

# ORDINANCE NO. 2019-01

## AN ORDINANCE ESTABLISHING REGULATIONS FOR THE INTERCEPTION, TREATMENT AND DISPOSAL OF SEWAGE AND WASTEWATER; PROVIDING FOR AND REQUIRING CHARGES AND FEES THEREFOR; AND FIXING PENALTIES FOR THE VIOLATION OF SAID REGULATIONS

o0o

THE BOARD OF DIRECTORS OF MONTEREY ONE WATER DOES ORDAIN AS FOLLOWS:

### ARTICLE 1 – GENERAL PROVISIONS

**§1.01 Short Title.** This Ordinance shall be known as, and may be cited as, the Wastewater Discharge Ordinance of Monterey One Water, formerly the Monterey Regional Water Pollution Control Agency.

**§1.02 Purpose and Policy.** This Wastewater Discharge Ordinance (sometimes hereinafter "Ordinance" or "this Ordinance") is the legal authority which sets uniform requirements for discharges into the Wastewater collection and treatment system of Monterey One Water and all tributary collection systems and enables Monterey One Water to comply with the administrative provisions of the Clean Water Grant Regulations, and specifically incorporates and enforces Pretreatment Standards and requirements as defined in 40 CFR Part 403 "*General Pretreatment Regulations for Existing and New Sources of Pollution.*" This Ordinance also enables Monterey One Water to comply with the water quality requirements set by the Central Coast Regional Water Quality Control Board (Central Coast Water Board) of the State of California and all applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, Recycled Water standards, applicable biosolids standards, and any other discharge criteria which are required or authorized by state or federal law, and to derive the maximum public benefit by regulating the quality and quantity of Wastewater discharged into the Monterey One Water sewer system. This Ordinance provides a means for determining Wastewater volumes, constituents and characteristics, and setting of charges and fees, and the issuance of permits to certain Users. Revenues derived from the application of this Ordinance shall be used to defray Monterey One Water's cost of operating and maintaining adequate Wastewater collection and treatment systems, enforcing Pretreatment Standards and requirements, implementation of source control and Waste minimization programs and to provide improvements and depreciation.

**§1.03 Definitions.** Unless otherwise defined herein, terms and definitions shall be as adopted in the latest edition of "*Standard Methods for the Examination of Water and Wastewater,*" published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. Waste constituents and characteristics shall be measured in accordance with said *Standard Methods* unless expressly stated otherwise, or as established by Monterey One Water, federal or state regulatory agencies. For the purposes of this Ordinance, unless the context specifically indicates otherwise, the meaning of terms used herein shall be as follows:

1. **Act** – the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, Title 33 of the United States Code (33 U.S.C.) section 1251 et seq.
2. **Authorized or Duly Authorized Representative of the User:**
  - a. If the User is a corporation:
    - i. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - ii. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - c. If the User is a federal, state, or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - d. The individuals described in §1.03(2)(a)-(c) may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to Monterey One Water.
3. **Building Sewer** – a sewer conveying Wastewater from the premises of a User to a Community Sewer or the Regional Wastewater Treatment Plant (RTP).
4. **Beneficial Uses** – uses of the water of the state that may be protected against quality degradation, including domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by federal or state law.
5. **Best Management Practices (BMP)** – a schedule of activities, prohibition of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Article 2 of this Ordinance. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge, or Waste disposal, or drainage from raw materials storage.

