

**Chapter 12.08**

**WASTEWATER AND SURFACE WATER  
MANAGEMENT - REGULATION AND  
RATES<sup>6</sup>**

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Authority to operate – See RCW 80.40.020 and 35.21.210.

**12.08.005 Purpose and policy.**

Pursuant to the authority conferred by RCW 90.48, this chapter sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) and the storm drainage system of the City of Tacoma, and allows the City to comply with all applicable state and federal laws including, but not limited to, the Clean Water Act, the General Pretreatment Regulations, 40 CFR Part 403, and the Stormwater Regulations in 40 CFR Parts 122, 123, and 124. The objectives of this chapter are to:

- A. Prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW, or otherwise be incompatible with the POTW;
- B. Prevent the introduction of pollutants into the POTW that will pass through the POTW inadequately treated, into receiving waters;
- C. Protect personnel who may be affected by wastewater and biosolids in the course of their employment, and to protect the general public;
- D. Ensure that the quality of POTW biosolids is maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;
- E. Improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW;
- F. Support economic development with the establishment of a new program to support conservation of the municipal sewer system through economic incentives and technical assistance for wastewater source control and wastewater pretreatment processes;
- G. Fix the price of service for the City's POTW;
- H. Fix the price of service for the City's storm water system;
- I. Provide for the control of the quantity and quality of the water discharged into the municipal storm drainage system so as to comply with the City's Stormwater Management Program, its NPDES permits, and applicable state and federal laws;
- J. Manage stormwater to minimize flooding, erosion, and contact with contaminants or pollutants; and to manage runoff from developed properties and construction sites;
- K. Mitigate the impacts of increased runoff due to urbanization, correct or mitigate existing water quality problems related to stormwater, and to help restore and maintain the chemical, physical, and biological integrity of the City's waters for the protection of beneficial uses, including salmon.

The purpose of this chapter is to provide for and promote the health, safety, and welfare of the general public. The provisions of this chapter shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. Compliance with the provisions of this chapter and regulations and manuals referenced under this chapter does not necessarily mitigate all impacts to the environment. Compliance with this chapter and related regulations and manual should not be construed as mitigating all stormwater impacts, and additional mitigation may be required to protect the environment. This chapter does not create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the provisions of this chapter. The primary obligation for compliance with this chapter and for preventing environmental harm on or from property is placed upon responsible parties, as defined by this chapter. (Ord. 27003 § 1; passed Nov. 19, 2002; Ord. 25802 § 1; passed Dec. 5, 1995; Ord. 25587 § 1; passed Sept. 20, 1994)

**12.08.007 Applicability and administration.**

A. General. This chapter shall apply to all direct and indirect users of the City's Municipal Sewer System. The Director of Public Works is hereby authorized and directed to enforce all provisions of this chapter. The Director shall have the authority to render interpretations of this chapter, and may adopt reasonable rules and administrative procedures to enforce the provisions of this chapter. Such interpretations, rules, and administrative procedures shall be in conformity with the intent and purposes of this chapter.

B. The Director may appoint such number of technical officers, inspectors, and other personnel as shall be authorized from time to time to implement the provisions of this chapter.

C. Inspections. All activities regulated by this chapter, except those exempted under TMC 12.08.090, are subject to inspection by the Director to determine that adequate control is being exercised, or to determine whether an approval is warranted. The Director may establish inspection programs to ensure compliance with the requirements of this chapter and to accomplish its purposes. Inspection programs may be established on any reasonable basis including, but not limited to, routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants, inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type

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which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the City's NPDES stormwater permit, and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other best management practices.

D. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or monitor for proper function of stormwater facilities, or whenever the Director or the Director's authorized representative has reasonable cause to believe that there exists in any building or upon any property any condition or violation of this chapter relating to the pollution or the possible pollution of any of the waters of the state, the Director or the Director's authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Director by this chapter, provided that if such building or premises be occupied, the Director shall first present proper credentials and request entry; and if such building or premises be unoccupied, the Director shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Director shall have recourse to every remedy provided by law to secure entry.

E. Authority to Stop Work. Whenever construction work is being done that is contrary to the provisions of this chapter, or contrary to the provisions of plans, drawings, specifications, or calculations approved by the Director, then the Director may order the construction work stopped by notice in writing, served on those persons engaged in or causing the work to be done. Any such persons shall thereafter stop such work until authorized by the Director to proceed.

F. Violations. Violations of this chapter and/or any state and federal regulation the City is authorized to enforce under this chapter may be subject to the enforcement procedures set forth in Tacoma Municipal Code ("TMC") 12.08.200, assessment of supplemental charges under TMC 12.08.610, the penalty provisions of TMC 12.08.670, and the notification and civil penalty provisions set forth in TMC 12.08.675, and any other enforcement provisions authorized by this chapter.

G. Re-inspections. It shall be the duty of the owner or the owner's agent to notify the Director that violations have been corrected, and to request a re-inspection. The Director may require that such request for re-inspection be filed one working day before such inspection if

desired. It shall be the duty of the owner or owner's agent to provide safe access to and means for inspection of any corrective work.

H. Plan Review, Approvals, and Permits. Permits for activities or projects regulated under this chapter may be issued pursuant to sections in this chapter, Title 2 and Title 13 of the Tacoma Municipal Code, or other relevant Tacoma Municipal Code authority. Prior to the commencement of work on any stormwater-related activities or projects regulated by this ordinance, plans shall be submitted to the Director for review and approval. The Director shall approve the plans where they show that adequate control is exercised. Approvals and permits granted under this chapter are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state, and local laws and regulations including rules promulgated under authority of this chapter.

The requirements in this chapter are minimum requirements and do not replace, repeal, abrogate, supersede, or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this chapter imposes requirements which are more protective of human health or the environment than those set forth elsewhere, the provisions of this chapter shall prevail.

I. Best Management Practices. Pursuant to the municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit issued by the Washington State Department of Ecology, the Director is authorized to develop and update, as necessary, the City of Tacoma Stormwater Management Manual, hereinafter referred to as the "Manual." The Best Management Practices (hereinafter "BMPs") that are set forth in the Manual are intended to control the quality and quantity of stormwater that is or will be contributed to the City's storm drainage system as the result of existing discharges and land uses, new development and redevelopment, and stormwater maintenance activities. In those instances where appropriate BMPs are not in the Manual, emerging BMPs may be considered. Emerging BMPs will be considered under the exceptions process in TMC 12.08.095.

J. Regulated Activities. This chapter regulates all direct and indirect discharges to the Municipal Sewer System, including discharges to privately owned catch basins which discharge directly or indirectly to the Municipal Sewer System, and any other direct or indirect discharge to the Municipal Sewer System from real property.

K. Exemptions. In addition to any exemption provided under TMC 12.08.090, development undertaken by the

Washington State Department of Transportation in state highway rights-of-way is exempt from the requirements of TMC 12.08.090.D, except to the extent those requirements impose more stringent provisions as provided in Chapter 173-270 WAC, the Puget Sound Highway Runoff Program, and is subject to municipal and construction NPDES permits issued by the Department of Ecology. The Department of Transportation shall submit copies of plans for these exempt development activities to the Director. (Ord. 27538 § 1; passed Oct. 24, 2006; Ord. 27003 § 2; passed Nov. 19, 2002; Ord. 25802 § 2; passed Dec. 5, 1995; Ord. 25587 § 2; passed Sept. 20, 1994)

### 12.08.010 Definitions.

Words and phrases used in this chapter shall be interpreted as defined below. Where ambiguity exists, technical words or phrases shall be interpreted in accordance with the City's Manual; nontechnical words or phrases shall be given their dictionary meaning.

Any pretreatment limit or prohibitive standard (federal, state, and/or local) contained in this chapter deemed to be the most restrictive with which commercial/industrial users will be required to comply.

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

“Authorized representative of the user.”

1. If the user is a corporation:
  - a. The president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
  - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
3. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his or her designee;
4. The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall

operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

“Availability.” Those premises which are allowed by the Uniform Plumbing Code or other pertinent City ordinance to be connected to a sanitary sewer.

“Basin Plan.” A plan to manage the quality and quantity of surface water or stormwater in a watershed or basin.

“Batch discharge.” Any single discharge that is specifically allowed under a wastewater discharge permit and that requires the prior written approval of the Director before discharge to the sanitary sewer system may begin.

“Best management practice” or “BMP.” Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water. BMPs for stormwater management are listed and described in the City of Tacoma's Stormwater Management Manual.

“BOD” (denoting biochemical oxygen demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in parts per million or milligrams per liter (mg/l) by weight, using “Standard Methods,” 17th Edition.

“Categorical pretreatment standards.” The limitations on pollutant discharges to Publicly Owned Treatment Works (POTWs) promulgated by the U.S. Environmental Protection Agency (USEPA) in accordance with Section 307 of the Clean Water Act (CWA), that apply to specified process wastewater of particular industrial categories (40 CFR Chapter I, Subchapter N, Parts 405-471 and amendments thereto).

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

“Clean Water Act or “CWA.” The Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.).

“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.

“Commercial and/or industrial discharger (discharger).” Any nonresidential user who discharges an effluent into the Municipal Sewer System by any means including, but not limited to, pipes, conduits, pumping stations, force

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mains, tank trucks, constructed drainage ditches, surface water intercepting ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto, including over-land flow.

“Commercial and/or industrial waste.” Any liquid, solid, or gaseous substance, or combination thereof, resulting from or used in connection with any process of industry, manufacturing, commercial food processing, food service establishment, business, agriculture, trade or research including, but not limited to, development, recovering, or processing of natural resources, and leachate from landfills or other disposal sites.

“Director.” The Director of Public Works of the City of Tacoma or his or her authorized representative.

“Domestic waste.” Water carrying human wastes including kitchen wastes, bath wastes, and laundry wastes that are typical of residential discharges, but does not include industrial wastes. Domestic wastes may be discharged by residential users, and by commercial and/or industrial dischargers.

“Emerging BMP.” A BMP that has not been tested and evaluated by the Department of Ecology in collaboration with local governments and technical experts.

“Erosion.” The wearing away of the land surface as a result of the movement of water, wind, ice, or any other means.

“Erosion and Sediment Control.” Any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave a given site.

“Excessive discharge.” Any wastewater released directly or indirectly to the Municipal Sewer System at a rate and/or concentration greater than that which has recently been monitored or would normally be expected from a classified commercial/industrial discharger.

“Food Service Establishment.” Any facility, which serves, prepares, processes, manufactures, or packages food for consumption such as a restaurant, commercial kitchen, caterer, hotel, school, hospital, detention facility, or care institution.

“Illicit Connection.” Any connection to the City’s stormwater drainage system, identified by the Director, that could convey anything not composed entirely of surface water and stormwater directly to surface water, stormwater, or groundwater. Illicit connections are prohibited unless the connection conveys approved discharges, or conveys discharges pursuant to an NPDES permit (other than an NPDES stormwater permit), or State Waste Discharge Permit.

“Illicit Discharges.” Any direct or indirect non-storm water discharge to the City’s stormwater drainage system. In addition to discharges of pollutants, illicit discharges include, but are not limited to, discharges of industrial process water, or discharges from sanitary sewer connections, interior floor drains, car washing, and gray water systems.

“Impervious surface.” A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Further definition may be found in the City’s Manual.

“Industrial wastewater discharge permit” (“wastewater discharge permit”). A permit to discharge industrial wastewater into the Municipal Sanitary Sewer System issued under the authority of this chapter and which prescribes certain discharge requirements and limitations.

“Interference.” A discharge which:

1. Alone or in conjunction with a discharge(s) from other sources, inhibits or disrupts the normal operation of the Municipal Sewer System; or
2. Causes a violation, or increases the magnitude of or extends the duration of an existing violation, of any requirement of the City’s POTW-NPDES permit(s); or
3. Prevents the use or disposal of sewage sludge or biosolids in accordance with local, state, and federal regulations and any permits issued thereunder, including the Clean Water Act, Section 405; the Solid Waste Disposal Act (including Title II, also known as the Resource Recovery and Conservation Act, and any state regulations contained in any state sludge management plan); the Clean Air Act; the Toxic Substances Act; and the Marine Protection, Research and Sanctuaries Act.

“Land-disturbing activity.” Activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling, stockpiling, excavation, and land modification.

“Manual.” The manual referred to in this ordinance is the City of Tacoma’s Stormwater Management Manual, as amended.

“Manual (Department of Ecology).” The manual refers to the latest version of the Washington State Department of Ecology’s stormwater management manual, applicable to Western Washington.

“Municipal Sewer System.” The system of conduits, pumps, treatment plants, structures, and properties including, without limitation, all properties, interests, physical and intangible rights of every kind or nature owned or held by the City and all appurtenances thereto, however acquired, insofar as they relate to or concern drainage, transportation, storage or treatment, in any manner whatsoever, of waste matter or stormwater and surface water of any nature now or hereafter permitted by this chapter to enter the Municipal Sewer System. Sanitary sewers and storm drains, separately and in combination, are, without limitation, included in the Municipal Sewer System.

“New development.” Land-disturbing activities; structural development including construction, installation, or expansion of a building or other structure; creation of impervious surfaces; and subdivision and short subdivision of land as defined in RCW 58.17.020.

“New source.” Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after publication of proposed pretreatment standards under Section 307(c) of the Federal Water Pollution Control Act (FWPCA) which will be applicable to such sources if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. 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.

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 paragraphs (2) or (3) above, but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a new source as defined under this section has commenced if the owner or operator has:

1. 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
2. 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 section.

“New user” shall not mean a “new source” and is defined as a user that applies to the City for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the City’s Municipal Sewer System after the effective date of the ordinance codified in this chapter. Any person that buys an existing facility that is discharging commercial and/or industrial wastewater will be considered an “existing user” if no significant changes are made in the manufacturing operation.

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

“North American Industry Classification System (NAICS) Code.” Replaces Standard Industrial Classification (SIC). An industrial classification pursuant to the NAICS manual issued by the United States Office of Management and Budget.

“NPDES permit.” A permit issued to the City of Tacoma under the National Pollutant Discharge Elimination System. Such permits also may be referred to with the type of NPDES permit. Examples include a POTW NPDES permit, a municipal stormwater NPDES permit, a construction stormwater NPDES permit, or an industrial stormwater NPDES permit.

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

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1. A natural person, including that person's heirs, executors, administrators, and assigns;
2. A public or private corporation, co-partnership, association, or firm;
3. A government agency or any political subdivision; or
4. Any other entity whatsoever.

Singular includes plural; male includes female.

"pH." The negative logarithm of the effective hydrogen-ion concentration or hydrogen activity in gram equivalents per liter used in expressing both acidity and alkalinity on a scale whose values run from 0 to 14, with 7 representing neutrality, numbers less than 7 increasing acidity, and numbers greater than 7 increasing alkalinity.

"Pollutant." Any substance that is discharged to the Municipal Sewer System which is prohibited or limited by the requirements of this chapter. See TMC 12.08.020 through TMC 12.08.080.

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

"Pretreatment." The reduction of the amount of contaminants, the elimination of contaminants, or the alteration of the nature of contaminant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such contaminants into the Tacoma Municipal Sanitary Sewer System.

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

"Pretreatment standards." Prohibited discharge standards, categorical pretreatment standards, and local limits established by the City.

"POTW." The Publicly Owned Treatment Works, which includes any devices and systems, owned by a state or municipality, used in the collection, transportation, storage, treatment, recycling, and reclamation of wastewater.

"Redevelopment." On an already substantially developed site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, and/or replacement of impervious surface that is not part

of a routine maintenance activity, and land-disturbing activities associated with structural or impervious redevelopment.

"Residential user." Any single-family or multi-family customer discharging wastewater limited to kitchen wastes, human wastes, and housekeeping cleaning materials, in volumes and/or concentrations normally discharged from these classes of customers.

"Responsible party." Any or all of the following persons: owners or occupants of property within the City of Tacoma and/or any person causing or contributing to a violation of the provisions of this chapter.

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

"Sanitary sewers." Only those portions of the Municipal Sewer System which are designated by the Director to carry, treat or dispose of waste matter not constituting storm or surface water permitted by or under this chapter to enter the Municipal Sewer System.

"Significant Industrial User (SIU)." Except as provided in subparagraph 3, "significant industrial user" means:

1. All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
2. Any other industrial user which discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding domestic, noncontact cooling and boiler blowdown wastewater); or contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW; or is designated as such by the Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation; or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8 (F)(6) as found in 55 FR 30128, July 24, 1990).
3. Upon finding that an industrial user meeting the criteria in paragraph 2 above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirements, the Director may, at any time, on his or her own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(F)(6), determine that such industrial user is not a significant industrial user.

“Significant noncompliance” with applicable pretreatment requirements exists when a violation by an industrial user meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
2. Technical Review Criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
3. Any other violation(s) of a pretreatment effluent limit (average or daily maximum) that the Director believes to have caused, alone or in combination with other discharges, interference or pass through or endangered the health of the general public or sewage treatment personnel;
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW’s exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in an industrial wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance;
8. Any other violation or group of violations which the Director finds will adversely affect the operation or implementation of the City’s Pretreatment Program.

“Significant noncompliance” with requirements for discharges to the storm drainage system exists when an instance of noncompliance or Code violation meets one or more of the following criteria:

1. Any discharge or potential discharge of a pollutant that has caused or may cause a threat to human health, public safety or the environment, or that has resulted in the exercise of emergency authority to halt or prevent such a discharge;

2. Failure to complete a required corrective action within 30 days after the scheduled date required in a Notice of Violation, Corrective Action, or other enforcement document.

3. Any other violation or group of violations that the Director determines will adversely affect the operation and implementation of the City’s Stormwater Management Program or its NPDES permit.

“Single-family residence.”

1. Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for use by not more than one family;
2. Instances in which more than one residence is served through a single water meter; and
3. Those individual units within multi-family complexes that are served by a separate water meter.

“Slugload.” Any discharge at a flow rate or concentration which could cause a violation of any discharge standards of this chapter or any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

“Source control BMP.” A BMP that is intended to prevent or reduce pollutants from entering surface water, stormwater, or groundwater. A few examples of source control BMPs are erosion control practices, maintenance of stormwater facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead-end sump. BMPs can be structural or operational in character. Structural source control BMPs are physical, structural, or mechanical devices, and operational source control BMPs are non-structural practices.

“Storm drainage facility.” Any constructed facility or natural feature that collects, conveys, or stores surface water and stormwater runoff. Drainage facilities include, but are not limited to, stormwater conveyance and containment facilities including pipelines, constructed channels and ditches, infiltration facilities, retention and detention facilities, stormwater treatment facilities, erosion and sediment control facilities, and all other drainage structures and appurtenances.

“Storm drains.” Those portions of the Municipal Sewer System which do, or are designated by the Director to, detain or retain, carry or dispose of stormwater and surface water and such other waters as are not required by or under this chapter or other applicable law to be disposed of through sanitary sewers, in accordance with the provisions hereinafter set forth. Storm drains shall, without limitation, include all properties, interests and

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rights of the City insofar as they relate to or concern storm or surface water sewerage, whether natural or constructed, in and to the drainage or storage, or both, of storm or surface waters, or both, including without limitation through, under or over lands, landforms, watercourses, sloughs, streams, ponds, lakes and swamps.

“Surface water and stormwater.” Water that originates from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, and wetlands.

“Suspended solids.” Solids that either float on the surface of or are in suspension in water, sewage, or other liquid; and which are removable by laboratory filtering using Standard Methods, 17th Edition.

“TMC” means the Tacoma Municipal Code.

