with this ordinance, or where the industrial user has been specifically notified of a longer retention period by the PWD.

14-257. Compliance Monitoring.

(1) Inspection.

(a) Right to Enter: Tremonton City shall have the right to enter the facilities of any industrial user at reasonable times to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the PWD or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

Where an industrial user has security measures in force which require proper identification and clearance before entry into

its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from Tremonton City, state, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

(b) Search Warrants: If the PWD has been refused access to a building, structure or property or any part thereof, and if the PWD has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the Tremonton City Attorney, the Justice Court Judge of the City or the District Court Judge of Box Elder County shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the PWD or Designee, a Deputy Sheriff or a Tremonton City Police Officer in the company of a uniformed police officer of the City. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

(2) Monitoring.

(a) Sample Collection: Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques. All other wastewater samples shall be collected using flow proportional composite sampling procedures. In the event flow proportional sampling is infeasible, the PWD may authorize the use of time proportional sampling, or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Monitoring Equipment: Tremonton City, State, and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are

necessary to conduct sampling and/or metering of the user's operations.

Tremontion City may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated semi-annually to ensure their accuracy.

(c) Analytical Requirements: All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or for any of the reports required in 14-256 shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(d) Determination of Noncompliance: The PWD may use a grab sample(s) to determine noncompliance with Pretreatment Standards. The decision to use this method is at the discretion of the PWD and would not be announced in advance to the industrial user.

(3) Obstructions and Delays.

(a) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the PWD and shall not be replaced. The costs of clearing such access shall be born by the industrial user.

(b) Delays in allowing Tremontion City personnel access to the industrial user's premises shall be a violation of this ordinance.

14-258. Confidential Information. Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from Tremontion City inspection and sampling activities, shall be available to the public without restriction unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of Tremontion City that the release of

such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall immediately be made available, upon request, to governmental agencies for uses related to the UPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. Tremontion City will provide a secure facility to maintain documentation considered confidential.

14-259. Annual Publication.

(1) Requirement to Publish. Tremontion City shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous twelve (12) months, were in significant noncompliance with applicable Pretreatment Standards and requirements.

(2) Significant Noncompliance. The term significant noncompliance shall mean:

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

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

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

(d) Endangerment: Any discharge of pollutants that has caused imminent

endangerment to the public or to the environment, or has resulted in Tremonton City's exercise of its emergency authority to halt or prevent such a discharge;

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

(f) Failure to Report: Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Other Violations: Any other violation(s) which Tremonton City determines will adversely affect the operation or implementation of the local pretreatment program.

14-260. Administrative Enforcement Remedies.

(1) Notification of Violation. Whenever the PWD finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the PWD or his agent may serve upon said user a written Notice of Violation. Such written notice shall be served in person or by certified mail where a receipt is obtained. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the PWD. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of Tremonton City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(2) Consent Orders. The PWD is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to 14-260(4) and (5) below and shall be judicially enforceable.

(3) Show Cause Hearing. The PWD may order

any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or orders issued hereunder, or any other Pretreatment Standard or requirement, to appear before the PWD and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. Such written notice shall be served in person or by certified mail where a receipt is obtained. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other actions against the user.

(4) Compliance Orders. When the PWD finds that a user has violated or continues to violate the ordinance, wastewater discharge permits, or orders issued hereunder, or any other Pretreatment Standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within thirty (30) days. If the user does not come into compliance within thirty (30) days, sewer service may be discontinued. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal Pretreatment Standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(5) Cease and Desist Orders. When the PWD finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or requirement, or that the user's past violations are likely to recur, the PWD may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations

and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(6) Administrative Fines.

(a) Notwithstanding any other section of this ordinance, any user found to have violated any provision of this ordinance, its wastewater discharge permit, and orders issued hereunder, or any other Pretreatment Standard or requirement may be required to reimburse the City for any penalties the City incurs as a result of the violation and fined an amount as contained in the City's Consolidated Fee and/or Bail Schedule, adopted by Resolution of the City Council per day per violation for an individual, corporation, partnership, or any other entity user. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. Tremonton City may add the costs of preparing administrative enforcement actions such as notices and orders to the fine.

(b) Assessments may be added to the user's next scheduled sewer service charge and the PWD shall have such other collection remedies as may be available for other service charges and fees.

(c) Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) percent of the unpaid balance and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the individual user's property will be sought for unpaid charges, fines, and penalties.

(d) Users desiring to dispute such fines must file a written request for the PWD to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the PWD shall convene a hearing on the matter within fourteen (14) days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the industrial user.

(e) Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user.

(7) Emergency Suspensions. The PWD may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of any people. The PWD may also suspend a user's discharge permit (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

Any user notified of a suspension of its discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the PWD shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, contamination of sludge, or endangerment to any individuals. The PWD shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of Tremonton City that the period of endangerment has passed, unless the termination proceedings set forth in 14-260(8) are initiated against the user.