6. **Carbonaceous Biochemical Oxygen Demand (CBOD)** – the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g., mg/L).
7. **Categorical Pretreatment Standard or Categorical Standard** – any regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency (USEPA) in accordance with sections 307(b) and (c) of the Clean Water Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
8. **Categorical Industrial User (CIU)** – an Industrial User subject to a Categorical Pretreatment Standard or Categorical standard.
9. **Community Sewer** – a sewer and/or pump station owned and/or operated by Monterey One Water, and/or by any public Member Entity of Monterey One Water, and/or by any Person who has a written contract for wastewater services by Monterey One Water, and which is tributary to the RTP.
10. **Compatible Pollutant** – CBOD, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in Monterey One Water’s National Pollutant Discharge Elimination System (NPDES) permit if the RTP was designed to treat such pollutants, and in fact, does remove such pollutants to a substantial degree.
11. **Contamination** – an impairment of the quality of the Waters of the State by Waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of Wastewater, whether Waters of the State are affected.
12. **Daily Maximum** – the arithmetic average of all effluent samples for a pollutant collected during a calendar day.
13. **Daily Maximum Limit** – The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentrations derived from all measurements taken that day.
14. **Existing Source** – any source of discharge that is not a “New Source”.
15. **General Manager** – the General Manager (GM) of Monterey One Water.
16. **Grab Sample** – a sample that is taken from a wastestream without regard for the flow rate in the wastestream and over a period of time not to exceed fifteen (15) minutes.
17. **Holding Tank Waste** – any Waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.
18. **Incompatible Pollutant** – any pollutant which is not a "Compatible Pollutant" as defined in this Section.
19. **Indirect Discharge** – the discharge or the introduction of pollutants into the Community Sewer or RTP from any source regulated under section 307(b) or (c) of the Act (33 U.S.C. section 1317), including holding tank Waste discharge.

20. **Industrial User** – an entity that contributes any Indirect Discharge to a Community Sewer or to the RTP.
21. **Industrial Waste Generator** – a facility that generates industrial Waste that may be hauled to the RTP for disposal by a Waste hauler.
22. **Instantaneous Limit** – the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of flow rate and duration of the sampling event.
23. **Interference** – a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
  - a. Inhibits or disrupts the Community Sewer, RTP, or Recycled Water facility, its treatment processes or operations, or its sludge processes, use, or disposal; or
  - b. Therefore is a cause of a violation of any requirement of the Monterey One Water’s NPDES or other discharge permits, including an increase in the magnitude or duration of a violation, or of the prevention of Sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder [or more stringent State or local regulations]: Section 405 of the Act, the Solid Waste Disposal Act (SWDA), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, the State Drinking Water Act, and the Marine Protection, Research and Sanctuaries Act.
24. **Liquid Waste Hauler** – any person or company who hauls and disposes of liquid Wastes at the RTP.
25. **Local Limit** – specific discharge limits technically-developed and enforced by Monterey One Water upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR Part 403.5(a)(1) and (b) and in §2.01.1 and §2.01.2 of this Ordinance.
26. **Mass Emission Rate** – the weight of material discharged to the Community Sewer or RTP during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day (lb/day) of an individual constituent or combination of constituents.
27. **Monterey One Water Member Entities** – cities of Del Rey Oaks, Monterey, Pacific Grove, Salinas, Sand City, and Seaside, Marina County Sanitation District and the communities of Boronda, Castroville, Moss Landing, and Fort Ord in Monterey County.
28. **Monterey One Water Service Area** – the land areas of the Member Entities for which Monterey One Water provides Wastewater collection and/or treatment service by agreement or contract.
29. **Monthly Average** – the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
30. **Monthly Average Limit** – the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured

during a calendar month divided by the number of “daily discharges” measured during that month.

31. **National Categorical Pretreatment Standards** – any regulation containing pollutant discharge limits promulgated by USEPA in accordance with section 307(b), (c), and 402 (b) (8) of the Act (33 U.S.C. section 1347) and 40 CFR Part 403 "*General Pretreatment Regulations for Existing and New Sources of Pollution*" which applies to a specific category of Industrial Users.
32. **National Pollution Discharge Elimination System (NPDES) Permit** – a permit issued pursuant to section 403 of the Federal Act (33 U.S.C. section 1342) to Monterey One Water by the Central Coast Water Board that regulates the discharge of treated Wastewater to the Pacific Ocean.
33. **National Pretreatment Standard, Pretreatment Standard, or Standard** – any regulation containing pollutant discharge limits promulgated by USEPA in accordance with section 307(b), (c) and 402(b)(8) of the Act (33 U.S.C. section 1347) incorporated in 40 CFR Part 403 "*General Pretreatment Regulations for Existing and New Sources of Pollution*" which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR Part 403.5.
34. **New Source** –
  - a. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
    - i. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
    - ii. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
    - iii. The production or Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing 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.
  - b. 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 §1.03(34)(a)(ii) or (iii), but otherwise alters, replaces, or adds to existing process or production equipment.
  - c. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
    - i. Begun, or caused to begin, as part of a continuous onsite construction program