“Toxic pollutant.” Those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Director, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

“Treatment BMP.” A BMP that is intended to remove pollutants from stormwater or surface water. A few examples of treatment BMPs are wet ponds, oil/water separators, biofiltration swales, and constructed wetlands.

“Upset.” An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the applicable pretreatment standards due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

“WAC” means Washington Administrative Code. (Ord. 37538 § 2; passed Oct. 24, 2006; Ord. 27285 § 2; passed Nov. 2, 2004; Ord. 27003 § 3; passed Nov. 19, 2002; Ord. 25802 § 3; passed Dec. 5, 1995; Ord. 25587 § 3; passed Sept. 20, 1994; Ord. 24879 § 1; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

### 12.08.020 Prohibitions on discharges - Sanitary.

A. General Prohibitions. No person shall discharge or permit or cause the discharge of waste into the Municipal Sanitary Sewer System that may cause, either alone or by

interaction with other materials, pass through or interference.

B. Specific Prohibitions. In addition, it is unlawful to discharge, cause to discharge, or allow to be discharged directly or indirectly the following pollutants into the City's Municipal Sewer System:

1. Wastewater containing substances:

a. In concentrations that inhibit or interfere with the operation or performance of the Municipal Sewer System; or

b. That are not amenable to treatment or reduction by the sewage treatment process employed, or are only partially amenable to treatment, such that the POTW's effluent cannot meet the requirement of any agency having jurisdiction over the POTW; or

c. In concentrations in excess of limitations imposed in a permit issued by the City or other regulatory agency having jurisdiction; or

d. That impair the use or disposal of POTW sludge and sludge products pursuant to State and Federal statutes, including, but not limited to the Solid Waste Disposal Act (42 USC 6901), the Clean Water Act (42 USC 1857), the Toxic Substance Control Act (15 USC 2601).

2. Pollutant(s) which create a fire or explosion hazard in the Municipal Sanitary Sewer System, including, but not limited to, wastewater with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade (using test methods prescribed in 40 CFR 261.21);

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

4. Any solid or viscous substance capable of obstructing wastewater which will or may cause obstruction to the flow of wastewater or other interference with the operations of the Municipal Sanitary Sewer System;

5. Any noxious, malodorous or toxic liquids, gases, vapors or fumes, solids, or other substances which, either singly or by interaction with other wastewaters may cause acute or chronic worker health and safety problems, a public nuisance, a hazard, or interference with any part of the Municipal Sanitary Sewer System;

6. Any waste, wastewaters or substances having a pH less than 5.5 or greater than 11.0, or those capable of causing damage to structures, equipment, processes or personnel of the sewer system, unless these limits are modified by a wastewater discharge permit, or by a special approved discharge authorization;

7. Any liquid or vapor having a temperature higher than 100 degrees Fahrenheit (37.8 degrees centigrade) unless this limit is modified by an industrial wastewater discharge permit;
8. Any trucked or hauled contaminants, such as holding or septic tank wastewater or any nondomestic sources, except such wastewater received at designated locations under City contract or permit in accordance with any other applicable requirements of this chapter or rules adopted hereafter;
9. Any substance with excessive color as determined by the Director, which is not removed in the treatment process;
10. Any batch discharges that have not received written permission of the Director (batch discharges shall comply with all other requirements of this chapter and rules adopted hereafter);
11. Any substance which may cause the Municipal Sanitary Sewer System effluent or treatment residues, sludges or sludge products, or scums, to be unsuitable for reclamation and/or reuse or which interferes with the reclamation process. (In no case shall a substance discharged to the Municipal Sanitary Sewer System cause the City to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under the Clean Water Act (CWA); any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act (42 USC 6901), the CWA (42 USC 1857), the Toxic Substance Control Act (15 USC 2601), or any other Federal or State statutes, regulations or standards applicable to the sludge management method being used, or any amendments thereto);
12. Noncontact cooling water, except as provided in TMC 12.08.080 following issuance of an NPDES permit by the Washington State Department of Ecology;
13. Any substance which may cause the treatment facilities of the Municipal Sanitary Sewer System to be overloaded or cause excessive City collection or treatment costs, or may use a disproportionate share of the Municipal Sanitary Sewer System or of its treatment facilities;
14. Any slugload;
15. Any substance that causes the City to violate the terms of its NPDES permit(s);
16. Any substance which would be designated as a dangerous waste in accordance with Chapter 173-303 WAC, unless authorized by an industrial wastewater discharge permit issued in accordance with the requirements of Section 12.08.140. (Ord. 27538 § 3;

passed Oct. 24, 2006: Ord. 25802 § 4; passed Dec. 5, 1995: Ord. 25587 § 4; passed Sept. 20, 1994: Ord. 24879 § 2; passed May 21, 1991: Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.030 Prohibitions on storm drainage, ground water and unpolluted water - Sanitary.**

Stormwater, groundwater, rainwater, street drainage, subsurface drainage, yard drainage, roof drainage, or unpolluted water, including, but not limited to, cooling water or process water, shall not be discharged through direct or indirect connection to any sanitary sewer unless approved by the Director or as allowed under TMC 12.08.720. The Director may, but shall not be required to, approve such discharge only when no reasonable alternative method of disposal is available. If approval is granted for the discharge of such water into a sanitary sewer, the user shall pay the applicable charges and fees and meet such other conditions as required from time to time by the Director. (Ord. 27857 Ex. A; passed Dec. 8, 2009: Ord. 27003 § 4; passed Nov. 19, 2002: Ord. 25587 § 5; passed Sept. 20, 1994: Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.040 Limitations on wastewater strength.**

A. Maximum Daily Limits. No person shall discharge wastewater into the Municipal Sanitary Sewer System containing a daily maximum concentration greater than:

- 0.1 mg/l arsenic, total
- 0.25 mg/l cadmium, total
- 0.25 mg/l chromium, hexavalent
- 1.0 mg/l chromium, total
- 1.0 mg/l copper, total
- 0.2 mg/l free cyanide
- 0.64 mg/l total cyanide
- 0.4 mg/l lead, total
- 0.05 mg/l mercury, total
- 1.0 mg/l nickel, total
- 0.2 mg/l silver, total
- 2.0 mg/l zinc, total
- 50 mg/l petroleum hydrocarbons (silica gel treated-hexane extractable material, SGT-HEM)

The above limits apply at the point where the wastewater is discharged to the Municipal Sanitary Sewer System (end of pipe). All concentrations for metallic substances are for "total" metal unless otherwise indicated. Where a

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user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply. The daily maximum is defined as the arithmetic mean of the pollutant concentration calculated from all measurements taken that day.

B. Alternate Standards. The City reserves the right to establish, by ordinance or in wastewater discharge permits, alternate standards or requirements on discharges to the Municipal Sanitary Sewer System for specific user groups. Such alternate standards or requirements shall be based upon, but not limited to, an analysis of available treatment technology, potential economic impacts, and potential impacts to the POTW.

C. Dilution. No discharger shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.

D. Maintenance. It shall be the responsibility of the owners of all pretreatment devices, including but not limited to, grease traps, grease interceptors, sand/oil interceptors (oil/water separators), and other approved systems, to properly operate and maintain such systems and devices to prevent interference, excessive discharge, slugloads, restricted flow, or pass through of any contaminants discharged to the POTW. Maintenance and disposal records shall be kept on site for inspection by the Director.

1. Proper maintenance of pretreatment devices shall mean, at a minimum:

a. For grease traps: unless otherwise approved by the Director, grease traps must be cleaned when the total accumulation of surface fats/oils/greases (FOG) (including floating solids) and settled solids reaches 25 percent of the grease traps overall liquid depth.

b. For grease interceptors: unless otherwise approved by the Director, grease interceptors must be cleaned when the total accumulation of surface fats/oils/greases (FOG) (including floating solids) and settled solids reaches 25 percent of the volume of any chamber of the grease interceptor.

c. For sand/oil interceptors: unless otherwise approved by the Director, the interceptor shall be inspected monthly and cleaned if any of the following conditions are present: (1) sludge accumulation => 20 percent capacity of any chamber, (2) oil accumulation => 2 inches, (3) coalescing media plugged, (4) visible sheen on interceptor discharge or, (5) sample results exceed limits in this section.

d. Other approved devices: maintenance of other pretreatment devices shall be conducted in accordance with the manufacturer's specifications for such device and/or Engineering Report and/or Operation/Maintenance Manual approved by the City's Pretreatment Program staff. (Ord. 27285 § 3; passed Nov. 2, 2004; Ord. 26888 § 1; passed Dec. 4, 2001; Ord. 25587 § 6; passed Sept. 20, 1994; Ord. 24879 § 3; passed May 21, 1991; Ord. 24049 § 1; passed Mar. 29, 1988; Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.050 Limitations on radioactive wastes.**

No person shall discharge or cause to be discharged, any radioactive waste into the Municipal Sewer System except when that person is authorized to use those radioactive materials by the State Department of Social and Health Services or other governmental agency empowered to regulate the use of radioactive materials. (Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.060 Limitations on the use of garbage grinders.**

Food waste from garbage grinders discharged into the Municipal Sanitary Sewer System shall be properly shredded so that 100 percent will pass a 3/8-inch sieve and 75 percent will pass a 1/4-inch sieve. Persons engaged in the wholesale/retail sale of raw produce shall be limited to one grinder having a prime motor not exceeding five horsepower for the processing of raw produce waste. No discharge permitted by this section may contain plastic, paper products, inert material, garden refuse, or other material prohibited by this chapter. (Ord. 25587 § 7; passed Sept. 20, 1994; Ord. 24307 § 1; passed Mar. 7, 1989; Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.070 Limitations on point of discharge.**

Unless authorized by the Director, no person shall discharge any substances directly into a manhole or other opening in the Municipal Sanitary Sewer System other than through an approved building sewer. If such authorization is issued for such direct discharge, the user shall pay the applicable charges and fees and shall meet such other conditions as required by the Director. (Ord. 25587 § 8; passed Sept. 20, 1994; Ord. 24879 § 4; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.080 Matter excluded from storm drains, special approved discharges.**

A. Pollutants Excluded. Only unpolluted stormwater, surface water, or ground waters, and such other waters as may be specifically authorized by this section, may be

discharged into storm drains. Under no circumstances may those materials enumerated in TMC 12.08.020 and TMC 12.08.040 through TMC 12.08.060, inclusive, be discharged into storm drains.

B. Discharge of Unpolluted Waters. For the purposes of this section, unpolluted waters include, but are not limited to, Noncontact cooling water, process water, or condensate from cooling towers or evaporative coolers, treated surface water, and treated or untreated ground water. Such unpolluted waters may be discharged into storm drains only in accordance with the following provisions:

1. Discharge may only occur after the issuance of a National Pollution Discharge Elimination System (NPDES) permit or a state waste discharge permit by the Washington State Department of Ecology (DOE) should such permit be required. Any discharge must be in compliance with said permit;
2. Discharge may only occur upon the authorization of the Director, and in conformance with such conditions as the Director may set, which may include, but not be limited to, controls of quantity and quality of those waters using detention basins and/or best management practices (BMPs) as defined by the Director; and
3. All applicable fees as set forth in this chapter must be paid.

C. System Overburden. This section shall not be construed to limit in any way the City's ability to deny permission to discharge waters into storm drains when additional waters would overburden City storm systems.

D. Illicit discharges to the City storm drains are prohibited and are subject to all penalties prescribed by this chapter. (Ord. 27538 § 4; passed Oct. 24, 2006; Ord. 27003 § 5; passed Nov. 19, 2002; Ord. 25802 § 5; passed Dec. 5, 1995; Ord. 25587 § 9; passed Sept. 20, 1994; Ord. 25317 § 1; passed Jun. 8, 1993; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.090 Stormwater program requirements.**

A. Pursuant to the terms of its municipal stormwater NPDES permit, the City of Tacoma has implemented a stormwater management program that includes the use of the Manual. The Director of Public Works is authorized to enforce the provisions of the stormwater management program through reasonable rules and administrative procedures, pursuant to TMC 12.08.007.

B. The following activities that discharge to the storm drains, either directly or indirectly, are regulated through the stormwater management program under this chapter:

1. Existing discharges and land uses that discharge to the storm drains, either directly or indirectly.
2. New development and redevelopment.
3. Stormwater maintenance activities.

C. Requirements for Existing Discharges and Land Uses. If the Director determines that discharges from an existing drainage control facility cause or contribute to an illicit discharge, a nuisance, a threat to public health and safety, or a violation of the City's municipal stormwater NPDES permit or this chapter, the Director shall require the responsible party to implement and maintain operational BMPs in accordance with Volume IV of the Manual. If the Director determines that the discharges causing or contributing to the problem cannot be adequately addressed by operational BMPs, the Director may require the responsible party to undertake more stringent or additional BMPs, which may include structural BMPs or other actions necessary to cease causing or contributing to the problem or violation.

D. Minimum Requirements for New Development and Redevelopment. New development and redevelopment activities that are required to obtain City permits shall comply with the following minimum requirements, in accordance with the City's municipal stormwater NPDES permit and in accordance with the thresholds and requirements of the City's Manual.

1. Preparation of a Stormwater Site Plan. All projects shall prepare a stormwater site plan for review and approval by the Director.
2. Preparation of a Construction Stormwater Pollution Prevention Plan for erosion and sediment control. This plan shall be designed to comply with the requirements and purposes of the Manual, this section, any other applicable sections of Titles 2 and 13 of the Tacoma Municipal Code, and any departmental guidelines promulgated by the Director. The plan shall be designed, submitted, and implemented to address the following:
  - a. Mark clearing limits;
  - b. Establish construction access routes and controls;
  - c. Control flow rates;
  - d. Install sediment controls;
  - e. Stabilize soils;
  - f. Protect slopes;
  - g. Protect storm drain inlets;
  - h. Stabilize channels and outlets;
  - i. Control pollutants;
  - j. Control de-watering;

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k. Maintain BMPs; and

l. Manage the project.

3. Source Control of Pollutants. Source control BMPs shall be selected, designed, applied, and maintained in accordance with the Manual and any departmental guidelines promulgated by the Director.

4. Preservation of Natural Drainage Systems. Natural discharges from the site shall be maintained, shall occur at the natural location to the maximum extent practicable, and must not cause a significant adverse impact downstream or down gradient.

5. On-site Stormwater Management. Where appropriate, projects shall employ on-site stormwater management BMPs to infiltrate, disperse, and retain stormwater runoff onsite to the maximum extent feasible without causing flooding, erosion, water quality or groundwater impacts. Prior approval of the Director is required for such BMPs.

6. Runoff Treatment. All projects that meet the thresholds for runoff treatment in Volume 1 of the Manual shall provide water quality treatment in accordance with that Manual.

7. Flow Control (detention). All projects that meet the thresholds for flow control in Volume I of the Manual shall provide flow control in accordance with the Manual. Additionally, all projects shall address the need to provide water quantity controls according to the design criteria as determined by the Director. The requirement for stormwater detention will also be determined by pipe capacity and stormwater discharge location, as provided in the Manual.

8. Wetlands. Discharges to wetlands shall maintain the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated functions. Wetland areas are also regulated by Chapter 13.11 of the Tacoma Municipal Code, Critical Areas Preservation.

9. Geographic Specific Requirements. Projects may be subject to equivalent or more stringent minimum requirements for erosion control, source control, treatment, wetlands protection, and operation and maintenance, and alternative requirements for flow control as a result of basin or watershed plan, in accordance with Volume 1 of the Manual.

10. Operation and Maintenance Plan. An operation and maintenance manual consistent with City standards shall be provided for all proposed stormwater facilities and BMPs and party, or parties, responsible for operation and maintenance shall be identified. A copy of the Manual shall be retained on site or within reasonable access to

the site and shall be transferred with the property to the new owner.

11. Off-site Analysis and Mitigation. All projects shall include an analysis of off-site water quality and quantity impacts resulting from the project and shall mitigate these impacts if necessary. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The Director may require that the analysis shall extend further if deemed necessary. The existing or potential impacts to be evaluated and mitigated under this section shall include, but are not limited to:

- a. Impacts on conveyance system capacity;
- b. Localized flooding;
- c. Aquatic habitat (wetlands) impacts;
- d. Erosion impacts, including landslide hazards;
- e. Stream bank and channel erosion; and
- f. Impacts to known water quality or erosion problems;

12. Financial Liability. Performance bonding and/or other appropriate financial security may be required for all projects to ensure timely and proper completion of improvement, to ensure compliance with the minimum requirements of this chapter, or to warranty materials, workmanship and performance of design.

E. Stormwater Maintenance Activities. Maintenance of all storm drainage facilities or controls shall be required in accordance with the Manual. The proper maintenance of these controls or facilities is essential for the protection of the City's municipal storm drainage system and the environment. Storm drainage controls or facilities are either privately or publicly owned and maintained. All storm drainage facilities that serve commercial and industrial sites are private. Storm drainage facilities or controls that are privately owned by a homeowner's association or similar organization also are private

1. Maintenance and Inspection. All privately owned storm drainage facilities or controls shall be maintained by the owner, or the homeowner and/or owner association, if one is established as part of a residential or commercial development. All private storm drainage facilities shall be regularly inspected to ensure proper operation and shall monitor the facility or control as required or as set forth in the Manual. The owner, or homeowner and/or owner association shall maintain records of inspection and maintenance, disposal receipts, and monitoring results. The records shall catalog the action taken, the person who took it, the date said action was taken, how it was done, results of any monitoring effort, and any problems encountered or follow-up actions required. The records shall be made available to

the City upon request. The owner, or homeowner and/or owner association shall maintain a copy of the Stormwater Operations and Maintenance Manual on site, and shall make reference to such document in real property records filed with the Pierce County Auditor, so others who acquire real property served by the privately owned storm drainage facilities or controls are notified of their obligation to maintain such facilities or controls.

2. City Inspection. The regular inspection of privately owned storm drainage facilities or controls is essential to enable the City to evaluate the proper operation of the City's municipal storm drainage system and the environment. The City shall have the right to regularly inspect all private storm drainage facilities to ensure they are properly operated and maintained. The City may offer an incentive program to owners to encourage the proper maintenance of private storm drainage facilities. (Ord. 27538 § 5; passed Oct. 24, 2006; Ord. 27285 § 4; passed Nov. 2, 2004; Ord. 27003 § 6; passed Nov. 19, 2002)

#### **12.08.095 Exceptions procedure.**

A. General. Requests for exceptions from the requirements of TMC 12.08.090 may be made according to this section. An exception may be requested to allow a waiver, a reduction or modification of a requirement, or to permit an alternative requirement. Any such request must be made in writing. The Director shall approve or deny such requests in writing and shall only approve an exception to the extent it is necessary to meet the criteria set forth in this section. An applicant is not entitled to an exception, whether or not the criteria for approval of an exception are met. The Director may require the applicant to submit a Washington State licensed engineer's report or analysis with a request for an exception. As a condition of approving an exception, the Director may impose new or additional requirements to offset or mitigate harm that may be caused by approving the exception.

B. Equally Protective Exceptions. The Director may approve a request for an exception if the Director determines that it is likely to be equally protective of public health, safety and welfare, the environment, and public and private property as the requirement from which an exception is sought.

C. Other Exceptions. The Director also may approve a request for an exception where the criteria in subsection B are not met, or where the Director cannot determine whether the criteria are met, if the Director determines in his or her sole discretion that substantial reasons exist for approving the requested exception and the exception will not cause significant harm. Substantial reasons may include, but are not limited to,

1. The requirement is not technically feasible;
2. An emergency situation necessitates approval of the exception;
3. No reasonable use of the property is possible unless the exception is approved;
4. The requirement would cause harm or a significant threat of harm to public health, safety and welfare, the environment, or public and private property, or would cause extreme financial hardship which substantially outweighs its benefits.