A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the PWD, prior to the date of any show cause or termination of discharge hearing under 14-260(3) and (8).

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

(8) Termination of Discharge. In concert with the wastewater discharge permit revocation provisions in Section 14-255(7) of this ordinance, any user that violates any of the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

(a) Violation of wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- (e) Violation of the standards in 14-252 of this ordinance.

The Industrial user will be notified of the proposed termination of its discharge permit and be offered an opportunity to show cause under 14-260(3) of this ordinance why the proposed action should not be taken.

14-261. Judicial Enforcement Remedies.

(1) Injunctive Relief. Whenever a user has violated a Pretreatment Standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the PWD may petition the First Judicial District Court in and for Box Elder County, State of Utah, through Tremonton City's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the industrial user. In addition, Tremonton City may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate legal action against the user found to have violated any provision herein, or any other rules, regulations, permits, or agreements issued herein. Such other action as appropriate for legal and/or equitable relief may also be sought by Tremonton City. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(2) Civil Fine Pass Through Recovery. In the event that an industrial user discharges such pollutants which cause Tremonton City to violate any conditions of its UPDES Permit and Tremonton City is fined by EPA or the State of Utah for such violations, then such industrial users shall be fully liable for the total amount of the fines and civil penalties assessed against the Tremonton City by EPA or the State of Utah and administrative costs incurred.

(3) Referral to State of Utah for Action. Tremonton City will refer to the State of Utah criminal violations of any Pretreatment Standards or permit conditions. The Attorney General's office for Utah will offer the city wherein the violation occurred the option to prosecute the violator. Should the local entity decline, the State, at its discretion, may initiate appropriate criminal action. Tremonton City will assist the Attorney General's office any way it can with appropriate support for the action taken.

(4) Nonexclusive Remedies. The provisions in

Sections 14-259 – 14-262 are not exclusive remedies. Tremonton City reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with Tremonton City's enforcement response plan. However, Tremonton City reserves the right to take other action against any user when the circumstances warrant. Further, Tremonton City is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

14-262. Supplemental Enforcement Action.

(1) Performance Bonds (Optional). The PWD may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any orders, or a previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to Tremonton City in a sum not to exceed a value determined by the PWD to be necessary to achieve consistent compliance.

(2) Liability Insurance (Optional). The PWD may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any order, or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(3) Water Supply Severance (Optional). Whenever a user has violated or continues to violate the provisions of this ordinance, orders, or wastewater discharge permits issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(4) Public Nuisances (Optional). Any violation of this ordinance, wastewater discharge permits, or orders issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the PWD or his designee, and/or as allowed by this Part 14-250, or other applicable law. Any person(s) creating a public nuisance shall be subject to the provisions of the City and state Code relating to the abatement of nuisances, including reimbursing the City for any costs incurred in removing, abating or remedying said nuisance.

(5) Contractor Listing (Optional). Users which have not achieved consistent compliance with applicable Pretreatment Standards and requirements are not eligible to receive a contractual award for the sale of goods or services to Tremonton City. Existing contracts for the sale of goods or services to Tremonton City held by a user found to be in

significant noncompliance with Pretreatment Standards may be terminated at the discretion of Tremontion City.

14-263. Affirmative Defenses.

(1) Upset.

(a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (3) are met.

(c) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

(ii) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

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

(A) A description of the indirect discharge and cause of noncompliance.

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.

(C) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the

industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Industrial users will have the opportunity for a judicial determination on any claim of upset in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(f) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or has failed.

(2) General/Specific Prohibitions. An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in 14-252(1) of this ordinance if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or (b) no local limit exists, but the prior discharge when Tremontion City was regularly in compliance with its UPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass.

(a) (i) "Bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

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

(b) An industrial user may allow any bypass to occur which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential

maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

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

(ii) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the POTW within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypasses. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) (i) Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass, unless;

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

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

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

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

14-264. User Fees. User fees should be assessed whenever there is a need to recover the cost of treating wastewater. These fee calculations may be found in Addendum A of this ordinance, on another adopted fee schedule of the City, or in an Agreement between the City and the user to which the fee applies.

14-265. Miscellaneous Provisions.

(1) Pretreatment Fees. If applicable, Tremonton City may adopt reasonable charges and fees for reimbursement of costs of setting up and operating a Tremonton City Pretreatment Program as contained and amended from time to time in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council. Fees may include:

(a) Fees for wastewater discharge permit applications, including the cost of processing such applications.

(b) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users.

(c) Fees for reviewing and responding to accidental discharge procedures and construction.

(d) Fees for filing appeals.

(e) Other fees as Tremonton City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matter covered by this ordinance and are separate from all other fees, fines and penalties chargeable by Tremonton City.

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

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

14-266. Effective Date. This ordinance shall be in full force and effect immediately following its passage, approval, posing and/or publication, as provided by law.