- (1) Any placement, assembly, or installation of facilities or equipment; or
    - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
  - ii. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
35. **Noncontact Cooling Water** – water used for cooling that does not come into direct contact with any raw material, intermediate product, Waste product, or finished product.
36. **Pass Through** – a discharge which exits the RTP into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Monterey One Water’s NPDES permit or a Waste Discharge Requirement and/or Water Recycling Requirement Permit, including an increase in the magnitude or duration of a violation.
37. **Person** – any individual, firm, company, partnership, association, the responsible corporate officer of any private, public, or municipal corporation, the United States of America, the State of California, districts and all political subdivisions, governmental agencies and mandatories thereof.
38. **pH** – a measure of the acidity or alkalinity of a solution, expressed in standard units.
39. **Pollutant** – dredged spoil, solid Waste, incinerator residue, filter backwash, Sewage, garbage, Sewage sludge, munitions, medical Wastes, chemical Wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial Wastes, and certain characteristics of Wastewater (e.g., pH, temperature, TSS, turbidity, color, CBOD, chemical oxygen demand, toxicity, or odor).
40. **Pollution** – an alteration of the quality of the Waters of the State by Waste to a degree which unreasonably affects such waters for beneficial use or affects the facilities which serve such beneficial uses. Pollution may include Contamination.
41. **Premises** – a parcel of real estate or portion thereof, including any improvements thereon, which is determined by Monterey One Water to be a single User for purposes of receiving, using, and paying for service.
42. **Pretreatment** – the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in Wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the Community Sewer or RTP. The reduction or alteration can be by physical, chemical, or biological processes; process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

43. **Pretreatment Requirements** – any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on a User.
44. **Prohibited Discharge Standards or Prohibited Discharges** – absolute prohibitions against the discharge of certain substances. These prohibitions are identified in Article 2 of this Ordinance.
45. **Publicly Owned Treatment Works (POTW)** – a treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned, or leased, operated and maintained, by Monterey One Water or its Member Entities. This definition includes any devices or systems used in the collection, storage, treatment, and recycling of Sewage or industrial Wastes of a liquid nature and any conveyances, which convey Wastewater to a treatment plant.
46. **Recycled Water** – water which, as a result of treatment of Waste, is suitable for direct beneficial use or a controlled use that would not otherwise occur that is regulated by Title 22 of the California Code of Regulations.
47. **Regional Wastewater Treatment Plant (RTP)** – The Wastewater treatment plant operated by Monterey One Water.
48. **Saline Waste Hauler** – any person or company who hauls and discharges saline Wastes, as defined by this Ordinance, to the RTP.
49. **Septic Tank Waste** – any Sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
50. **Sewage** – human excrement and gray water (household showers, dishwashing operations, etc.).
51. **Shall** is mandatory; **May** is permissive.
52. **Significant Industrial User (SIU)** – except as provided in §1.03(52)(c), (d) and (e) of this Ordinance, a Significant Industrial User is:
  - a. A User subject to Categorical Pretreatment Standards; or
  - b. A User that:
    - i. Discharges an average of twenty-five thousand (25,000) gallons per day or more of *process Wastewater* into the Community Sewer or POTW (excluding sanitary, non-contact cooling, and boiler blowdown Wastewater);
    - ii. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW; or
    - iii. Is designated as such by Monterey One Water on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or requirement.
  - c. Monterey One Water may determine that a User subject to Categorical Pretreatment Standards is a non-significant Categorical Industrial User (NSCIU) rather than an SIU on a finding that the User never discharges more than one hundred (100) gallons per day of total categorical Wastewater (excluding sanitary, non-contact cooling, and boiler blowdown Wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- i. The User, prior to Monterey One Water’s finding, has consistently complied with all applicable Categorical Pretreatment Standards and requirements;
    - ii. The User annually submits the certification statement required in §4.04.7 of this Ordinance, together with any additional information necessary to support the certification statement; and
    - iii. The User never discharges any untreated concentrated Wastewater.
  - d. Monterey One Water may determine that a User subject to Categorical Pretreatment Standards is a middle tier Categorical Industrial User (MTCIU) on finding that the discharge of Categorical Wastewater does not exceed the following:
    - i. 0.01 percent of the design dry weather hydraulic capacity of the RTP, or 5,000 gallons per day (gpd), which ever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
    - ii. 0.01 percent of the design dry weather organic treatment capacity of the RTP; and
    - iii. 0.01 percent of the maximum allowable headworks loading (MAHL) for any pollutant for which approved Local Limits were developed by Monterey One Water.
  - e. Upon a finding that a User meets the criteria in §1.03(52)(c) of this Ordinance has no reasonable potential for adversely affecting the RTP’s operation or for violating any Pretreatment Standard or requirement, Monterey One Water may at any time, on its own initiative or in response to a petition received from the User, and in accordance with the procedures in 40 CFR Part 403.8(f)(6), determine that such User should not be considered an SIU.
53. **Significant Non-Compliance (SNC)** – applied to any User that:
- a. Chronic violations of Wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or requirement, including Instantaneous Limits as defined in §1.03(22) of this Ordinance;
  - b. Technical Review Criteria (TRC) violations, as defined as those in which thirty-three (33) percent) or more of Wastewater measurements taken for each pollutant parameter during a six- (6-) month period equal or exceeds the product of the numeric Pretreatment Standard or requirement including Instantaneous Limits, as defined in §1.03(22) of this Ordinance multiplied by the applicable criteria (1.4 for CBOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH);
  - c. Any other violation of a Pretreatment Standard or requirement as defined in Article 2 of this Ordinance (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the General Manager, or their designee, determines has caused, alone or in combination with other discharges, Interference or pass through, including endangering the health of Monterey One Water personnel or the general public;