D. The approval of an exception shall not be construed to be an approval of any violation of any of the other provisions of this chapter nor approval of any violation of any other ordinance of the City nor approval of any violation of any other valid law of any governmental entity having jurisdiction. The approval of plans, specifications, and calculations for an exception shall not prevent the Director from thereafter requiring the correction of errors in such plans, specifications, or other data, or from preventing operations being carried on thereunder when in violation of this chapter, or any other ordinance of the City.

E. The following public notice requirements apply whenever a request for an exception to the Minimum Requirements contained in TMC 12.08.090.D ("Request") is received by the City:

1. Public notice ("Notice") shall be made to inform the public about the contents of the Request and the Director's decision to grant or deny it. Notice of the Request and the Director's decision to grant or deny the Request may be combined.
2. The Notice shall be published, at the requester's cost, in the City's newspaper of record and a local newspaper of general circulation within Tacoma. The Notice shall also be published on the surface water section of the City's website.
3. The Notice shall include: (i) a brief description of the Request; (ii) a brief description of the Director's decision to grant the Request and the reasons supporting the decision, or a statement that the Request is denied; (iii) where the Request and the Director's decision to grant or deny the Request can be reviewed; and (iv) the name and contact information of a City employee who can answer questions regarding the Request.
4. The City shall provide a hardcopy of the Director's decision to grant or deny a Request to the requester. The Director's decision to approve or deny a Request shall include a reference to the procedures in TMC 12.08.678 for contesting such decision.

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F. Appeals to the Hearing Examiner. Appeals of the Director's decision on Request for an exception shall be made to the Hearing Examiner in accordance with TMC 12.08.678. (Ord. 27749 Ex. A; passed Oct. 21, 2008; Ord. 27538 § 6; passed Oct. 24, 2006; Ord. 27003 § 7; passed Nov. 19, 2002)

### **12.08.100 Sampling and testing of wastewater.**

Authorized City representatives, bearing proper credentials and identification shall be permitted to enter upon any and all premises at all reasonable times for the purpose of inspection, observation, records examination and copying, measurement, sampling, and testing of wastewater (including storm or surface water) in accordance with the provisions of this chapter. (Ord. 27538 § 7; passed Oct. 24, 2006; Ord. 25587 § 11; passed Sept. 20, 1994; Ord. 24879 § 6; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984.)

### **12.08.130 Pretreatment of commercial and/or industrial wastewater.**

The industrial wastewater pretreatment requirements of this chapter shall apply to all users of the POTW, including those dischargers located outside the political boundary of the City. This chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting. State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than Federal requirements and limitations, or those in this chapter or other applicable ordinance.

A. If, as determined by the Director, treatment facilities, operational changes or process modifications at a commercial and/or industrial dischargers facility are needed to comply with any requirements under this chapter or are necessary to meet any applicable State or Federal requirements, the Director may require that such facilities be constructed or modified or changed to bring effluent into compliance in the shortest feasible time. All reasonable and economically achievable treatment shall be required to meet discharge limitations and requirements unless the specific contaminants are compatible with the POTW treatment processes, there are specific categorical standards or local contaminant limitations applicable to the industry's process wastewaters, or the POTW has determined that the discharge does not represent a potential to violate pretreatment standards or requirements either alone or in combination with other wastes.

B. Any requirement provided for or authorized pursuant to this chapter may be incorporated as a part of an industrial wastewater discharge permit issued under TMC 12.08.140 or any other enforcement document and made a condition of issuance of such permit or made a condition of the acceptance of the wastewater from such facility.

C. Plans, specifications, engineering calculations, and other information relating to the construction or installation of pretreatment facilities required by the Director under this chapter shall be submitted to the Director. All such plans and specifications shall be prepared under the supervision of a professional engineer licensed in accordance with Chapter 18.43 RCW and in accordance with the requirements for approval of industrial wastewater facilities contained in Chapter 173-240 WAC. All copies of these documents submitted for review shall bear the seal of the professional engineer under whose supervision the documents were prepared. No construction or installation shall begin until written approval of the plans and specifications has been given by the City.

D. The approval of plans, specifications, and calculations shall not be construed to be an approval of any violation of any of the provisions of this chapter, nor approval of any violation of any other ordinance of the City of Tacoma, nor approval of any violation of any other valid law of any governmental entity having jurisdiction. An approval shall be invalid if that approval presumes to give authority to violate or cancel the provisions of any valid law. The approval of plans, specifications, and calculations shall not prevent the Director from thereafter requiring the correction of errors in such plans, specifications, or other data, or from preventing operations being carried on thereunder when in violation of this chapter, or any other ordinance of the City of Tacoma. (Ord. 27538 § 8; passed Oct. 24, 2006; Ord. 27285 § 5; passed Nov. 2, 2004; Ord. 25802 § 6; passed Dec. 5, 1995; Ord. 25587 § 12; passed Sept. 20, 1994; Ord. 24879 § 7; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.140 Industrial wastewater discharge permits.**

A. General. All nondomestic users must notify the Director by completing and submitting a survey form from the Wastewater Management Division whenever they intend to connect to the POTW or significantly modify or increase their wastestream. The Director may condition or deny any and all waters discharged to the POTW, and may require all information necessary to determine whether a discharger is a significant industrial user (SIU). All significant industrial users, as determined

by the Director, that propose to connect to or to discharge sewage, industrial wastes and other wastes to the Municipal Sanitary Sewer System, or propose to change processes which might reasonably be expected to increase the volume and/or concentration of pollutants in the wastestream, shall obtain a wastewater discharge permit before connecting to or discharging to the system or significantly modifying or increasing their wastestreams.

B. Permit Application - Industrial Users Subject to Newly Promulgated Categorical Pretreatment Standards. Any industrial user that was discharging, or was scheduled to discharge, wastewater into the POTW prior to the effective date of the ordinance codified in this chapter, and is subject to a categorical pretreatment standard that was promulgated by the United States Environmental Protection Agency after the effective date of the ordinance codified in this chapter, shall within 180 days after the effective date of such newly promulgated categorical pretreatment standard submit to the City a wastewater discharge permit application. The permit application shall contain information identified in TMC 12.08.140.E.1 through 7. When completed in accordance with 40 CFR 403.12(b), such application may be considered the user's baseline monitoring report (BMR).

C. New Sources and New Users. At least 90 days prior to commencement of discharge, new sources subject to categorical pretreatment standards issued by the United States Environmental Protection Agency, and new users determined to be SIUs shall submit to the City a permit application. The permit application shall contain the information identified in TMC 12.08.140.E.1 through 5. New sources and new users shall give estimates of the information described in TMC 12.08.140.E.1 through 5. New sources and new users determined to be SIUs shall also include in their application such information that adequately describes the method of pretreatment the user will use to meet applicable pretreatment standards. No wastewater discharge permit shall be issued unless and until all required information has been provided.

D. Permit Application - Existing Significant Industrial Users. Any SIU that was discharging wastewater into the POTW prior to the effective date of the ordinance codified in this chapter shall comply with the reapplication requirements of TMC 12.08.210. Upon determination by the Director that any existing user qualifies as a significant industrial user, that existing user shall submit a permit application within 90 days of notification; provided, that the Director determines that such continued discharge is not reasonably expected to violate any applicable pretreatment standard or requirement.

E. Information Required in Permit Applications.

1. Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owner(s).
2. Permits. The user shall submit a list of any environmental control permits either applied for or held by or for the facility.
3. Description of Operations. The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operations(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the Municipal Sanitary Sewer System from the regulated processes.
4. Flow Measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the Municipal Sanitary Sewer System from each of the following:
  - a. Regulated process streams;
  - b. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e); and
  - c. Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Director.

The Director may allow for verifiable estimates of the flows where justified by cost or feasibility considerations.
5. Measurement of Pollutants. The user shall identify the pretreatment standards applicable to each regulated or other process wastestream as determined by the Director, perform sampling and report the results in accordance with the requirements of the industrial wastewater discharge permit application as applicable. All analysis shall be performed by a certified laboratory, in accordance with the provisions of WAC 173-216-125.
  - a. For baseline monitoring reports from users subject to categorical standards, the following requirements shall apply: if pH, cyanide, total phenols, oil and grease, sulfide, or volatile organics are to be sampled, then at least four grab samples shall be taken of these pollutants. All other pollutants must be measured by flow proportional composite samples unless the Director finds that such measurements are not feasible. If the Director finds that such measurements are not feasible, then a time-based or composite of four grab samples shall be taken. For all other users, the user shall take a minimum of one representative sample to compile that data necessary to comply with the permit application requirements.

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b. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated processes if no pretreatment exists. The user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula if other wastewaters are mixed with the regulated wastewater prior to pretreatment. Measurements shall be representative of daily operations. Both daily maximum and average concentrations (where determined) shall be reported.

c. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 as amended.

d. The Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures. Such baseline report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the Municipal Sanitary Sewer System.

6. Certification. A statement, reviewed by a certified professional who is an authorized representative of the user, stating whether the user is meeting applicable pretreatment standards on a consistent basis, and, if not, whether additional pretreatment or operation and maintenance (O & M) is required for the user to meet the applicable pretreatment standards and requirements.

7. Compliance Schedule/Engineering Report. Where pretreatment and/or operation and maintenance activities will be required to comply with this chapter, or where a Discharger modifies, or proposes to construct or modify wastewater facilities, or in response to a compliance schedule ordered by the Director as a result of an incident or incidents of noncompliance, the Discharger shall provide an engineering report describing the action that must be taken to comply with this chapter.

a. The engineering report shall include a time schedule, showing the dates by which such action will be completed. The schedule shall indicate the dates by which major events will be completed leading to the construction and operation of additional pretreatment that is required for the discharger to comply with this chapter, including, but not limited to, dates relating to the retention of an engineer who is to design the improvements; the retention of other appropriate personnel; the completion of preliminary plans; the completion of construction documents; execution of a contract for major components; start of construction; and completion of construction. The date of final compliance

shall not be extended beyond the final compliance date established for the applicable pretreatment standard.

b. All such reports, plans, and specifications shall be prepared in accordance with the requirements of Chapter 173-240 WAC and under the supervision of a professional engineer, licensed in accordance with Chapter 18.43 RCW. All copies of these documents submitted for review shall bear the seal of the professional engineer under whose supervision the documents were prepared.

c. The discharger shall forward two copies of the engineering report to the Washington State Department of Ecology for review, and one copy of the report shall be submitted to the City. Additional copies may be required by other federal, state, or local agencies that have jurisdiction. Approval from all agencies with jurisdiction shall be obtained prior to the construction or installation of any necessary facilities.

d. Under no circumstance shall the Director permit a time increment for any single step directed toward compliance which exceeds nine months.

e. Not later than 14 days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the Director, including, at a minimum, a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the Director.

F. Signatory Requirements. All permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

G. Public Notice. The Director will review the permit application and supporting data furnished by the discharger. The permit application and supporting data

may be reviewed by other City departments or governmental agencies as determined by the Director, to verify compliance with applicable laws. If the Director finds that the data submitted is acceptable, then the Director shall direct the applicant to publish notice for each application; except, however, public notice requirements shall not apply to permit renewals if there are no increases in volume or changes in the characteristics of discharge beyond those previously authorized. Publication shall be at least once each week, for two consecutive weeks, in a newspaper of general circulation in Pierce County. The public notice shall be in a form provided by the Director, and shall include the following:

1. The name, address, and phone number of the office issuing the notice;
2. The name and address of the applicant, and if different, the name and address of the facility or activity to be permitted;
3. A brief description of the applicant's activities or operations which result in the discharge described in the application (e.g., steel manufacturing, chemical processing, etc.);
4. A brief description of the discharge point(s); and
5. The address and phone number of the office at which interested persons may obtain further information.

H. Public Comment. Public comment on permit applications will be accepted for a 30-day period following the second publication. If the Department determines that there is a significant public interest, then the Department shall require that a public hearing be held after the 30-day comment period, at a time and place deemed appropriate by the Department.

I. Permit Conditions. Following the public comment period, and following the public hearing if held, the Director shall issue a wastewater discharge permit if the Director finds that the permit application, specifications, and other data conform to the requirements of this chapter and other pertinent laws. Wastewater discharge permits shall specify the following as applicable:

1. Limits on the average and maximum wastewater constituents and characteristics regulated thereby;
2. Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;
3. Requirements for installation and maintenance of inspection and sampling facilities;
4. General conditions under which permittees will monitor their wastewater for compliance including but

not limited to sampling locations, frequency and number of sampling events, sampling parameters, testing standards, and reporting requirements;

5. Requirements for all analysis to be performed by registered and accredited laboratories in accordance with State regulation, WAC 173-216-125;
6. Compliance schedules;
7. Requirements for submission of special technical reports or discharge reports where same differ from those prescribed by this chapter;
8. Notification procedures;
9. Recordkeeping requirements;
10. Requirements and procedures for submitting an Accidental Spill Prevention Plan (ASPP);
11. Permit duration;
12. Permit transfer limitations;
13. A statement of applicable civil and criminal penalties; and
14. Signatory requirements.

J. Permit Modifications. The Director may amend any wastewater discharge permit issued hereunder in order to assure compliance by the City with applicable laws and regulations or for other good cause. As used in this section, the term "good cause" shall include but not be limited to, the following:

1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
4. Information indicating that the permitted discharge poses a threat to the POTW, personnel, or the receiving waters;
5. Violation of any terms or conditions of the wastewater discharge permit;
6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

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8. To correct typographical or other errors in the wastewater discharge permit; or
9. To reflect transfer of the facility ownership and/or operation to a new owner/operator.

Within nine months of the effective date of a National Categorical Pretreatment Standard, the wastewater discharge permit of each discharger subject to such standards shall be revised to require compliance with such standards within three years of the effective date of the standard, unless Federal or State regulations require a shorter implementation period. All National Categorical Pretreatment Standards hereinafter adopted by the United States Environmental Protection Agency shall be by this reference included herein including mass or production based limits where appropriate.

a. Where a discharger, subject to a National Categorical Pretreatment Standard has not previously submitted an application for a wastewater discharge permit as required by this chapter, then the discharger shall apply for a wastewater discharge permit within 180 days after the effective date of the applicable National Categorical Pretreatment Standard by the United States Environmental Protection Agency.

b. A discharger with an existing wastewater discharge permit shall submit to the City within 180 days after the effective date of an applicable National Categorical Pretreatment Standard a certification as described in TMC 12.08.140.E.6, and a compliance schedule/engineering report as described in TMC 12.08.140.E.7.

c. The discharger shall be informed of any permit modifications at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance; provided, however, that in all cases Federal Categorical Pretreatment Standards shall be met within three years of the effective date of the standard, unless federal or state regulations require a shorter implementation period.

### K. Validity of Permit.

1. The issuance of a permit, or granting approval of plans, specifications, and computations, shall not be construed to be a permit for, or approval of, any violation of any of the provisions of this chapter, or any other applicable rule or regulation. Permits presuming to give authority to violate the provisions of this chapter shall not be valid.

2. Issuance of a wastewater permit shall not relieve the permittee from obtaining such additional permits as may be required by the City, or by other agencies having jurisdiction. In particular, construction permits must be obtained prior to the start of construction. In accordance

with Chapter 173-240 WAC, prior to the construction or modification of industrial wastewater facilities, engineering reports and plans must be submitted to the Washington State Department of Ecology at least 30 days prior to the time approval is desired.

3. State requirements and limitations on discharges to the POTW shall be met by all users subject to such standards in all instances in which state standards are more stringent than either federal requirements, or the requirements stated in this chapter.

L. Permit Duration. All wastewater discharge permits shall be issued for a specified period of time not to exceed five years, subject to amendment or revocation as provided in this chapter. Under certain circumstances, a permit may be issued for a stated period less than five years.

M. Permit Charges. The City shall establish an annual charge for administering industrial wastewater discharge and industrial wastewater zero-discharge permits. Such charges are as follows:

Effective Date: January 1, 1997:

Industrial wastewater discharge permit: \$700.00/year.

Industrial wastewater zero-discharge permit: \$480.00/year.

Payment shall be made in a manner and at the frequency determined by the Director.

N. Limitations on Permit Transfer. Wastewater discharge permits are issued to a specific discharger for a specific operation and are not assignable to another discharger without the prior written approval of the Director, or transferable to any other location. (Ord. 27538 § 9; passed Oct. 24, 2006: Ord. 26729 § 1; passed Nov. 7, 2000: Ord. 25979 § 1; passed Nov. 19, 1996: Ord. 25802 § 7; passed Dec. 5, 1995: Ord. 25587 § 13; passed Sept. 20, 1994: Ord. 24879 § 8; passed May 21, 1991: Ord. 23240 § 1; passed Aug. 28, 1984)

### 12.08.150 Reporting requirements for wastewater permittee.

A. Compliance Date Report. Within 90 days following the date by which final compliance with applicable pretreatment standards must be met by a discharger as set forth in this chapter, or within 90 days after wastewater is first introduced into the POTW by a new source subject to the permit requirements of this chapter, such dischargers shall submit a report prepared under the supervision of a professional engineer, licensed in accordance with Chapter 18.83 RCW. The report shall state:

1. The nature and concentration of all regulated contaminants contained in the discharge;
2. The average and maximum daily flow in gallons, in accordance with TMC 12.08.140.E.4 through 6; and
3. Whether the applicable pretreatment standards or requirements are being met on a consistent basis. In the event the report concludes that the pretreatment standards are not being met on a consistent basis, the report shall state what additional operation and maintenance and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards and requirements. This statement shall be signed by an authorized representative of the discharger.

**B. Periodic Compliance Reports - Dischargers Subject to an Applicable Pretreatment Standard and New Sources.**

1. Dischargers subject to an applicable pretreatment standard as set forth in this chapter shall, after the compliance date of the applicable pretreatment standard, submit to the Wastewater Management Division a report indicating the nature and concentration of regulated substances in the effluent which are limited by applicable pretreatment standards. New sources shall, after commencement of the discharge to the Municipal Sewer System, submit to the Wastewater Management Division a report indicating the nature and concentration of regulated substances in the effluent which are limited by applicable pretreatment standards. Such compliance reports shall be submitted semi-annually, unless required by the Director to be submitted more frequently. Such reports shall include a record of all measured or estimated average and maximum daily flows during the reporting period that is reported pursuant to TMC 12.08.150.A. Flows shall be reported on the basis of actual measurement; provided that if the Director finds that the cost or feasibility of such actual measurements justify, then the Director may accept by prior authorization, reports of average and maximum flows estimated by verifiable techniques. Production data shall be reported if required by the wastewater discharge permit or if the user is subject to concentration limits established by unit production limits specified in the applicable categorical standards.

2. Reports of permittees shall contain all results of sampling and analysis of the discharge performed in accordance with the requirements of 40 CFR Part 136 and amendments thereto, including the flow, nature, and concentration, or production and mass where required by the Director. When sampling and analysis is performed for regulated pollutants for purposes of determining compliance, such sampling and analysis shall be conducted in accordance with 40 CFR Part 136 and shall be reported. The frequency of monitoring by the

discharger shall be as prescribed in the wastewater discharge permit issued to the discharger. All analyses shall be performed in accordance with 40 CFR Part 136, which is incorporated herein as though fully set forth, including any amendments thereto. If 40 CFR Part 136 does not include a sampling or analytical technique for the contaminant to be tested, then sampling and analysis shall be performed in accordance with the procedures set forth in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April, 1977 ed., as published by the United States Environmental Protection Agency ("EPA"), together with any amendments thereto, or with any other sampling and analytical procedures approved by the EPA. Sampling and analysis that is performed for regulated pollutants for the purposes of determining compliance shall be conducted in accordance with 40 CFR Part 136. Any sampling and analysis that is conducted more frequently than required herein, and is performed in accordance with the provisions of 40 CFR Part 136, shall be reported.