- d. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or as resulted in the General Manager's exercise of its emergency authority to halt or prevent such a discharge;
  - e. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - f. Failure to provide within forty-five (45) days after the due date, any required report, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - g. Failure to accurately report noncompliance; or
  - h. Any other violation(s), which may include a violation of BMPs, which the General Manager, or their designee, determines will adversely affect the operation or implementation of the Monterey One Water Pretreatment Program.
54. **Special Hauled Waste Load** – any hauled liquid Waste that is not otherwise defined in this Ordinance, which has potential for disposal at the Monterey One Water treatment facility with prior approval.
55. **Standard Industrial Classification (SIC)** – a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
56. **Slug Discharge** – any discharge at a flow rate of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or pass through, or in any other way violate Monterey One Water's regulations, Local Limits, or conditions of applicable permits regulating Monterey One Water.
57. **Storm Water** – any flow occurring or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
58. **Total Suspended Solids (TSS)** – the total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquid, and that is removable by laboratory filtering.
59. **Toxic Pollutant** – any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the USEPA under the provision of the section 307(a) of the Act.
60. **United States Environmental Protection Agency (USEPA)** – the United States Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said Agency.
61. **Unpolluted Water** – water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to Monterey One Water having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

62. **User** – any person who discharges, causes, or permits the discharge of Waste or Wastewater or disposes of Waste or Wastewater into a Community Sewer or the RTP.
63. **Waste** – Includes Sewage and any and all other Waste substances, liquid, solid, or gaseous, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operations of whatever nature prior to, and for purposes of, disposal.
64. **Wastewater** – liquid and water-carried industrial Wastes and Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, public or private seawater or brackish groundwater desalination facilities, and institutions, whether treated or untreated, which are contributed to the Community Sewer or RTP.
65. **Waters of the State** – any water, surface or underground, including saline waters, within the boundaries of the State of California.