C. Hazardous Waste Notification. In accordance with 40 CFR Part 403.12(p) Industrial User Hazardous Waste Notification Requirements, all users of the Municipal Sewer System must notify the City Wastewater Management Division, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the City's Municipal Sanitary Sewer System of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Additionally, notification shall be required for discharge of a substance, which, if otherwise disposed of, would be a dangerous waste under Chapter 173-303 WAC. Such notification shall 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 user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent it is known or readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.

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

Whenever the EPA or Washington State Department of Ecology publishes final rules identifying additional hazardous or dangerous wastes or new characteristics of

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hazardous or dangerous waste, a user shall notify the City of the discharge of such a substance within 90 days of the effective date of such regulations.

D. Notification of Change in Production Levels. All users shall notify the City in advance of any change in the volume or character of pollutants in their discharge, including manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p). Where discharge permit limits incorporate concentration limits based upon production, the user shall notify the City within two calendar days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the concentration limits based upon the most recently approved estimate of the long term average production rate.

E. Notification of Potential Problems. Any user shall immediately notify the Wastewater Management Division upon becoming aware of any discharge that may adversely affect the POTW, including slug loads as defined in this chapter. The notification shall include the concentration, volume, corrective actions, and steps being taken to reduce any adverse impact; provided that the user's inability to provide this information shall not excuse the user from providing such information that the user does possess.

F. Notification of Noncompliance. If sampling performed by the user indicates that a violation of this chapter has occurred or is occurring, the user shall notify the Wastewater Management Division within 24 hours of becoming aware of the violation. The user shall repeat the sampling within five days, and submit the results of such analysis within 30 days of becoming aware of the violation, except that the user need not resample if:

1. The City performs sampling at the user's facility at a frequency of at least once per month; or
2. The City performs sampling at the facility between the time the user performs its initial sampling and the time the user receives the results of this sampling.

G. Notification of Changed Discharge. A user shall promptly notify the Wastewater Management Division before any substantial change in the volume or character of pollutants in its discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p).

H. Signatory Requirements. All user reports must be signed by an authorized representative of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. (Ord. 27538 § 10; passed Oct. 24, 2006: Ord. 27003 § 8; passed Nov. 19, 2002: Ord. 26729 § 2; passed Nov. 7, 2000: Ord. 25587 § 14; passed Sept. 20, 1994: Ord. 24879 § 9; passed May 21, 1991: Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.160 Wastewater monitoring facilities.**

Each discharger shall provide and operate, at the discharger's expense, a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge to the sanitary sewer. Each monitoring facility shall be located on the discharger's premises; provided that where such a location would be impractical or cause undue hardship on the discharger, the Director may allow the facility to be constructed in the public street or sidewalk provided that the facility is located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and associated equipment shall be maintained at all times in a safe and proper operating condition by the discharger. All monitoring facilities shall be constructed and maintained in accordance with American Public Works Association Standard Specifications and with any City of Tacoma Supplement currently in effect. All devices used to measure wastewater flow and quality shall be calibrated in a manner and frequency by the discharger to ensure their accuracy. Construction shall be completed no later than 180 days of receipt of all necessary permits by the discharger, or within 200 days of the date the discharger was notified that the necessary permits were available for issuance, whichever shall result in the shortest period of time. (Ord. 27538 § 11; passed Oct. 24, 2006: Ord. 27003 § 9; passed Nov. 19, 2002: Ord. 25587 § 15; passed Sept. 20, 1994: Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.170 Confidential information.**

A. **Presumption of Open Records.** In accordance with the Public Records Act, (RCW 42.56) information and data that relates to a discharger that is obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and City inspection and sampling activities, shall be available to the public without restriction, unless the discharger requests in writing that certain information contained in a wastewater discharge permit application, or other document (other than information on the effluent), be held as “Confidential Business Information” because disclosure of such information would divulge methods or processes entitled to protection as trade secrets under RCW 42.56.270(11). If the City does not agree that such information is entitled to protection under RCW 42.56, then it shall notify the discharger of such determination.

In the event the City receives a public records request for documents marked “Confidential Business Information,” it shall notify the discharger in accordance with RCW 42.56.540, and the discharger may, at its own expense, seek a court injunction to prevent release of the document. If the discharger does not commence an action for injunction relief within ten business days of receiving the City’s notice, the City may disclose the document.

B. **Violations.** During the time that possible violations of this chapter are being investigated by the City, investigation notes, draft orders, worksheets, summaries, and similar documents pertaining to the investigation may be maintained as confidential information to the extent allowed under RCW 42.56. At the time that an enforcement action, if any, is signed thus designating that enforcement action as final, then the confidential status shall terminate, and the document shall be made available for public inspection.

C. **Disclosure Pursuant to Government Programs.** Nothing in this section shall prohibit the Director from disclosing such information to other officers, employees, or authorized representatives of a governmental agency for uses related to applicable governmental programs, including, but not limited to, the NPDES program, and the pretreatment program.

D. **Disclosure Pursuant to Enforcement Activities.** Nothing in this section shall prohibit the Director from disclosing such information to other officers, employees, or authorized representatives of a governmental agency pursuant to enforcement proceedings involving the person or entity furnishing the information. (Ord. 27538 § 12; passed Oct. 24, 2006; Ord. 27285 § 6; passed

Nov. 2, 2004; Ord. 25587 § 16; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.180 Emergency suspension of service and revocation of discharge permits.**

A. **Suspension of Service.** The Director may suspend storm drainage services, special approved storm water discharges, and/or wastewater treatment services and the Director may suspend or revoke the wastewater discharge permit of a discharger when the Director finds that an actual or threatened discharge either:

1. Threatens or presents an imminent or substantial danger to the health or welfare of personnel or to the environment;
2. Threatens to or does interfere with the operation of the Municipal Sewer System or causes the City to violate its NPDES permit; or
3. Causes the permittee to violate any pretreatment limitations imposed by the permittee’s wastewater discharge permit, or causes the permittee to violate other regulations contained in TMC 12.08.

B. **Revocation of Permit Issued in Error.** The Director may revoke a wastewater discharge permit issued in error, or issued on the basis of incorrect information supplied by the discharger.

C. **Revocation Process.** Upon determination by the Director that a wastewater permit shall be revoked, the Director shall take such steps as are reasonably calculated to immediately notify the discharger that the wastewater discharge permit has been revoked. Such immediate notice shall be followed by written notice. A discharger notified of the revocation of the discharger’s permit shall immediately cease all discharges.

D. **Failure to Comply.** In the event the discharger fails to comply with the requirements contained in the Director’s written notice, the Director shall have available all remedies provided by law to compel specific compliance with the Director’s written notice.

E. **Reinstatement of Permit.** The Director may reinstate the wastewater discharge permit, and any discontinued services, upon finding that the conditions creating the threat as set forth above have been eliminated, and upon finding that reasonable steps have been taken to prevent a reoccurrence of the conditions that resulted in the threat. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27538 §13; passed Oct. 24, 2006; Ord. 25587 §17; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

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### **12.08.190 Prohibited practices; termination of treatment services.**

A. Prohibited Practices. A discharger shall not:

1. Fail to accurately report the wastewater constituents and characteristics of its discharge;
2. Fail to report known or reasonably anticipated changes in wastewater constituents or characteristics prior to the changed discharge;
3. Misrepresent or fail to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsify self-monitoring reports;
5. Tamper with monitoring equipment;
6. Refuse reasonable access to the discharger's premises by representatives of the Director for the purpose of inspection or monitoring; or
7. Violate the conditions of its permit, the provisions of this chapter, or any order of the Director with respect thereto.

B. Termination of Services. The Director may terminate wastewater or storm water services to any discharger who violates any of the provisions of TMC 12.08.190.A, or upon cessation of operations. Exercise of the termination option shall not be a bar to, or a prerequisite for, taking any other action against the discharger. All prior wastewater discharge permits issued to a particular discharger are void upon the issuance of a new wastewater discharge permit to that user.

C. Transfer of Ownership. A wastewater discharge permit is issued to a specific discharger, for a specific operation. All wastewater discharge permits shall be void upon transfer of business ownership. (Ord. 27538 §14; passed Oct. 24, 2006; Ord. 27003 §10; passed Nov. 19, 2002; Ord. 25587 §18; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.200 Enforcement procedures.**

Whenever the Director finds that any person has violated the prohibitions in TMC 12.08, including any state and federal regulations the City is authorized to enforce under TMC 12.08, the Director shall respond with appropriate enforcement action in accordance with the policies and procedures contained in Tacoma's Enforcement Response Plans (ERPs) for wastewater and stormwater. Enforcement response may be taken against any person who shall at any time cause or contribute to the contamination or recontamination of any waterway and/or its remediated sediments. As stated in the ERPs, enforcement remedies available include:

A. Informal notices, meetings, or telephone calls;

B. Warning letters;

C. Notices of violation (NOV);

D. Notices of violation with civil penalties;

E. Notices of violation with corrective action orders with and without civil penalties;

F. Notices of violation with corrective action order/compliance schedule in accordance with TMC 12.08.140.E.7;

G. Stop work orders; and/or

H. Emergency suspension/termination of service and/or criminal prosecution with penalties.

The choice of enforcement action and the severity of any penalty shall be based on, among other things, the nature of the violation including the amount of damage or risk to the public, or to public resources, the compliance history of the discharger, whether the discharger cooperated with the City by correcting or making good faith attempts to correct the violation, and whether the violation is a repeat violation. Nothing precludes the City from taking escalating forms of enforcement action. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27538 § 15; passed Oct. 24, 2006; Ord. 27003 § 11; passed Nov. 19, 2002; Ord. 25802 § 8; passed Dec. 5, 1995; Ord. 25587 §19; passed Sept. 20, 1994)

### **12.08.210 Duty to reapply.**

A. Duty to Reapply. The permittee shall re-apply for reissuance of a wastewater discharge permit 180 calendar days prior to the permit's expiration. Any permittee holding an unexpired permit may apply in writing for an extension of the permit, provided such application is made at least 180 calendar days prior to the permit's expiration. The Director may extend the permit upon finding that the interests of this chapter are best served by such extension.

B. Application Procedure. For a permit to be reissued, the applicant shall first file an application in writing, on a form furnished by the Director. The Director may require such additional information as deemed necessary to evaluate the applicant's conformance with applicable Federal, State, and local regulations. (Ord. 25587 §20; passed Sept. 20, 1994)

### **12.08.220 Operating upsets.**

A. Operating Upsets. Any discharger that experiences an operating upset, as defined in TMC 12.08.010, which places the discharger in a temporary state of noncompliance with this chapter or with an applicable pretreatment standard shall inform the Director immediately upon first awareness of the upset. Where

such notification is given orally, a written follow-up report shall be filed by the discharger with the Director within five calendar days. The report shall specify:

1. Description of the upset, the cause thereof and the upset's impact on the discharger's compliance status;
2. Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is expected to continue, the time by which compliance is reasonably expected to occur;
3. All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance. The steps

should include but not be limited to reducing and/or controlling production, providing alternate treatment or power supply if feasible, and temporary storage or off-site disposal.

B. Affirmative Defense to Enforcement Actions. An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of paragraph C are met.

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

1. An upset occurred, and the cause of the upset;
2. The facility was at the time being operated in a prudent manner, and in compliance with applicable operation and maintenance procedures; and
3. The user has submitted the information described in TMC 12.08.220.A in accordance with the provisions of that section. (Ord. 27538 § 16; passed Oct. 24, 2006; Ord. 25587 § 21; passed Sept. 20, 1994; Ord. 24879 § 11; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.230 Accidental discharges.**

Each discharger shall provide protection from accidental discharges of materials that are regulated by this chapter.

A. Where deemed necessary by the Director, an Accidental Spill Prevention Plan (ASPP) shall be prepared by the discharger within 90 days of such determination and shall, at a minimum, contain the following:

1. A description of discharge practices, including nonroutine batch discharges;
2. A description of stored chemicals;

3. Procedures for immediately notifying the Director of a slugload, including any discharge that would violate a prohibition under TMC 12.08.020, Prohibitions on Discharges;

4. Procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

B. Review of Plans. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director for review, and shall be approved by the Director before construction of the facility. Each discharger, as requested, shall submit its plan to the Director. No discharger who discharges to the Municipal Sanitary Sewer System shall be permitted to introduce contaminants into the system until an Accidental Spill Prevention Plan (ASPP) has been approved by the Director. Review and approval of such plans and operating procedures shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

C. Notification Procedures, Liability for Expense. Dischargers shall notify the Director immediately upon the occurrence of an excessive discharge, "slugload," or accidental discharge of contaminants regulated by this chapter. The notification shall include location of discharge, date and time of the discharge, type of waste, concentration of contaminants, volume of discharge, and corrective actions taken. Any discharger who discharges prohibited materials, or who discharges regulated materials in excess of that allowed by this chapter, shall be liable for any expense incurred by the POTW pursuant to the discharge, including but not limited to:

1. Losses due to damage suffered by the POTW's physical facilities;
2. Any engineering, consultant, inspection, testing, or similar fees paid by the POTW and necessitated by the excessive or accidental discharge, or slugload;
3. All administrative costs incident to the excessive or accidental discharge, or slugload; and
4. Losses due to fines or monetary penalties imposed on the POTW by the State or Federal government, attributable to the excessive or accidental discharge, or slugload.

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D. Discharger Employee Notification. Signs shall be posted in conspicuous locations on the discharger's premises, advising employees who to call in the event of an excessive discharge, a slugload or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

E. Modification to ASPP. A permittee who has been required to prepare an ASPP shall review such ASPP whenever changes occur that could affect the ASPP, but in no event less frequently than every two years from the effective date of the wastewater discharge permit. Any proposed modifications that are necessary for the plan to remain in compliance with the provisions of TMC 12.08.230.A shall be submitted to the Director for approval. If the permittee finds that no modifications to the ASPP are necessary, then the permittee shall certify that the ASPP on file with the City is current, and shall submit such certification to the Director. (Ord. 27538 § 17; passed Oct. 24, 2006; Ord. 25802 § 9; passed Dec. 5, 1995; Ord. 25587 § 22; passed Sept. 20, 1994; Ord. 24879 § 12; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.240 Records retention.**

All dischargers subject to this chapter shall retain and preserve for no less than three years any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof relating to monitoring, sampling, and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of enforcement or litigation activities brought by the Director pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. (Ord. 25587 § 23; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.300 Holding tank waste.**

No person in the business of pumping wastes from septic or other holding tanks shall discharge the contents of any holding tank (including, without limitation, septic tank, cesspool or chemical toilet waste) into the Municipal Sanitary Sewer System unless that person has been properly licensed by the City of Tacoma Tax and License Division of the Finance Department and issued a current permit by the Tacoma-Pierce County Health Department. The discharger shall pay the applicable charges and fees and shall meet all other conditions as required by the City. An exception to this requirement is that no license or permit will be required in the case of discharge of domestic wastes from individual mobile home (camper,

motor home, camping trailer, etc.) holding tanks; provided that such discharges are made into a City-approved facility designed to receive such wastes.

Only domestic wastewater shall be authorized to be discharged into the Municipal Sanitary Sewer System at the POTW. Any other waste, including but not limited to grease traps, oil/water separators, interceptors, or septic tanks comprising waste other than domestic wastewater, or any mixture thereof, shall not be discharged at the POTW, unless authorized by the Director.

Any mixture of hazardous or dangerous wastes, as defined by Federal or State regulations, regardless of the quantity or ratio, in a holding tank is strictly prohibited from being discharged into the Municipal Sanitary Sewer System. (Ord. 25979 § 2; passed Nov. 19, 1996; Ord. 25587 § 24; passed Sept. 20, 1994; Ord. 24879 § 13; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.310 Designation of places and manner of discharge of holding tank contents.**

Holding tank pumpers shall discharge waste material at the City's Treatment Plant No. 1, located at 2201 Portland Avenue, unless otherwise directed by the Director. Matter prohibited to be discharged into the Municipal Sanitary Sewer System by this chapter or by other applicable law or regulation shall not be permitted to be so discharged. (Ord. 25587 § 25; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.320 Discharge of holding tank contents - Charges - Report.**

A charge shall be made for each truckload or container-load of holding tank waste material discharged at the wastewater treatment plant, and shall be payable to the City Treasurer and credited to the Wastewater Management Fund. This charge shall be based on the full-tank capacity of the vehicle. There shall be no proration of the charge due to a partial load of the vehicle tank. The charge shall be as follows:

**Effective Date: January 1, 2009:**

	From Within the City	From Outside the City
Septic Tank Wastes (Holding, Cesspool, etc.) and Chemical Toilet Wastes	\$13.02/100 gal.	\$14.32/100 gal.

**Effective Date: January 1, 2010:**

	From Within the City	From Outside the City
Septic Tank Wastes (Holding, Cesspool,	\$13.78/100 gal.	\$15.16/100 gal.

etc.) and Chemical Toilet Wastes		
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Prior to the discharge of any material from holding tanks, a written report shall be submitted to the Wastewater Management Division administrative office at 2201 Portland Avenue. The report shall be made on forms provided by the City, and all pertinent information required for charges shall be completed. Incomplete or inaccurate reports will result in the application of the highest chargeable rate. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27554 § 1; passed Dec. 5, 2006; Ord. 27285 § 7; passed Nov. 2, 2004; Ord. 27003 § 12; passed Nov. 19, 2002; Ord. 26888 § 2; passed Dec. 4, 2001; Ord. 26729 § 3; passed Nov. 7, 2000; Ord. 26526 § 1; passed Nov. 30, 1999; Ord. 26338 § 1; passed Dec. 8, 1998; Ord. 25802 § 10; passed Dec. 5, 1995; Ord. 25659 § 1; passed Jan. 24, 1995; Ord. 25587 § 26; passed Sept. 20, 1994; Ord. 25521 § 1; passed Jun. 7, 1994; Ord. 24879 § 14; passed May 21, 1991; Ord. 24307 § 2; passed Mar. 7, 1989; Ord. 24049 § 2; passed Mar. 9, 1988; Ord. 23793 § 1; passed Mar. 3, 1987; Ord. 23574 § 1; passed Mar. 4, 1986; Ord. 23309 § 1; passed Dec. 18, 1984; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.330 Sanitary sewage from outside the City.**

Sanitary sewage from premises outside the City may be discharged into sanitary sewers only after a permit has been issued by the Director. The permit shall be in the nature of a license, shall not constitute a property right in the holder, and shall be subject to termination at any time at the direction of the Director. (Ord. 24879 § 15; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.340 Charges and rates for direct wastewater services for properties outside the City.**

Persons owning premises outside the City may, upon a written request from the appropriate governing agency and receipt of a side sewer construction permit from the Director, discharge sanitary sewage into sanitary sewers.

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

- A. The applicant for any such permit shall attach to the application a construction permit duly issued to the owner or to that owner's contractor by the appropriate county and/or political subdivision for the construction of a side sewer.
- B. The owner or that owner's licensed contractor shall pay fees and obtain a permit for a side sewer in strict

compliance with the specifications of the City governing the construction and maintenance of side sewers then in effect.

C. The owner shall agree to pay a monthly service charge for wastewater service in an amount computed at 110 percent of the charge to similar customers of the City, as set forth and established pursuant to this chapter as now or hereafter amended.