## ARTICLE 2 – REGULATIONS

### §2.01 Prohibitions on Discharges

**§2.01.1 General Prohibitions.** No User shall discharge into the Community Sewer or to the RTP any pollutant(s) which cause pass through or Interference. These general prohibitions and the specific prohibitions in §2.01.2 of this Ordinance apply to each User introducing pollutants into the Community Sewer or the RTP, whether or not the User is subject to National Pretreatment Standards or any federal, state, or local pretreatment requirements.

**§2.01.2 Specific Prohibitions.** No User shall introduce or cause to be introduced into the Community Sewer or RTP the following pollutants, substances, or Wastewater:

1. Pollutants which create a fire or explosion hazard in the Community Sewer or RTP, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR Part 261.21. Reference closed cup flashpoint values may be found in the National Institute of Occupational Safety and Health (NIOSH) *Pocket Guide to Chemical Hazards*;
2. Pollutants which will cause corrosive structural damage to the Community Sewer or RTP, but in no case discharges with a pH lower than 6.0 or above 10.5 standard pH units;
3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the Community Sewer or RTP resulting in Interference;
4. Any pollutant, including oxygen demanding and Compatible Pollutants (CBOD, TSS, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the RTP;
5. Heat in amounts which will inhibit biological activity at the RTP resulting in Interference, but in no case, heat in such quantities that the temperature at the RTP exceeds 104 degrees Fahrenheit (40 degrees Centigrade) or 140 degrees Fahrenheit (60 degrees Centigrade) in the Community Sewer;
6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or pass through;
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the Community Sewer or RTP in a quantity that may cause acute worker health and safety problems;
8. Any Wastewater containing Toxic Pollutants in sufficient quantity, either singly or by interaction with other pollutants, that injure or interfere with any Wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the RTP, or exceed the limitation set forth in a national Categorical Pretreatment Standard. A Toxic Pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act; and
9. Unpolluted Water, pond water, Storm Water, ground water, precipitation, street drainage, or yard drainage shall not be discharged through direct or indirect connections to the Community Sewer or RTP unless a Wastewater discharge permit or written approval is issued by Monterey One Water. If a Wastewater

discharge permit is granted for the discharge of such water to the Community Sewer or RTP, the User shall pay the applicable charges and fees and shall meet such other conditions as required by Monterey One Water.

**§2.03 National Categorical Pretreatment Standards** – Users must comply with the applicable Categorical Pretreatment Standards found in 40 CFR Chapter I, Subchapter N, Parts 405-471.

**§2.04 Prohibitions on Dilution as Substitute for Treatment** – Except where expressly authorized to do so by an applicable Categorical Pretreatment Standard, no User shall increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard.

**§2.05 Limitations of Radioactive Wastes** – No person shall discharge or cause to be discharged any radioactive Waste into a Community Sewer except:

1. When the User is authorized to use radioactive materials by the California Department of Public Health or other governmental agency empowered to regulate the use of radioactive materials, and
2. When the Waste is discharged in strict conformity with current California Radiation Control Regulations (Title 17 of the California Code of Regulations) and the Nuclear Regulatory Commission regulations and recommendations for safe disposal, and
3. When the User is in compliance with all rules and regulations of the other applicable regulatory agencies.

**§2.06 Limitations on the Use of Garbage Grinders** – Waste from garbage grinders shall not be discharged into a Community Sewer except:

1. Wastes generated in preparation of food normally consumed on the premises, or
2. Where the User has obtained a Wastewater discharge permit for the specific use from Monterey One Water, and agrees to undertake whatever self-monitoring is required to enable Monterey One Water to equitably determine the charges and fees based on the Waste constituents and characteristics.

Such grinders must shred the Waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the Community Sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse.

**§2.07 Limitations on Point of Discharge** – No person shall discharge any substances directly into a manhole or other opening in a Community Sewer other than through an approved building sewer unless that person has been issued a Wastewater discharge permit by or received written approval from Monterey One Water. If a Wastewater discharge permit or written approval is issued for such direct discharge, the User shall pay the applicable charges and fees and shall meet such other conditions as required by Monterey One Water.