In addition, whenever the governing jurisdiction of these customers outside the City determine that a utility tax or other fee of that jurisdiction should be collected from those customers, the City shall increase the charge to those customers to cover that added tax and/or fee and/or related administrative expenses and rebate the applicable tax and/or fee to that outside jurisdiction in a manner to be determined by the City.

Where the Director determines that the cost to provide wastewater service to a customer or a group of customers is abnormally higher than the cost to provide regular wastewater service to City customers, due to unusual circumstances, the Director may establish a surcharge based upon that incremental higher cost. The Director will notify affected customers prior to implementing the surcharge.

D. The owner of the premises to be served by a sanitary sewer shall pay in cash to the City, through the Public Works Department, a Connection Charge-in-lieu-of-Assessment, computed at the rate of \$55.00 per "Assessable Unit of Frontage" for the premises to be served. This special charge shall be computed in the same manner as sanitary sewer assessments are from time to time computed by the City under Chapter 35.44 RCW relating to local improvement districts. The cost of side sewer construction shall be borne by the owner of the premises.

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

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

G. All Connection Charges-in-lieu-of-Assessment received pursuant to the provisions of this section are

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nonrefundable and shall be considered capital contributions to the Municipal Sewer System and deposited into the Sewer Utility Fund.

H. All ordinances, rules, regulations, and procedures relating to the use, maintenance, and connection to sanitary sewers, as the same are now or may hereafter be adopted by the City, shall apply with equal force to each such sanitary sewer connection and any violation of any such ordinance, rule, regulation, or procedure by the owner of any premises connected to a sanitary sewer may result in the disconnecting of said sewer by the City.

I. The owner of any premises connecting to the sanitary sewers pursuant to the provisions hereof shall permit an inspection of that owner's premises at any and all reasonable times by the City for the purpose of ascertaining whether or not said connection has been properly made and whether or not the use of such sanitary sewers is in accordance with the ordinances, rules, and regulations of the City pertaining thereto.

J. In the event of a change in ownership, or if the premises are rented, the owner or renter shall be invoiced and pay per subsection C of this section. The failure or refusal to make any such payment when due may result in the disconnecting of the sewer by the City. (Ord. 27538 § 18; passed Oct. 24, 2006: Ord. 26888 § 3; passed Dec. 4, 2001: Ord. 26729 § 4; passed Nov. 7, 2000: Ord. 25587 § 27; passed Sept. 20, 1994: Ord. 24962 § 1; passed Aug. 13, 1991: Ord. 24879 § 16; passed May 21, 1991: Ord. 24132 § 1; passed Jul. 12, 1988: Ord. 23309 § 2; passed Dec. 18, 1984: Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.350 Connection Charge-in-lieu-of-Assessment.**

Owners of premises within the City adjacent to and abutting upon the sanitary sewer system and which premises have not been previously assessed under a Local Improvement District ("LID") under this chapter, or under former TMC 12.08 for a sanitary sewer improvement, may connect those premises to and discharge sewage into the sanitary sewers upon receipt of a permit issued by the Director.

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

A. The owner shall obtain all permits and pay all fees necessary and required by the City and shall construct said connecting sewers in compliance with all requirements and specifications of the City governing the same.

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

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

In no case shall the Connection Charge-in-lieu-of-Assessment be less than the rate per "Assessable Unit of Frontage" charged to the original LID participants; therefore, in the event that the rate per "Assessable Unit of Frontage" charged to the original LID participants was higher than the rate set forth in this table, the Connection Charge-in-lieu-of-Assessment shall be equal to the higher rate.

In addition to the "Assessable Unit of Frontage" charge calculated according to Table I above, for each connection to the sanitary sewers there shall be charged by the City a flat-rate charge of \$1,000. However, in no case shall the total charge for the connection exceed the charge that would result from using the prevailing guaranteed maximum rate in effect at the time of the connection, unless as otherwise provided below.

For connections to any sanitary sewer line built with City funds instead of by LID, and constructed after January 1, 1999, the Connection Charge-in-lieu-of Assessment for each adjacent and abutting premises shall be the proportionate share of the actual cost to construct the sanitary sewer line. The proportionate share shall be the ratio of each premises' "Assessable Units of Frontage" to the total units of frontage, multiplied by the actual cost to construct the sanitary sewer line, plus any costs for side sewers. Actual cost to construct the sanitary sewer line shall be defined as the final applicable construction cost plus a 15 percent allowance for engineering, survey, inspection, and administration. In no case shall the Connection Charge exceed the benefit accruing to each premise.

Connecting of premises to an existing sanitary sewer which is not adjacent to or abutting the subject premises shall be subject to a Connection Charge-in-lieu-of-Assessment calculated using the actual rate charged to the original LID participants, or the proportionate share of actual cost if the sewer was built with City funds after January 1, 1999. When such sanitary sewer is extended to be adjacent to or abutting the subject premises, the premises shall be connected to the abutting sanitary sewer line at no additional connection charge, as provided in subsection C of this section.

It is the intent of the City that all premises shall pay their fair share of the cost of construction of abutting and adjacent sanitary sewers. The owner of any premises which connects to an existing sanitary sewer without payment of the applicable charges hereinabove described, owes and shall be required to pay such charges.

The "Assessable Units of Frontage" and the amount to be paid thereon at the rate hereinabove specified shall be computed in the same manner as the procedure set forth for Local Improvement Districts under Chapter 35.44 RCW. In addition to the connection charge hereinabove provided for, the total cost of the construction of all sewers so connected shall be borne by the owner of the premises.

C. The Connection Charge-in-lieu-of-Assessment hereinabove provided for shall be credited to and considered as a benefit to the specific premises served by said connection. Said premises so benefited shall be designated by legal description and posted by the City and recorded as a part of the City's permanent records pertaining thereto. No further sanitary sewer connection charge shall be collected against said premises.

D. Future sanitary sewer connections to premises abutting the sanitary sewer main on which a sanitary sewer connection charge has not been paid, but which

adjoins specific premises for which such charges have been charged or paid, shall be subject to the charges as hereinabove set forth.

#### E. Septic System Amnesty Program.

1. For residential premises where wastewater service is available, as that term is defined in TMC 12.08.010, and where the residence is not connected to the sanitary sewer main as of June 1, 2001, a financial incentive will be offered if the owner connects to the sanitary sewer main before June 1, 2003, in order to encourage those residences to connect to the sanitary sewer main.

a. Where the Connection Charge-in-lieu-of Assessment is applicable, a financial incentive, consisting of a 50 percent reduction in the charge (incentive program) for the subject residential premises will be available, subject to the availability of funds as described below, and in accordance with policies set forth by the Director. The remaining 50 percent of that charge may be eligible for financial assistance under the Conservation Loan Program as set forth in TMC 12.08.640. The City will allocate up to \$500,000 per fiscal year to fund the incentive program. Owners of residential premises who qualify for the incentive program will be eligible for a 50 percent reduction in their connection charge on a "first-come, first-served" basis until the moneys allocated by the City for the incentive program in a given fiscal year are exhausted.

b. Where a Local Improvement District was/is formed, the financial incentive will consist of a 50 percent reduction to that assessment for the subject residential premises in accordance with policies set forth by the Director, subject to the availability of funds as stated in subsection E. a. above. In the case where all or a part of the assessment has been paid, the appropriate reduction or rebate will be made so that the final cost for the subject premises will be 50 percent of the full assessment amount.

2. For a residential premises where sewer service is not available as of June 1, 2001, but becomes available at a later date, a financial incentive will be offered to the owners if they connect to the sanitary sewer main within 24 months from the date wastewater service becomes available to that residence in order to encourage those residences to connect to the sanitary sewer main. The financial incentive will be the same as subsection 1 above.

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

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

G. All ordinances, rules, regulations, and procedures relating to the use, maintenance, and connection to sanitary sewers as the same are now or may hereafter be adopted by the City shall apply with equal force to each such sanitary sewer connection and any violation of any such ordinance, rule, regulation, or procedure by the owner of any premises connected to a sanitary sewer may result in the disconnecting of said sewer by the City. (Ord. 27538 § 19; passed Oct. 24, 2006: Ord. 27503 § 1; passed Jun. 27, 2006: Ord. 27285 § 8; passed Nov. 2, 2004: Ord. 26729 § 5; passed Nov. 7, 2000: Ord. 26338 § 2; passed Dec. 8, 1998: Ord. 25521 § 2; passed Jun. 7, 1994: Ord. 24879 § 17; passed May 21, 1991: Ord. 23968 § 1; passed Nov. 3, 1987: Ord. 23309 § 3; passed Dec. 18, 1984: Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.360 Charges and rates for wastewater service inside the City limits.**

As permitted by Chapter 35.67 RCW, charges shall be made for the discharge and for the availability for discharge of all sanitary sewage into sanitary sewers. If the Director requires construction of an extension to the sanitary sewer system prior to issuance of a side sewer permit, the charge for availability for discharge shall not be made until such time as the sanitary sewer extension is completed. Unless otherwise determined by the Director, no allowances will be made for vacancies, remodeling, or other such activities unless the water service for the entire facility, building, or mobile home court (two or more units) is turned off by the Water Utility of the City. Charges shall be as follows:

A. Each single-family residence (including those instances where more than one family residence is served through one water meter, as hereinbefore mentioned in TMC 12.08.010) shall be charged a monthly charge computed as follows:

#### **Effective Date: January 1, 2009:**

- (1) A fixed charge of \$15.66 plus
- (2) A flow charge calculated at \$3.08 per hundred cubic feet (ccf) of water consumption.

#### **Effective Date: January 1, 2010:**

- (1) A fixed charge of \$16.81 plus
- (2) A flow charge calculated at \$3.25 per hundred cubic feet (ccf) of water consumption.

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

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

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

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

C. In all cases other than residential charges hereinabove set forth, the sewer charge shall be computed and paid as follows:

1. Metered Water Supply. When charges and fees are based upon the water usage, such charges and fees shall be applied against the total amount of water used from all sources unless, in the opinion of the Director, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user in accordance with the Environmental Services Submeter Installation and Testing Guidelines. Such public or private meters shall measure flow in cubic feet (cf). Where more than one commercial/industrial facility is served by one water meter, the user group shall be determined by the activities of the largest water consumption user.

2. Metered Wastewater Volume and Metered Diversions. When charges and fees are based upon water usage and where, in the opinion of the Director, a significant portion of the water received from any metered source does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the charges and fees will be applied against the volume of water discharged from such premises into the sanitary sewer. Any user seeking a reduction in sewer charges and fees based on a diversion of metered

water from the sanitary sewer system shall provide the Director written proof of such diversion for the Director's approval. To establish reduced sewer charges and fees based on such diversion, the user shall, unless clearly demonstrated as impractical, install a submeter of a type and at a location approved by the Director and at the user's expense. A credit adjustment for sanitary sewer overcharges may be granted, upon written application by the user, but only for the three-month period immediately preceding the submeter installation.

Such meters shall measure flow in cubic feet (cf) and shall be maintained at the expense of the user and be tested for accuracy at the expense of the user in accordance with the Environmental Services Submeter Installation and Testing Guidelines. Within 30 days of notification by the Director that meter repair or testing is required, the user shall provide written confirmation that such repair or testing has been accomplished. Failure to provide such confirmation may result in sanitary sewer charges being based upon the metered water source.

3. Users Installing Irrigation Systems. All users installing irrigation systems shall be required to meter the water usage of the irrigation system by installing, at user's expense, either a metered water supply dedicated solely to the irrigation system or a submeter, which the user shall maintain, to calculate the appropriate reduction of sewer charges.

#### 4. Estimated Wastewater Volume.

a. Users Without Source Meters. In cases where, in the opinion of the Director, it is unnecessary or impractical to install meters, the charges and fees may be based upon an estimate of the volume to be discharged, prepared by the Director. A rational method will be used to estimate the quantity of wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

b. Users With Source Meters. In cases where, in the opinion of the Director, users divert a significant portion of their flow from a public sewer, the charges and fees may be based upon an estimate of the flow and volume to be discharged, prepared by the user and approved by the Director. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

c. Where the Director determines that the cost to provide sanitary sewer service to a customer or a group of

customers is abnormally higher than the cost to provide regular sanitary sewer service to City customers, due to unusual circumstances, the Director may establish a surcharge based upon that incremental higher cost. The Director will notify affected customers prior to implementing the surcharge.

d. Residential customers who qualify as low-income elderly or low-income disabled shall be eligible for a 25 percent reduction from the regular residential sanitary sewer charges. The determination of low-income elderly and low-income disabled shall be made as set forth in TMC 12.06.165. Individuals must submit applications for review and acceptance by the Director to qualify for this reduction. The effective date of the reduction shall be the first of the month following acceptance by the Director. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27649 Ex. A; passed Oct. 23, 2007; Ord. 27554 § 2; passed Dec. 5, 2006; Ord. 27538 § 20; passed Oct. 24, 2006; Ord. 27285 § 9; passed Nov. 2, 2004; Ord. 27138 § 1; passed Sep. 9, 2003; Ord. 27003 § 13; passed Nov. 19, 2002; Ord. 26888 § 4; passed Dec. 4, 2001; Ord. 26729 § 6; passed Nov. 7, 2000; Ord. 26526 § 2; passed Nov. 30, 1999; Ord. 26338 § 3; passed Dec. 8, 1998; Ord. 25979 § 3; passed Nov. 19, 1996; Ord. 25802 § 11; passed Dec. 5, 1995; Ord. 25659 § 2; passed Jan. 24, 1995; Ord. 25587 § 28; passed Sept. 20, 1994; Ord. 25521 § 3; passed Jun. 7, 1994; Ord. 25317 § 2; passed Jun. 8, 1993; Ord. 24962 § 2; passed Aug. 13, 1991; Ord. 24879 § 18; passed May 21, 1991; Ord. 24307 § 3; passed Mar. 7, 1989; Ord. 24049 § 3; passed Mar. 29, 1988; Ord. 23793 § 2; passed Mar. 3, 1987; Ord. 23574 § 2; passed Mar. 4, 1986; Ord. 23309 § 4; passed Dec. 18, 1984; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.362 Charges for fixed-term discharges to the sanitary sewer of effluent from groundwater pump-and-treat systems.**

The Director may, at his/her discretion, approve discharges to the sanitary sewer of effluent from groundwater pump-and-treat systems for a specified fixed term. The intent of this section is to provide reasonable discharge locations for this type of effluent to encourage prompt cleanup of contaminated groundwater and is limited to sites regulated by the Department of Ecology and/or the Environmental Protection Agency.

All applicable sections of TMC 12.08, except as otherwise provided herein, shall apply to such discharges.

The requirements of TMC 12.08.140 , (Industrial Wastewater Discharge Permits), shall be met prior to any such discharge.

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Charges for such discharges shall be as prescribed in TMC 12.08.390 of this chapter, with the additional provision that dischargers may make application to the Director for a credit on only the flow component of their sewer charges for effluent from groundwater pump-and-treat systems. The following criteria shall be used in preparing and reviewing such an application:

A. The discharger must document to the Director's satisfaction a reduction of surface water runoff that was discharged to the sanitary sewer from the same site or from another site owned by the discharger within the City limits.

B. To quantify such flow reduction, the peak runoff from a two-year, 24-hour design storm event shall be used.

C. Any such flow reduction must have occurred within five years of the date of application for the discharge of the groundwater pump-and-treat effluent.

D. Any such quantity of flow reduction approved by the Director shall be subtracted from the actual groundwater pump-and-treat flow and the discharger shall be charged the applicable rate for any remaining flow.

E. No credit is allowed under this section for the components of the sewer charge related to constituent strengths and characteristics other than flow. (Ord. 27538 § 21; passed Oct. 24, 2006: Ord. 25802 § 12; passed Dec. 5, 1995: Ord. 25659 § 3; passed Jan. 24, 1995)

### **12.08.365 Charges for special approved discharges.**

A. Discharge to Sanitary Sewer System.

1. The Director may, at his or her discretion, approve discharges to the sanitary sewer system generally for a short-term duration as needed. Application for discharge approval must be accompanied by payment of any fixed administration/application fee(s) and be submitted at least 30 days prior to the requested discharge date.

2. Unless otherwise determined by the Director, the charge for short-term discharges to the sanitary sewer system shall be based on the quantity and strength of the wastewater discharged, according to the rate specified in TMC 12.08.390 of this chapter, in addition to the following fixed administration fee:

<b>Effective Date: February 5, 1995:</b>	<b>Fixed Fee</b>
Under 5,000 gallons	\$200.00
Between 5,000 and 20,000 gallons	\$400.00
Over 20,000 gallons	\$650.00

3. As determined by the Director, representative samples may be required to be taken for suspended solids (SS) and biochemical oxygen demand (BOD). Sampling may also be required for total petroleum hydrocarbons (TPH) and any other pollutants suspected to be present in the wastewater. Additional samples may be required at the Director's discretion.

B. Discharge to Storm Drainage System.

1. The Director may, at his or her discretion, approve discharges to the storm drainage system under TMC 12.08.080, as necessary. Application for discharge approval must be accompanied by payment of any fixed administrative/application fee(s) and be submitted at least 30 days prior to the requested discharge date.

2. The Director, or his or her representative, may require that samples be taken of the proposed discharge to insure compliance with federal, state, and local water quality requirements. Samples will be analyzed based on known and/or suspected pollutants at the site or in the proposed discharge. Sampling and analysis must be completed and reviewed by City staff prior to any discharge to the City's storm drainage system. The Director, or his or her representative, may require additional sampling throughout the duration of the discharge to insure compliance with the above-referenced requirements.

3. Unless otherwise determined by the Director, the charge for discharges of non stormwater to the surface water system under TMC 12.08.080 hereof shall be as set forth herein. This charge will consist of three parts:

**Effective Date: January 1, 1997:**

a. An application fee of \$500 per discharge location payable at the time of application of discharge; and

b. An annual administration fee of \$300 payable no later than January 30 of the year following initiation of discharge and no later than January 30 of each year thereafter if the discharge continues to occur; and

c. A quantity fee:

**Effective Date: January 1, 2009:**

\$0.0018276 per gallon discharged.

**Effective Date: January 1, 2010:**

0.0019674 per gallon discharged.

Payments shall be made in a manner and at the frequency determined by the Director. (Ord. 27765 Ex. A; passed Dec. 9, 2008: Ord. 27554 § 3; passed Dec. 5, 2006: Ord. 27538 § 22; passed Oct. 24, 2006: Ord. 27285 § 10; passed Nov. 2, 2004: Ord. 27003 § 14; passed Nov. 19, 2002: Ord. 26729 § 7; passed Nov. 7, 2000: Ord. 26526 § 3; passed Nov. 30, 1999: Ord. 26338 § 4; passed

Dec. 8, 1998: Ord. 25979 § 4; passed Nov. 19, 1996: Ord. 25802 § 13; passed Dec. 5, 1995: Ord. 25659 § 4; passed Jan. 24, 1995: Ord. 25587 § 29; passed Sept. 20, 1994: Ord. 25317 § 3; passed Jun. 8, 1993: Ord. 24879 § 19; passed May 21, 1991)

### **12.08.368 Charges for TAGRO.**

TAGRO products are materials manufactured at least partly from biosolids from the City's wastewater treatment plants. The City currently manufactures five TAGRO products: TAGRO Cake, TAGRO Liquid, TAGRO Mix, TAGRO Potting Soil, and TAGRO Mulch. If the City manufactures additional TAGRO products, they will be priced in accordance with the provisions of this section.

**Definition:** A Residential Ratepayer is a private citizen who lives in a private residence within the City limits of Tacoma and has a City of Tacoma wastewater utility account in his or her name.

Private citizens may self-load TAGRO Mix in small containers (i.e., buckets and garbage cans), pickup trucks, and small utility trailers (less than two cubic yards) at no cost, as material is available.

The City may offer TAGRO services and products not covered by this section. TAGRO services may include, but not be limited to, land application of TAGRO products and/or hauling and processing of sludge and biosolids. The Director is authorized to set charges for TAGRO services and is authorized to establish prices for TAGRO products. Any such charges, prices, or adjustments will be established in writing by the Director. (Ord. 27285 § 11; passed Nov. 2, 2004: Ord. 27095 § 1; passed Jun. 10, 2003: Ord. 26888 § 5; passed Dec. 4, 2001: Ord. 26729 § 8; passed Nov. 7, 2000: Ord. 26338 § 5; passed Dec. 8, 1998: Ord. 25802 § 14; passed Dec. 5, 1995: Ord. 25659 § 5; passed Jan. 24, 1995: Ord. 25317 § 4; passed Jun. 8, 1993)

### **12.08.370 Classification of users of sanitary sewers.**

All users are to be classified by the City either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analysis, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of sanitary sewage or wastewater discharges based on sanitary sewage or wastewater constituents and characteristics to provide an effective means of source control, and to establish a system of charges and fees

which will ensure an equitable recovery of the City's cost. (Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.380 Types of Charges and Fees Relating to Use of Sanitary Sewers.**

The charges and fees as established in the City's schedule of charges and fees relating to use of sanitary sewers may include, but shall not be limited to:

- A. User classification charges;
- B. Fees for monitoring;
- C. Appeal fees;
- D. Charges and fees based on wastewater constituents and characteristics.

The Director is authorized to establish a pilot rate program to determine the suitability of alternative rate classifications in providing equitable recovery of the City's costs of owning, operating, and maintaining the wastewater treatment system. As part of such pilot rate program, the Director may establish test rate classifications and set rates for each such test rate classification. The pilot rate program and test rate classifications established therein shall be designed to increase the equitable distribution among the users of the City's costs for sewer operation and maintenance and shall be in the best interest of the rate payers. The rates set for each classification shall be fair and reasonable and each test rate classification created shall be based upon reasonable differences between users as grounds for distinction. The maximum rate set for each test rate classification shall be no higher than the rate that would ordinarily apply to each commercial/industrial user under TMC 12.08.400. The pilot rate program, together with the rate classifications and rates established thereto, is intended to be for a limited duration not to exceed two years. (Ord. 27372 § 1; passed Jun. 21, 2005: Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.390 Basis for determination of commercial/industrial charges for use of wastewater system.**

Charges and fees for use of the wastewater system shall be based upon a minimum basic rate for each premises not discharging industrial or commercial process wastewaters, computed on the basis of wastewater from a domestic premises with the following characteristics:

BOD - 200 milligrams per liter

Suspended Solids - 225 milligrams per liter

Charges and fees established for the users listed in Section 12.08.400, Table II, are based on the measured or estimated constituent strengths and characteristics of the

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sanitary sewage and industrial wastewater discharge of that user group which may include, but not be limited to, BOD, suspended solids, and flow.

Composite rates per 100 cubic feet (ccf) for existing and new users are/will be developed using the following constituent concentration rates.

**Effective Date: January 1, 2009:**

Flow	\$2.5661
Biochemical oxygen demand (BOD)	\$0.00419018 per mg/l
Suspended solids	\$0.00435340 per mg/l

**Effective Date: January 1, 2010:**

Flow	\$2.7407
Biochemical oxygen demand (BOD)	\$0.00443528 per mg/l
Suspended solids	\$0.00460724 per mg/l

(Ord. 27765 Ex. A; passed Dec. 9, 2008: Ord. 27554 § 4; passed Dec. 5, 2006: Ord. 27285 § 12; passed Nov. 2, 2002: Ord. 27003 § 15; passed Nov. 19, 2002: Ord. 26888 § 6; passed Dec. 4, 2001: Ord. 26729 § 9; passed Nov. 7, 2000: Ord. 26526 § 4; passed Nov. 30, 1999: Ord. 26338 § 6; passed Dec. 8, 1998: Ord. 25979 § 5; passed Nov. 19, 1996: Ord. 25802 § 15; passed Dec. 5, 1995: Ord. 25659 § 6; passed Jan. 24, 1995: Ord. 25587 § 30; passed Sept. 20, 1994: Ord. 25521 § 4; passed Jun. 7, 1994: Ord. 24879 § 20; passed May 21, 1991: Ord. 24307 § 4; passed Mar. 7, 1989: Ord. 24049 § 4; passed Mar. 29, 1988: Ord. 23793 § 3; passed Mar. 3, 1987: Ord. 23574 § 3; passed Mar. 4, 1986: Ord. 23309 § 5; passed Dec. 18, 1984: Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.400 Charge for Commercial/Industrial Wastewater User Groups.**

The fixed charge for each commercial or industrial user of wastewater system shall be as follows:

**Effective Date: January 1, 2009:**

\$7.14 per calendar month

**Effective Date: January 1, 2010:**

\$7.58 per calendar month

In addition, each monitored commercial and/or industrial user shall pay the appropriate charge based upon the monitoring result. Except for test rate classifications established by the Director pursuant to TMC 12.08.380, each unmonitored commercial or industrial user placed in

a user group shall pay the appropriate flow rate per 100 cubic (ccf) as identified in Table II. All restaurants are initially in the Category 8 (Restaurant II) group. Any restaurant customer may petition the Director to be placed in the Category 6 (Restaurant I) group. The customer must provide the Director with documentation that the restaurant has an approved grease retention device to current Uniform Plumbing Code as adopted in Chapter 2.06 of the Tacoma Municipal Code, and as amended thereafter, and Department Guidelines, and that the customer has an adequate ongoing maintenance program in place for that device. If the Director concurs, the Director will place that restaurant in the Category 6 (Restaurant I) group as long as those conditions are continually met. In the event that those conditions are not continually met, the Director will place the restaurant back into the Category 8 (Restaurant II) group until the conditions are again met.

If, as a result of a rate increase due to an ordinance change, any specific account of a direct commercial and/or industrial customer would receive an increase in wastewater charges that meet the following criteria, that customer will be eligible to receive a one-time rate mitigation credit:

- A. The percentage increase for that specific account is more than twice the City-wide average increase; and
- B. The percentage increase for that specific account is more than 10 percent; and
- C. The dollar increase as a result of the rate increase for that specific account is more than \$1,000 for the 12 months following implementation of that rate increase.

The credit shall apply to the first 12 months of implementation of the ordinance change and be equal to 50 percent of the increased charges that exceed the first \$1,000 increase for that 12-month period. The credit does not apply to any subsequent year's charges due to the same individual City-wide rate increase. The manner and method of applying the credit shall be determined by the Director.

Table II Rates for Commercial and/or Industrial User Groups		
Effective Date: January 1, 2009		
NAICS No.	Group Category	Monthly Rate (\$/ccf)
	Category 8 (BOD 901 + mg/l)	\$9.1588
722110	Restaurants (Cat II)	

722410	Taverns – Food Preparation (Cat II)	
713950	Bowling Alleys – With Food Preparation (Cat II)	
	Category 7 (BOD 701-900 mg/l) (SS 700 mg/l)	\$8.9656
445110	Grocery Stores – Full Service	
812210	Funeral Services – With Embalming	
	Category 6 (BOD 701-900 mg/l) (SS 400 mg/l)	\$7.6596
311811	Bakery Stores – On Site Baking	
722110	Restaurants (Cat I)	
722410	Taverns – Food Preparation (Cat I)	
713950	Bowling Alleys – With Restaurant (Cat I)	
	Category 5 (BOD 501-700 mg/l)	\$6.8216
812320	Commercial Laundries	
311812	Bakeries (Manufacturers)	
	Category 4 (BOD 301-500 mg/l) (SS 450 mg/l)	\$6.6202
721110	Hotels and Motels – With Restaurant	
922140	Correctional Institutions	
	Category 3 (BOD 301-500 mg/l) (SS 0-400)	\$5.5482
311711	Canned and Cured Fish	
311712	Fresh or Frozen Fish	
445110	Grocery Stores – Others	
713950	Bowling Alleys – No Restaurant	

	Category 2 (BOD 200-300 mg/l) (SS 150-400 mg/l)	\$4.3837
721110	Hotels and Motels – No Restaurant	
622110	Hospitals	
441110	Auto Dealers	
811121	Top and Body Repair Shops	
811121	Repair and Paint Shops	
811111	Auto Repair Shops	
324122	Asphalt Felts and Coating	
	Domestic Strength	
	Category 1 (BOD 0-250) (SS 0-150)	\$4.0571
623110	Nursing Homes	
812921	Photo Finish Laboratories	
722410	Taverns – No Food Preparation	
323119	Commercial Printers	
323116	Business Form Printers	
812310	Laundromats	
541921	Photo Studios	
811192	Car Washes	
327410	Lime Manufacturers	

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<b>Table II Rates for Commercial and/or Industrial User Groups</b>		
<b>Effective Date: January 1, 2010</b>		
<b>NAICS No.</b>	<b>Group Category</b>	<b>Monthly Rate (\$/ccf)</b>
	Category 8 (BOD 901 + mg/l)	\$9.7186
722110	Restaurants (Cat II)	
722410	Taverns – Food Preparation (Cat II)	
713950	Bowling Alleys – With Food Preparation (Cat II)	
	Category 7 (BOD 701-900 mg/l) (SS 700 mg/l)	\$9.5140
445110	Grocery Stores – Full Service	
812210	Funeral Services – With Embalming	
	Category 6 (BOD 701-900 mg/l) (SS 400 mg/l)	\$8.1318
311811	Bakery Stores – On Site Baking	
722110	Restaurants (Cat I)	
722410	Taverns – Food Preparation (Cat I)	
713950	Bowling Alleys – With Restaurant (Cat I)	
	Category 5 (BOD 501-700 mg/l)	\$7.2448
812320	Commercial Laundries	
311812	Bakeries (Manufacturers)	
	Category 4 (BOD 301-500 mg/l) (SS 450 mg/l)	\$7.0316
721110	Hotels and Motels – With Restaurant	
922140	Correctional Institutions	
	Category 3 (BOD 301-500 mg/l) (SS 0-400 mg/l)	\$5.8970
311711	Canned and Cured Fish	
311712	Fresh or Frozen Fish	
445110	Grocery Stores - Others	
713950	Bowling Alleys – No Restaurant	
	Category 2 (BOD 200-300 mg/l) (SS 150-400 mg/l)	\$4.6644
721110	Hotels and Motels – No Restaurant	
622110	Hospitals	
441110	Auto Dealers	
811121	Top and Body Repair Shops	
811121	Repair and Paint Shops	
811111	Auto Repair Shops	

324122	Asphalt Felts and Coating	
	Domestic Strength	
	Category 1 (BOD 0-250) (SS 0-150)	\$4.3188
623110	Nursing Homes	
812921	Photo Finish Laboratories	
722410	Taverns – No Food Preparation	
323119	Commercial Printers	
323116	Business Form Printers	
812310	Laundromats	
541921	Photo Studios	
811192	Car Washes	
327410	Lime Manufacturers	

(Ord. 27765 Ex. A; passed Dec. 9, 2008: Ord. 27554 § 5; passed Dec. 5, 2006: Ord. 27538 § 23; passed Oct. 24, 2006: Ord. 27372 § 2; passed Jun. 21, 2005: Ord. 27363 § 1; passed Jun. 7, 2005: Ord. 27285 § 13; passed Nov. 2, 2004: Ord. 27047 § 1; passed Feb. 25, 2003: Ord. 27003 § 16; passed Nov. 19, 2002: Ord. 26888 § 7; passed Dec. 4, 2001: Ord. 26729 § 10; passed Nov. 7, 2000: Ord. 26526 § 5; passed Nov. 30, 1999: Ord. 26338 § 7; passed Dec. 8, 1998: Ord. 25979 § 6; passed Nov. 19, 1996: Ord. 25802 § 16; passed Dec. 5, 1995: Ord. 25659 § 7; passed Jan. 24, 1995: Ord. 25521 § 5; passed Jun. 7, 1994: Ord. 24879 § 21; passed May 21, 1991: Ord. 24307 § 5, passed Mar. 7, 1989: Ord. 24049 § 5; passed Mar. 29, 1988: Ord. 23793 § 4; passed Mar. 3, 1987: Ord. 23574 § 4; passed Mar. 4, 1986: Ord. 23309 § 6; passed Dec. 18, 1984: Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.410 Lack of storm drains.**

*Repealed by Ord. 24879*

(Ord. 24879 § 22; passed May 21, 1991: Ord. 23240 § 1; passed Aug 28, 1984)

**12.08.420 Water source.**

In cases where water to be used to determine the applicable sanitary sewerage charge is from a source other than the City, the user of such water shall meter the water used to produce sanitary sewage, and the meter shall be read regularly by the City. (Ord. 24879 § 23; passed May 21, 1991: Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.430 Reconsideration of wastewater rates.**

There shall be no reduction in rates for any premises to which a sanitary sewer service connection has been made or which is available, unless there is no charge being made for water or water service to such premises, or

where monitoring, sampling, and testing prove the rate to be based on erroneous information.

If an owner or other person responsible for paying wastewater rates and charges is of the opinion that the user group rate thereof applicable to that owner or person is based on erroneous information, that owner or other person may, in writing, request a review by the Director of the rate by sampling and testing of sanitary sewage and industrial wastewater from the premises served. A user requesting such reconsideration may be eligible for a set of samples and tests by the City Environmental Services Laboratory personnel or, at the owner's or such other person's option, such owner or other person may have an approved outside laboratory perform the sampling and testing. Regardless of outcome, all costs of sampling and testing by such outside laboratory shall be borne by such owner or other person. In any case, such owner or other person must provide adequate and safe facilities for sampling. Costs of subsequent sampling and testing by City personnel, not required to meet federal or state regulations, shall be the responsibility of such owner or other person. If an outside laboratory is employed for testing pursuant to this section, all samples taken shall be split with the Environmental Services Laboratory. Concurrent tests shall be run by the City to corroborate the results. All sampling and testing procedures shall be done according to "Standard Methods" or an alternative approved by the Director. If the results of the tests are within standard deviations for the concentrations used in determining the rates, no rate change will be made. The owner or person seeking reconsideration shall bear all costs for the tests by the City unless the results outside standard deviations indicate a lower composite rate. No retroactive credits or rebates for charges billed while using estimated concentration levels prior to a user's request for sampling will be made. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27538 § 24; passed Oct. 24, 2006; Ord. 26729 § 11; passed Nov. 7, 2000; Ord. 25587 § 31; passed Sept. 20, 1994; Ord. 24879 § 24; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.440 Regular review of wastewater and surface water rates.**

Public Works Environmental Services shall conduct regular reviews of the wastewater and surface water rates contained herein so as to confirm that all costs to operate the Municipal wastewater and storm drainage systems are being properly recovered according to City ordinances, state laws, and federal regulations. (Ord. 27003 § 17; passed Nov. 19, 2002; Ord. 26729 § 12; passed Nov. 7, 2000; Ord. 25587 § 32; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.450 New services - Rates.**

For new residential services or account holders which have incomplete or no winter flow records available, the monthly flow portion of the charge for sanitary sewerage shall be computed using the flows listed below:

Single-family Dwellings - 7 ccf per month

Multiple-family Dwelling - 5 ccf per unit per month

Except that charges for existing multiple-family dwellings with previous consumption history shall not change solely due to changes in account holder or ownership. (Ord. 27554 § 6; passed Dec. 5, 2006; Ord. 25802 § 17; passed Dec. 5, 1995; Ord. 25659 § 8; passed Jan. 24, 1995; Ord. 25587 § 33; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.460 Minimum charge.**

Every premises to which wastewater service is furnished, and every premises to which there is availability for such service shall be charged for such service in accordance with the rates and charges herein placed in effect; provided, however, that in no event shall any such charge be less than as provided below:

**Effective Date: January 1, 2009:**

\$15.66 per calendar month

**Effective Date: January 1, 2010:**

\$16.81 per calendar month

(Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27554 § 7; passed Dec. 5, 2006; Ord. 27538 § 25; passed Oct. 24, 2006; Ord. 27285 § 14; passed Nov. 2, 2004; Ord. 27003 § 18; passed Nov. 19, 2002; Ord. 26729 § 13; passed Nov. 7, 2000; Ord. 26526 § 6; passed Nov. 30, 1999; Ord. 26338 § 8; passed Dec. 8, 1998; Ord. 25979 § 7; passed Nov. 19, 1996; Ord. 25802 § 18; passed Dec. 5, 1995; Ord. 25659 § 9; passed Jan. 24, 1995; Ord. 25521 § 6; passed Jun. 7, 1994; Ord. 24879 § 25; passed May 21, 1991; Ord. 24307 § 6; passed Mar. 7, 1989; Ord. 24049 § 6; passed Mar. 29, 1988; Ord. 23793 § 5; passed Mar. 3, 1987; Ord. 23574 § 5; passed Mar. 4, 1986; Ord. 23309 § 7; passed Dec. 18, 1984; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.470 Unlawful installations.**

It shall be unlawful to install, change, bypass, adjust, remove, or alter any metering device or any piping arrangement connected to a metering device so as to show the quantity of water used on the premises to be less than the actual quantity used. Persons so tampering with a metering device shall be guilty of theft, and shall be subject to such remedies as may be provided under the

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Washington Criminal Code, or TMC 8.12.010. . The crime of theft shall not be subject to civil penalties, as provided for in this chapter. (Ord. 27538 § 26; passed Oct. 24, 2006; Ord. 25587 § 34; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.500 Surface water rates and charges.**

Surface water charges shall be based on the area of each premises of land and the land use designation of that premises. The Director shall determine what rate shall apply to each specific premises within the guidelines herein set forth, and the charge resulting from that determination and application of the other factors herein set forth. The Director may but shall not be required to determine that the use by the City of a surface water or storm drainage or collection system on or at specific premises for the benefit of the City’s storm drains shall be grounds for reducing surface water drainage charges; except that: (1) collection from single premises and concentrating the flow; (2) collection of surface water which is piped through or underneath the surface of a property; or (3) water which flows via a natural drainage course through a property, shall not constitute such grounds. For purposes of computing surface water rates under this section, the land use designation shall be the principal activity on the premises as listed in the North American Industry Classification System (NAICS, 2002), prepared by the Statistical Policy Division of the Federal Office of Management and Budget and adopted hereby for this purpose. The land use category for each premises will place it in one of the five following specific categories, hereinafter referred to as “Basic Categories of Development,” as to each of which the rate per month per 500-square-foot increment of premises area shall apply:

**Effective Date: January 1, 2009:**

Basic Category of Development	Rate per Month
<b>Waterfront/Direct Discharge Parcels:</b>	
Undeveloped – First Acre or Less	\$0.0925 per 500 ft <sup>2</sup>
Undeveloped -- Area in Excess of One Acre	\$0.0365 per 500 ft <sup>2</sup>
Light	\$0.2775 per 500 ft <sup>2</sup>
Moderate	\$0.3838 per 500 ft <sup>2</sup>
Heavy	\$0.5550 per 500 ft <sup>2</sup>
Very Heavy	\$0.7401 per 500 ft <sup>2</sup>
<b>All Other Parcels:</b>	
Undeveloped – First Acre or Less	\$0.1756 per 500 ft <sup>2</sup>
Undeveloped – Area in Excess of One Acre	\$0.0365 per 500 ft <sup>2</sup>
Light	\$0.5269 per 500 ft <sup>2</sup>
Moderate	\$0.7164 per 500 ft <sup>2</sup>
Heavy	\$1.0539 per 500 ft <sup>2</sup>

Very Heavy	\$1.4051 per 500 ft <sup>2</sup>
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**Effective Date: January 1, 2010**

Basic Category of Development	Rate per Month
<b>Waterfront/Direct Discharge Parcels:</b>	
Undeveloped – First Acre or Less	\$0.1003 per 500 ft <sup>2</sup>
Undeveloped – Area in Excess of One Acre	\$0.0393 per 500 ft <sup>2</sup>
Light	\$0.3008 per 500 ft <sup>2</sup>
Moderate	\$0.4165 per 500 ft <sup>2</sup>
Heavy	\$0.6015 per 500 ft <sup>2</sup>
Very Heavy	\$0.8020 per 500 ft <sup>2</sup>
<b>All Other Parcels:</b>	
Undeveloped – First Acre or Less	\$0.1891 per 500 ft <sup>2</sup>
Undeveloped – Area in Excess of One Acre	\$0.0393 per 500 ft <sup>2</sup>
Light	\$0.5672 per 500 ft <sup>2</sup>
Moderate	\$0.7718 per 500 ft <sup>2</sup>
Heavy	\$1.1345 per 500 ft <sup>2</sup>
Very Heavy	\$1.5126 per 500 ft <sup>2</sup>

Waterfront/direct discharge parcels are those parcels directly abutting Puget Sound with at least 50 feet of frontage, or parcels discharging, by private means, all or substantially all of their surface water directly into the marine waters of Puget Sound. For purposes of computing surface water charges, the area of each parcel shall be rounded to the nearest 500-square foot increment (the area of premises less than 250-square feet shall be set at 500 square feet) and the appropriate rate from Table III shall be multiplied by the number of such increments in the parcel. In addition to the area charge listed above, the City shall charge a monthly fixed fee of:

**Effective January 1, 2009** \$5.05

**Effective January 1, 2010** \$5.46

Single-family residential parcels have been placed in the “Moderate” Basic Category of Development for determination of monthly charges. All single-family residential parcels of 15,000 square feet and less shall pay at the specified rate. Those single-family residential parcels larger than 15,000 square feet shall pay on the basis of the first 15,000 square feet at the moderate rate and the remainder at the undeveloped rate. The fixed charge will be computed only once per parcel per month, regardless of area.

Residential customers who qualify as low-income elderly or low-income disabled shall be eligible for a 25 percent reduction from the regular residential storm drainage charges. The determination of low-income elderly and low-income disabled shall be made as set forth in

TMC 12.06.165. Individuals must submit applications for review and acceptance by the Director to qualify for this reduction. The effective date of the reduction shall be the first of the month following acceptance by the Director. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27554 § 8; passed Dec. 5, 2006; Ord. 27538 § 27; passed Oct. 24, 2006; Ord. 27285 § 15; passed Nov. 2, 2004; Ord. 27003 § 19; passed Nov. 19, 2002; Ord. 26729 § 14; passed Nov. 7, 2000; Ord. 26526 § 7; passed Nov. 30, 1999; Ord. 26338 § 9; passed Dec. 8, 1998; Ord. 25979 § 8; passed Nov. 19, 1996; Ord. 25802 § 19; passed Dec. 5, 1995; Ord. 25659 § 10; passed Jan. 24, 1995; Ord. 25521 § 7; passed Jun. 7, 1994; Ord. 25317 § 5; passed Jun. 8, 1993; Ord. 24879 § 26; passed May 21, 1991; Ord. 23792 § 1; passed Mar. 3, 1987; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.510 Billing for storm and surface water sewerage charges.**

The City shall bill for storm and surface water sewerage to each and every parcel of real property inside the boundary of the City except only as specifically excluded in TMC 12.08.530. Owners of parcels which are contiguous and have a single land use designation may receive a single bill for storm and surface water sewerage charges for all parcels by having the parcels consolidated on the Pierce County Assessor's tax rolls. Persons responsible for charges for sanitary sewerage or other City utility charges shall be the recipient of the monthly or bimonthly storm and surface water sewerage charges. Owners of vacant property or property not otherwise receiving City utility bills shall be billed for storm and surface water sewerage charges. The owner or other responsible party as listed above may request that storm and surface water sewerage charges be billed to another party by request in writing in form and content approved by the Director. Such request, designation and billing to such other person shall not release any owner or other person from responsibility for payment of City storm and surface water sewerage charges, or release any parcel from the lien for delinquent charges, interest, costs, and fees allowed herein or by applicable law. (Ord. 27538 § 28; passed Oct. 24, 2006; Ord. 25802 § 20; passed Dec. 5, 1995; Ord. 25587 § 35; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.520 Reconsideration of storm and surface water sewerage charges.**

If an owner or other person responsible for paying storm and surface water sewerage charges is of the opinion that the rate thereof and resulting charge applicable to that owner or other person is based on erroneous information, that owner or other person may produce such information as the Director reasonably requires and, if warranted in

the reasonable opinion of the Director, the Director shall make an appropriate adjustment to such rate or charge. (Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.530 Exclusions of certain properties from storm and surface water sewerage charges.**

Storm and surface water sewerage charges shall not be levied directly to:

A. Any City street, road, alley or right-of-way the storm and surface water drainage function of which has been transferred to and made a part of the Municipal Sewer System by Ordinance No. 21638 passed April 3, 1979; it being expressly found that all such City streets, roads, alleys and rights-of-way provide storm and surface water sewerage to the City by collecting and transporting storm and surface water from multiple individual properties to Storm Sewers of a value equal to the reasonable charge therefor that would otherwise be charged by the City; and

B. Real property within Point Defiance Park, which area has been previously excluded from the service area for City storm and surface water sewerage by Ordinance No. 21632 passed April 3, 1979. (Ord. 26526 § 8; passed Nov. 30, 1999; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.540 Organized drainage or drainage improvement districts.**

Any organized drainage or drainage improvement district in existence on April 1, 1979, the boundary of which is wholly or partly within the boundary of the City on that date, may seek relief from City storm and surface water sewerage charges to the extent that it can prove to the satisfaction of the Director that such district provides storm and surface water sewerage within the boundary of the City. Nothing herein shall expressly or by implication constitute City or City Council approval or ratification of, or agreement or consent to, any act, undertaking or omission by any such district. (Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.550 Waterfront properties.**

*Repealed by Ord. 26526*

(Ord. 26526 § 9; passed Nov. 30, 1999; Ord. 25979 § 9; passed Nov. 19, 1996; Ord. 24879 § 27; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

#### **12.08.560 Low impact development stormwater and surface water systems.**

The rate of computation of stormwater and surface water charges applicable to premises that have on them an approved low impact development stormwater and

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surface water system that achieves runoff characteristics equivalent to pre-development, forested conditions, may be reduced one Basic Category of Development lower in rate of such computation than that in which the premises would otherwise be placed, as determined by the Director in his or her discretion, after taking into account the effectiveness of the system. In order to qualify under this section, the owner of the premises must have obtained the proper permits and constructed the system according to plans approved by the Director, and the system must exceed the minimum requirements that would be required by applying the City's current Stormwater Management Manual. The owner shall be responsible for all costs of the proper operation and maintenance of such system and shall submit annual maintenance reports to the Director. The Director reserves the right to inspect all stormwater and surface water systems approved or sought to be approved under this section to ascertain that they function properly. If at any time such system fails to retain stormwater or surface water in a volume and for a period of time to justify the reduction of stormwater and surface water sewerage charges as determined by the Director by appropriate engineering standards, or if the owner fails to submit the annual maintenance reports, the Director may increase the Basic Category of Development to one which reflects the effectiveness, if any, of such system, or the Director may revoke approval of the system irrespective of prior approval by the Director of either the system or plans therefor.

Notwithstanding any rate reduction authorized, permitted or provided for in this section, no rate computation shall be reduced below that applicable to undeveloped land. (Ord. 27003 § 20; passed Nov. 19, 2002: Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.600 Billing periods, payments, and collections.**

A. All bills for wastewater and surface water service charges as set forth herein shall be rendered monthly or bimonthly as shall be determined by the City Manager and shall become due and payable at the office of the City Treasurer or such other places as approved by the City Treasurer on or before the 10th day after the statement has been mailed and shall become delinquent thereafter.

B. For any service charge which becomes delinquent, the party shall be charged a late payment fee as set forth in TMC 12.01. Any service charge which becomes delinquent, together with interest, also shall immediately become a lien against the premises served under RCW 35.67.200. Such lien may be foreclosed by the City in the manner provided by Chapter 35.67 RCW. In the event that the City files or releases a lien with the

County Auditor, a processing fee will be added to the delinquent amounts owed equivalent to the current fees charged by the County Auditor for filing or releasing a lien. The processing fee will be allocated to Wastewater Management or Surface Water Management Funds, as appropriate, and, for City tax purposes, recorded as revenue. In addition to such foreclosure, a customer whose said Wastewater Management or Surface Water Management account is delinquent shall also be subject to having City water utility services terminated for the subject premises (or other premises owned or rented by the customer), which termination shall continue until satisfactory arrangements are made to satisfy the delinquency. (Ord. 27765 Ex. A; passed Dec. 9, 2008: Ord. 27538 § 28; passed Oct. 24, 2006: Ord. 27285 § 16; passed Nov. 2, 2004: Ord. 27003 § 21; passed Nov. 19, 2002: Ord. 26729 § 15; passed Nov. 7, 2000: Ord. 25587 § 36; passed Sept. 20, 1994: Ord. 23337 § 4; passed Sept. 10, 1985)

### **12.08.610 Property owner liability - Supplemental charges.**

The owner(s) of property whether inside or outside the City from which material in violation of this chapter is discharged into the Municipal Sewer System, or from which material is discharged into any storm drain (whether or not property in other ownership is traversed by such material prior to entry into a storm drain) in violation of this chapter shall be liable for all costs associated with the containment, cleanup, injury, death, or other liability or damage resulting from such discharge. The City may, without election and reserving all other rights, assess supplemental service charges in an amount equal to the City's direct, indirect, and consequential costs, including without limitation liability to third parties, if any, and attorney's fees when authorized, against such owner or owners and against the premises from which discharge in violation of this chapter originates, and pursue all rights accorded by law in the recovery of such charges as supplemental hereunder. Persons wishing to appeal the assessment of supplemental charges under this section may do so in accordance with TMC 12.08.678. Any supplemental charges assessed shall be paid to the City within 30 calendar days of receipt of such assessment or, if appealed, within 30 calendar days of receipt of the Hearing Examiner's decision. (Ord. 27285 § 17; passed Nov. 2, 2004: Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.620 Contracts with the state, sewer or water districts and other municipal corporations.**

Whenever, in view of the sanitary and storm and surface water sewerage requirements of the City, the Municipal

Sewer System has adequate capacity, the City may contract with the state, with any incorporated sewer district or water district which is successor by merger with a sewer district or with any other municipal corporation for the discharge into the Municipal Sewer System of sanitary sewage, or wastewater, or storm or surface water, from any state property or all or any part or parts of such sewer or water district or municipal corporation, or for discharge into the system of sewers of any sewer or water district or municipal corporation of sanitary sewage, wastewater, or storm or surface water, from any part or parts of the City, upon such terms and conditions and for such periods of time as may be deemed reasonable. (Ord. 27285 § 18; passed Nov. 2, 2004; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.630 Sewer fund created.**

There be and is hereby created in the Treasury of the City a special fund to be known as the "Sewer Utility Fund." Any and all revenues received for the use of the Municipal Sewer System as set forth herein, from revenues received from the sale of byproducts from a treatment facility of the Municipal Sewer System or from any other source for rental, use, or services rendered by the Municipal Sewer System, shall be credited to this fund and all expenses for the operation, maintenance, and repair of the Municipal Sewer System shall be charged to this fund. It is intended that in enacting this section that Section 13 of Ordinance No. 13989, passed October 4, 1950, be substantially reenacted hereby. (Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.640 Environmental Services Conservation Loan Program.**

There is established in the City a new program to be known as the "Environmental Services Conservation Loan Program" ("Program"). The Treasurer of the City is hereby authorized to transfer sufficient funds from the Wastewater Management or Surface Water Management Fund, as appropriate, to the Conservation Loan Fund in order to administer the Program. Disbursement of funds from the Conservation Loan Fund shall be made in the manner as provided by law.

Moneys allocated to the Conservation Loan Fund are to be used exclusively to provide loans for City of Tacoma wastewater or surface water customers to purchase and install materials and equipment that help conserve conveyance and treatment capacity in the City's stormwater or sanitary sewer system and/or reduce pollution in discharges to the wastewater treatment plants or waters of the state. Except as provided by law, loans shall be secured by a lien against the benefited property or a security interest in the equipment benefited, and the Conservation Loan Fund shall be sustained by borrower

payments, which shall include reasonable interest. The Director shall determine and administer the policies and operation of the Environmental Services Conservation Loan Program. The Director is authorized to implement any and all remedies to collect the payments for the loans, which may include foreclosure of the liens and/or security interests, as well as terminating water service to the premises. (Ord. 27003 § 22; passed Nov. 19, 2002; Ord. 26729 § 16; passed Nov. 7, 2000; Ord. 26338 § 10; passed Dec. 8, 1998)

**12.08.650 Board of Review.**

*Repealed by Ord. 24879*

(Ord. 24879 § 28; passed May 21, 1991; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.660 Falsifying information.**

*Repealed by Ord. 25587*

(Ord. 25587 § 37; passed Sept. 20, 1994; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.670 Violation - Penalties.**

Any person found guilty of willfully violating, without sufficient cause, any of the provisions of this chapter, or permit or order issued pursuant to this chapter, is guilty of a gross misdemeanor, and on conviction shall be punished by a fine of up to \$5,000.00, or by imprisonment for up to 365 days, or by both such fine and imprisonment. Each day's violation may be deemed a separate offense and shall be subject to a penalty assessment for each day during the period of violation. (Ord. 25587 § 38; passed Sept. 20, 1994; Ord. 24307 § 7; passed Mar. 7, 1989; Ord. 23240 § 1; passed Aug. 28, 1984)

**12.08.675 Notice of violation - Civil penalties.**

A. Notice of Violation. When the Director finds that a civil violation of this chapter has occurred or is occurring, then the Director may issue a notice of violation to the person responsible for the violation. The issuance of a notice of violation represents a determination that a violation of this chapter has occurred, or is occurring. The notice of violation may include civil penalties, corrective action orders, as well as corrective action/compliance schedules under TMC 12.08.140.E.7. The determination is final unless a hearing is requested as provided for in this chapter.

B. Content of Notice. The notice of violation shall include the following information:

1. The name and address of the person responsible for the violation; and

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2. The street address where the violation has occurred or is occurring, or, in the alternative, a description sufficient for identification of the building, premises, or land upon which the violation has occurred or is occurring; and
3. A description of the violation, and a reference to the provision(s) of the City of Tacoma regulation which has been violated; and
4. A statement establishing a civil penalty, corrective action order and/or compliance schedule, as applicable;
5. A statement that the notice of violation represents a determination that a violation of the provisions of Chapter 12.08 has occurred, and that the determination is final unless a hearing is requested within 30 days of the date of the notice; and
6. A statement indicating that any hearing scheduled as a result of an appeal may be canceled if the Director finds that the violator has complied with the actions required by the notice; and
7. A statement that a civil penalty in an amount not to exceed \$5,000 for each violation, for every day the violation continues, may be assessed against the person to whom the notice of violation is directed, and
8. A statement of the options available to respond to the notice of violation, and the procedures necessary to exercise these options.

C. **Service of Notice.** The Director shall serve the notice of violation upon the person to whom it is directed, either personally or by mailing a copy of the notice of violation to such person at the person's last known address, postage prepaid by certified mail with return receipt requested, or by first-class mail. Proof of service shall be established by the date and signature of the addressee on the certified mail "return receipt" form, or upon the third day following the date upon which the notice of violation was placed in the mail, unless the third day falls on a Saturday, Sunday, or legal holiday, in which event service shall be deemed complete on the end of the next day which is neither Saturday, Sunday, or a legal holiday. If the person to whom the notice of violation is directed can not after due diligence be personally served within Pierce County, and if an address for mailed service cannot after due diligence be ascertained, then notice shall be served by posting a copy of the notice of civil violation conspicuously on the property or structure where the violation occurred, or is occurring. In this circumstance, proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if service is made by posting, then

the facts showing that due diligence was used in attempting to serve the person personally or by mail.

D. **Civil Penalty.** In enforcement actions, under this chapter, where a civil penalty is assessed, the civil penalty for each separate violation per day or portion thereof shall be in an amount not to exceed \$5,000. Each and every violation shall be a separate and distinct offense. In case of a continuing violation, every day's continuance shall be a separate and distinct violation. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated the provisions of this chapter and shall be subject to the penalty herein provided. Failure to take corrective action as specified in a corrective action order issued by the Director under Chapter 12.08 may subject the recipient to a civil penalty in an amount not to exceed \$5,000 for each day of continued noncompliance.

E. **Continued Duty to Correct.** Payment of the civil penalty does not relieve the person to whom the notice of violation was issued of the duty to correct the violation.

F. **Collection of Penalty.** The civil penalty constitutes a personal obligation of the person to whom the notice of civil violation is directed. Any civil penalty assessed shall be paid to the City of Tacoma within 30 calendar days of receipt of such notice or, if appealed, within 30 calendar days of receipt of the Hearing Examiner's decision or a notice from the City that penalties are due.

G. Any person who has received a notice of violation shall respond to such notice within 30 days of the date of the notice. For the purposes of this section, a response may take the following forms:

1. If the person receiving the notice of violation does not contest the terms of such notice, the person shall respond within thirty (30) days by paying any civil penalties that may be assessed, and by taking any corrective actions that may be required by the Director. The Director shall not be bound by the corrective action or the amounts of civil penalties contained in the notice of civil violation, and the Director may make such modifications to the notice as will accomplish the purposes of this chapter.

2. If the person decides to contest the notice of violation, including any civil penalties, orders, requirements, decisions, or determinations that may be contained within such notice, the person shall file a written appeal with the Hearing Examiner within thirty (30) days from the date the notice of violation was received. The date of receipt shall be established according to the proof of service requirements set forth in TMC 12.08.675.C. above. . The person shall file the appeal by submitting it, either by

mail or in person, with the office of the Hearing Examiner.

H. Hearing Before the Hearing Examiner.

1. Notice. A person to whom a notice of civil violation is issued that has filed a request for a hearing before the Hearing Examiner will be scheduled to appear at a prehearing before the Hearing Examiner not less than 15 calendar days after the request for hearing has been filed.

2. Prior Correction of Violation. The hearing before the Hearing Examiner may be canceled if the person to whom a notice of civil violation is issued agrees in writing to comply with the requirements of the notice.

3. Procedure. The Hearing Examiner shall conduct a hearing in the notice of violation appeal pursuant to the requirements of TMC 1.23, and the City of Tacoma Office of Hearing Examiner Rules of Procedure for Hearing. The person to whom the notice of civil violation was directed shall have the right to file a written answer to the charge. The person to whom the notice of civil violation was directed shall have the right to appear at the hearing represented by legal counsel, and may participate as a party. The Director may appear in proceedings under this chapter, and may, but need not, be represented by the City Attorney. Each party may call and cross-examine witnesses, and be fully heard. The burden of proof in such hearings shall be governed by TMC 1.23.070.C. The determination of the Director as to the need for the required corrective action shall be accorded substantial weight by the Hearing Examiner in determining the reasonableness of the required corrective action. The Hearing Examiner may call witnesses on the Examiner's own motion, and compel the production of books, records, papers, and such other evidence needed by the parties. To that end, the Hearing Examiner may issue subpoenas and subpoenas duces tecum at the request of any party. All testimony shall be given under oath administered by the Hearing Examiner.

4. Decision of the Hearing Examiner. Pursuant to TMC1.23, the Hearing Examiner shall make, and fully record in the Hearing Examiner's permanent records, findings of fact, conclusions of law, and an order of disposition. The Hearing Examiner shall determine whether the City has established that a violation has occurred and whether the required corrective action is reasonable. The Hearing Examiner's order shall affirm, vacate, or modify the City's decisions regarding the alleged violation and/or the required corrective action, with or without written conditions. The Hearing Examiner shall issue an order to the person responsible for the notice of civil violation which contains the following information:

- a. The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision;
- b. The required corrective action;
- c. The date and time by which the corrective action must be completed; and
- d. The civil penalties assessed.

I. Assessment of Civil Penalties. Civil penalties assessed by the Director shall be in accordance with the provisions of this section. Civil penalties shall be reasonably calculated to achieve compliance with, and deter future violation of, the Tacoma Municipal Code. In reviewing a civil penalty assessed by the Director, the Hearing Examiner shall consider the following factors:

- 1. Whether the person against whom the notice of civil violation was issued responded to staff attempts to contact that person, and whether the person against whom the notice of civil violation was issued cooperated with efforts to correct the violation;
- 2. Whether the person against whom the notice of civil violation was issued failed to appear at the hearing;
- 3. Whether the violation was a repeat violation;
- 4. Whether the person against whom the notice of civil violation was issued showed due diligence and/or substantial progress in correcting the violation;
- 5. Whether a genuine code interpretation issue exists; and
- 6. Any other relevant factors.

J. Notice of Decision. The Hearing Examiner shall mail a copy of the decision to the appellant and to the Director within 10 days of the Hearing Examiner's decision.

K. Failure to Appear. Failure on the part of the person to whom the notice of civil violation was issued constitutes an admission to the violations alleged. If the person to whom the notice of civil violation was issued fails to appear at the scheduled hearing, the Hearing Examiner will enter an order finding that the violation occurred, and assessing the appropriate civil penalty. The City will carry out the Hearing Examiner's order, and recover all related expenses.

L. Appeal to Municipal Court. If the Hearing Examiner orders any person to pay a civil penalty, that person may appeal, in the form of a trial de novo, to the Tacoma Municipal Court.

- 1. The Tacoma Municipal Court shall hear the case according to the Civil Rules for Courts of Limited Jurisdiction, and applicable local rules of the Court.

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2. Appeal shall be taken by filing in the Tacoma Municipal Court a notice of appeal within 14 days of the Hearing Examiner's order. The person filing the appeal shall also, within the same 14 days, serve a copy of the notice of appeal on the Hearing Examiner, the Director, the City Attorney, and shall file an acknowledgment or affidavit of service in the Tacoma Municipal Court.

M. Nonexclusive Remedy. The provision for civil penalties is not exclusive, and civil penalties may be used together with other remedies that may exist in law or in equity, except that no act or omission that is defined as a crime by Washington or federal statutory law shall incur a civil penalty. (Ord. 27538 § 30; passed Oct. 24, 2006; Ord. 27285 § 19; passed Nov. 2, 2004; Ord. 27003 § 23; passed Nov. 19, 2002; Ord. 25587 § 39; passed Sept. 20, 1994; Ord. 24879 § 29; passed May 21, 1991)

### **12.08.677 Dischargers in significant noncompliance.**

Industrial dischargers found by the Director to be in significant noncompliance with applicable pretreatment standards and requirements during a 12-month period may be listed, and their names published annually in the largest daily newspaper published in Tacoma. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 25802 § 21; passed Dec. 5, 1995; Ord. 25587 § 40; passed Sept. 20, 1994)

### **12.08.678 Appeals of orders, requirements, decisions and determinations.**

Any person wanting to contest an order, requirement, decision, or determination made by the Director in enforcing the provisions of this chapter to the Hearing Examiner shall file a written appeal with the Hearing Examiner and request a hearing within thirty days of receipt of such order, requirement, decision, or determination. The date of receipt shall be established according to the proof of service requirements set forth in TMC 12.08.675.C. above. The Hearing Examiner shall conduct a hearing in the appeal of an order, requirement, decision, or determination by the Director pursuant to the requirements of TMC 1.23, and the City of Tacoma Office of Hearing Examiner Rules of Procedure for Hearing. The burden of proof in such hearings shall be governed by TMC 1.23.070.C. In exercising such powers of review, the Hearing Examiner may, in conformity with the provisions of the law, reverse or affirm the Director's order, requirement, decision, or determination in whole or in part, or may modify the order, requirement, decision, or determination and make such order as appears just to the Hearing Examiner. (Ord. 27538 § 31; passed Oct. 24, 2006; Ord. 25587 § 41; passed Sept. 20, 1994)

### **12.08.680 Severability – Saving.**

If any portion of this chapter, as now or hereafter amended, or its application to any person or circumstances, is held invalid, unenforceable or unconstitutional, such adjudication shall not affect the validity of this ordinance or of this chapter, as now or hereafter amended, or any section, provision or part hereof or thereof not adjudicated to be invalid, unenforceable or unconstitutional, and its application to other persons or circumstances shall not be affected. (Ord. 23240 § 1; passed Aug. 28, 1984)

### **12.08.700 Utility Reimbursement Agreements Wastewater and Surface Water Utility Improvements.**

A. Purpose. The purpose of this section is to prescribe rules and regulations for exercise of the authority to enter into a Utility Reimbursement Agreement granted to the City pursuant to RCW 35.91.

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

“Applicant” means any private individual or corporation using private funds to install Wastewater or Surface Water improvements in a public right-of-way that will benefit other property owners (Latecomers) who will develop their properties after said improvements.

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

“Director” means the Director of Public Works or his or her designated representative.

“Improvements” means all Wastewater and Surface Water improvements and appurtenances required by the City that provide benefits to properties to other than those owned or otherwise controlled by the Applicant.

“Latecomer” means any private individual or corporation that benefits from Wastewater or Surface Water improvements installed by others, providing these Improvements are subject to a valid Latecomers agreement.

“Owner” means the builder or developer of a Wastewater or Surface Water system improvement.

“Utility Reimbursement Agreement” means a written contract between the City and one or more property owners providing for construction of water or sewer facilities and for partial reimbursement to the party causing such improvements to be made of a portion of the costs of such Improvements by owners of property benefited by the Improvements, as more specifically described in RCW 35.91.

“Utility Reimbursement Area” means the area served in being benefited by the system, as defined above.

“Wastewater or Surface Water Facilities” shall have the meaning specified in RCW 35.91.020 as it now reads or as hereafter amended.

C. Project Requirement. In order to be eligible for a Utility Reimbursement Agreement, the estimated cost of the proposed Improvement must not be less than \$25,000. This ordinance may be applied to any facility that has not been fully accepted as operational by the City on or after January 1, 2005. The estimated cost of the Improvement shall be determined by the Director, based upon a construction contract for the project, bids, engineering or architectural estimates, or other information deemed by the Director to be a reliable basis for estimating costs. The determination of the Director shall be final.

D. Application. An application for a Utility Reimbursement Agreement shall be made on a form provided by the City. The application fee shall be set by the Director and shall be submitted to the City with the written application and shall be accompanied by:

1. Preliminary utility design drawings;
2. Itemized estimate of construction costs prepared and signed by a licensed civil engineer or in the form of a bid submitted by a qualified contractor (if more than one bid has been obtained, all bids must be submitted to the City);
3. A scaled vicinity drawing, stamped by a licensed civil engineer or licensed land surveyor depicting the improvements and their location and the proposed benefited area, including dimensions and county assessor’s numbers for each tax parcel, size of parcels, and evaluations where necessary for determining benefits;
4. The proposed list of properties within the Utility Reimbursement Area, stating the proposed reimbursement amount;
5. A complete list of record owners of property within the proposed Utility Reimbursement Area certified as complete and accurate by the Applicant and which states names and mailing addresses for each such owner;

6. Envelopes addressed to each of the record owners of property within the Utility Reimbursement Area who have not contributed their pro rata share of such costs. Proper postage for certified mail shall be affixed or provided;

7. A separate legal description for each tax parcel within the benefited area;

8. Such other information as the Director determines is necessary to properly review the application; and

9. An application fee of \$300.

E. Length of Reimbursement Provision. No Utility Reimbursement Agreement shall provide for reimbursement for a period of longer than fifteen (15) years from the date of final acceptance of the improvements by the City.

F. Director’s Determination.

1. The Director shall review all applications and shall approve the application only if the following requirements are met:

- a. The project satisfies the minimum size requirement, Section C; and
- b. The proposed Improvements fall within the description of Surface Water or Wastewater Facilities, as those terms are described in RCW 35.91; and
- c. The proposed improvements are not completed prior to January 1, 2005. After December 31, 2006, application will have to be made prior to commencing construction of the system.

2. In the event all of the above criteria are not satisfied, the Director may condition approval, as necessary, in order for the application to conform to such criteria, or shall deny the application. The final determination of the Director shall be in writing.

G. Determination of Utility Reimbursement Area Boundary and Reimbursement Fee. In the case of all approved applications, the Director shall define the Utility Reimbursement Area based upon a determination of which parcels did not contribute to the original cost of the water or sewer facility for which the Utility Reimbursement Agreement applies and which may subsequently tap into or use the same, including not only those which may connect directly thereto, but also those who may connect to laterals, branches, or pump stations connecting thereto. An estimated amount of the reimbursement fee shall be established so that each property will pay a share of the costs of the Improvements that is proportional to the benefits accruing to the property. The reimbursement fee shall be calculated by dividing the area of the property being

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connected to the system by the overall area that is benefited by the system; this amount shall be multiplied by the Cost of Construction.

H. Utility Reimbursement Agreement Must Be Recorded. In order to become effective, a Utility Reimbursement Agreement must be recorded with the office of the Pierce County Department of Records and Elections. It shall be the sole responsibility of the beneficiary of the Utility Reimbursement Agreement to verify the agreement has been recorded.

I. Written Agreement—City Payment of City Costs in Excess of Application Fee.

1. Upon approval of the application, determination of the estimated Cost of Construction, the Utility Reimbursement Area, and estimated fees by the Director, the Applicant shall sign a Utility Reimbursement Agreement in the form supplied by the City. The signed agreement, the application, and supporting documents, together with the Director's estimate of the Cost of Construction and determination of Utility Reimbursement Area and estimated fees shall be drawn into a written agreement between the City and the Applicant.

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

J. Construction and Acceptance of Improvement—Recording of Final Fees.

1. After the Utility Reimbursement Agreement has been signed by both parties and all necessary permits and approvals have been obtained, the Applicant shall construct the Improvement and, upon completion, request final inspection and acceptance of the Improvement by the City, subject to any required obligation to repair defects. An appropriate bill of sale, easement, and any other document needed to convey the Improvement to the City and to ensure right of access for maintenance and replacement shall be provided, along with documentation of the actual costs of the Improvement and a certification by the Applicant that all of such costs have been paid.

2. In the event that actual costs are less than the Director's estimate used in calculating the estimated fees by 10 percent or more, the Director shall recalculate the fees, reducing them accordingly, and shall cause a revised list of fees to be recorded with the county auditor.

K. Notice to Property Owners. Prior to execution of any contract with the City establishing a Utility

Reimbursement Agreement, the Director, or his or her designee, shall provide notice, via certified mail, to all record property owners within the Utility Reimbursement Area. As defined by the City on the basis of information and material supplied by the Applicant stating the preliminary boundaries of such an area and assessments along with substantially the following statement: "As a property Owner within the Utility Reimbursement Area, whose preliminary boundaries are enclosed with this notice, you or your heirs and assigns will be obligated to pay, under certain circumstances, a pro rata share of construction and contract administration costs of the certain Wastewater or Surface Water Utility project that has been preliminarily determined to benefit your property. The proposed amount of such pro rata share is also enclosed with this notice. You or your heirs and assigns shall be required to pay said share before any development permits are issued for development on your property within 15 years of the date that a contract establishing such area is recorded with Pierce County, provided your development would have required similar Surface Water or Wastewater Utility Improvement for approval. You have the right to request a hearing before the Director within twenty (20) days of the date of this notice. All such requests must be made in writing and filed with the City Clerk. After the Utility Reimbursement Agreement has been recorded, it shall be binding on all owners of record within the Utility Reimbursement Area who are not a party to the Utility Reimbursement Agreement."

L. Collection of Reimbursement Fees.

1. Subsequent to the recording of a Utility Reimbursement Agreement, the City shall not permit connection of any property within the Utility Reimbursement Area to any sewer or water facility constructed pursuant to the Utility Reimbursement Agreement, unless the share of the costs of such facilities required by the recorded agreement is first paid to the City.

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

M. Segregation of Reimbursement Fees. The Utility Reimbursement Agreement shall provide that the City is

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

N. Disposition of Undeliverable Reimbursement Fees. In the event that, after reasonable effort, the party to which the reimbursement fees are to be paid, pursuant to a Utility Reimbursement Agreement, cannot be located and upon the expiration of one hundred eighty (180) days from the date the fees were collected by the City, the fees shall become the property for the City and shall be revenue to the City Wastewater and Surface Water utilities.

O. Rights and Nonliability of the City. The City reserves the right to enter into any Utility Reimbursement Agreement or to reject any application thereof. All applications for Utility Reimbursement Agreements shall be made on the basis that the Applicant releases and waives any claims for any liability of the City in establishment and enforcement of Utility Reimbursement Agreements. The City shall not be responsible for locating any beneficiary or survivor entitled to benefits by or through Utility Reimbursement Agreements.

P. Severability. If any section, sentence, clause, or phrase of this section should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this chapter.

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

R. Director's Action. If any owner of property within the proposed Utility Reimbursement Area requests a hearing in writing within twenty (20) days of the mailing of the property owner notification, a hearing shall be held before the Director, notice of which shall be given to all affected property owners in addition to the regular notice requirements specified by this code, the cost of which shall be borne by the Applicant. At a hearing, the Director shall take testimony from affected property owners and make a final determination of the area boundaries, the amount of assessments, length of time for which reimbursement shall be required, and shall authorize the execution of appropriate documents. The Director's ruling of these matters is determinative and final. If no hearing is requested, the Director may consider and take final action on these matters at any public meeting twenty (20) days after notice was mailed to the affected property owners. (Ord. 27502 § 1; passed Jun. 27, 2006)

**12.08.720 Inflow and Infiltration Removal from Private Side Sewers**

A. Purpose. The purpose of this section is to prescribe rules and regulations for private side sewer inspection requirements at the time of sale, major building remodel or additions to properties within the City of Tacoma, to educate property owners on the conditions of their private side sewers, and to encourage the reduction in quantity of inflow and infiltration from the sanitary sewer system. The inspection requirements take effect on July 1, 2010.

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

“Certificate of Inspection” means the certificate issued by the City of Tacoma to an owner indicating that the owner has performed an acceptable inspection for sources of inflow and infiltration on their private side sewer.

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

"Condominium" means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners and unless a declaration and a survey map and plans have been recorded, pursuant to RCW 64.34.020.

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

“Director” means the Director of Public Works or his or her designated representative.

“Infiltration” means any groundwater that makes its way into the private side sewer via defects in the pipe, such as cracks, holes, unsealed joints, and root penetrations.

“Inflow” means any water that is dumped or conveyed into the sanitary sewer system through improper or direct connections. Examples of improper or direct connections include roof drains, footing drains, area drains, yard drains, and driveway drains.

“Inspection Report” means the full and accurate inspection results recorded on a City form including a copy of the closed-circuit television camera (“CCTV”) video inspection.

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

“Public Sewer Main” means the network of common sewage conveyance pipes that are owned, maintained, and operated by the City of Tacoma.

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

“Owner” means any private individual or corporation that holds the title to a real property as shown by the Pierce County Assessor’s records.

“Video Inspection” means a visual recorded inspection of a private side sewer performed by inserting a flexible video camera into the private side sewer for the purposes of determining the condition of the interior of the pipe.

### C. Conditions Requiring Private Side Sewer Inspections for Sources of Inflow & Infiltration.

1. Effective July 1, 2010, properties shall be required to be inspected for sources of inflow and infiltration in the following circumstances:

a. Prior to the sale or transfer of title for a real property that contains any building or structure with a private side sewer connecting to the public sewer main.

b. Prior to the issuance of a building permit for a substantial building renovation. A substantial building renovation shall be defined as meaning remodeling, alteration of, and/or addition to an existing building within a two-year period, the cost of which exceeds 60 percent of the value of the building as calculated using the latest Building Valuation Data as published by the International Code Council.

c. Prior to the issuance of a building permit for any new buildings or additions to existing buildings in which the new structures or additions may be constructed over the top of the existing private side sewer. If the location of a private side sewer is unknown, it shall be located prior to issuance of building permit.

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

a. Properties that have been issued a Certificate of Inspection within the past five-year period.

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

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

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

e. Condominiums, as defined in TMC 12.08.720.B.

3. Properties that have City permit records detailing that the entire private side sewer from the cleanout at the building to the connection at the public sewer main is constructed with water-tight materials meeting current Tacoma Municipal Code requirements will not be required to inspect for infiltration, but will require inspections for sources of inflow.

4. Except as otherwise provided in this section or as allowed by the Director, the owner of the property is responsible for compliance with this section and obtaining an inspection. The owner shall be responsible for disclosing to prospective purchasers the requirements of this section and a copy of the inspection report of the real property in question.

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

6. Sources of inflow and infiltration found through inspections required by this section will be permitted by the Director to remain; however, this section shall not be

construed to allow any new sources of inflow or infiltration into the sanitary sewer system. The City encourages owners to be proactive in making private side sewer or building repairs to eliminate infiltration and inflow to the sanitary sewer system. The City offers financial assistance to qualified customers through the Environmental Services Conservation Loan Program, per TMC 12.08.640, to aid with the cost of performing private side sewer repairs or replacement.

D. Inspection Requirements.

1. Video Inspection. All private side sewers shall be inspected via an internal video inspection for the full length of the private side sewer from the building sewer to the public sewer main, utilizing a video inspection camera. Video inspections shall be recorded with a current date/time stamp and display the property address visible on-screen

2. Direct Connection Inspection. All buildings with a connection to the public sewer main shall be inspected to determine if any direct stormwater or surface water connections to the sanitary sewer exist, including, but not limited to, roof drains, sump pumps, area drains, foundation/footing drains, and yard drains.

3. Inspections shall be performed by a Washington State licensed plumbing contractor or a sanitation sewer contractor who performs video inspections.

E. Inspection Report and Certificate of Inspection.

1. Inspection results shall be recorded on the City form titled Private Side Sewer Inflow and Infiltration Inspection Report and submitted by the inspector to the City within 14 calendar days of inspection. A digital copy of the video inspection shall also be submitted with the written report. Any incomplete forms or videos will be rejected and required to be resubmitted after correction.

2. The City will issue a Certificate of Inspection for properties having a thorough and complete inspection. Copies of the Inspection Report, Certificate of Inspection, and the video inspection will be kept on file at the City as a matter of public record.

F. Violation – Penalties. Persons who violate this section are subject to the enforcement provisions set forth in TMC 12.08.675, including a Notice of Violation and issuance of a corrective order under TMC 12.08.675.A and civil penalties assessed under TMC 12.08.675.D. (Ord. 27857 Ex. A; passed Dec. 8, 2009)