**§2.08 Holding Tank Waste** – No User shall discharge any holding tank Waste into a Community Sewer unless it has been issued a Wastewater discharge permit by or received written approval from Monterey One Water. Unless otherwise allowed by Monterey One Water

under their terms and conditions of the Wastewater discharge permit or written approval, a separate permit or written approval must be secured for each separate discharge. This Wastewater discharge permit or written approval will state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the Wastewater constituents and characteristics. If a Wastewater discharge permit or written approval is granted for discharge of such Waste into a Community Sewer, the User shall pay the applicable charges and fees and shall meet such other conditions as required by Monterey One Water. An exception to the above is that no Wastewater discharge permit or written approval will be required for discharge of domestic Wastes from motor home holding tanks, provided that such discharges are made into a Monterey One Water-approved facility designed to receive such Wastes.

**§2.09 Hauled Waste** – No person shall discharge any trucked or hauled Waste without a Wastewater discharge permit issued by Monterey One Water. Only the following types of trucked or hauled Waste are accepted by Monterey One Water:

1. Acceptable liquid Wastes include domestic Wastes generated from residential and commercial (non-industrial) septic tanks, chemical Waste toilet Wastes, restaurant oil and grease, and dilute petroleum oil Wastes which are transported by truck to the RTP for processing and treatment. Examples of domestic sources include single and multiple family residences, hotels and motels, non-industrial commercial office complexes, campground, picnic grounds, and day use recreation areas.
2. Acceptable hauled saline Wastes include high salt concentration solutions from water softener regeneration, reverse osmosis reject/backwash, reverse osmosis membrane cleaning operations, chemical treatment for potable water system pollutant removal, and seawater are all acceptable provided that any associated pollutant levels meet all compliance limits in force at the time.
3. Special Hauled Waste loads include any hauled Waste that is not otherwise defined in this Ordinance, which has the potential for disposal at the RTP with prior approval by Monterey One Water.

### **§2.09.1 Waste Hauler Permits and Requirements**

All Waste haulers disposing of Waste at the RTP are required to have a Waste hauler permit and have proof of a current registration as a saline, septage, or chemical toilet hauler with the County of Monterey Department of Public Health. The following requirements apply to Waste haulers:

1. All hauled Wastes, liquid, saline waste, or otherwise defined by this Ordinance, generated outside of Monterey, Santa Cruz, or San Benito Counties must be approved by Monterey One Water prior to disposal at the RTP.
2. Waste haulers must provide advanced notice no later than one (1) business day before the expected discharge to allow for Monterey One Water to review and respond to the request.
3. Discharge procedures are provided in the Waste hauler permit, and Waste haulers not complying with the discharge procedures may be subject to enforcement action in accordance with Articles 6 and 7 of this Ordinance. The Waste receiving facility is located at the east end of the RTP. Monterey One Water requires a

special arrangement if Waste is hauled to the RTP outside of normal operating hours.

4. Each Waste hauler shall accurately complete the “Monterey One Water Hauled Waste Discharge Manifest” form for each load discharged to the RTP.
5. The acceptance of hauled Wastes may be terminated by Monterey One Water without prior notice due to RTP operational problems or other special circumstances.
6. A discharge report shall be filed with Monterey One Water a minimum of sixty (60) days prior to making any proposed changes to the character, location, or volume of the discharge.
7. Wastes not permitted to be discharged at the RTP must be transported to a state-approved disposal site. To protect the RTP against illegal discharges, Monterey One Water may require the Waste hauler to submit a copy of the official hauling manifest or “Waste Haulers Report” within thirty (30) days.
8. Monterey One Water reserves the right to sample all wastes prior to discharging to the RTP and to deny the discharge of any unacceptable waste. Monterey One Water reserves the sole right and authority to determine whether a Waste is acceptable for discharge. In the event there is uncertainty as to whether a Waste is acceptable, or whether there is a dispute in this regard, Monterey One Water shall render a decision, and this decision shall be final and binding.
9. The Waste shall have a relative respirometer toxicity of less than or equal to 1.2.
10. The Waste shall not have more than twenty (20) percent inert organic solids content by volume (e.g., grit, sands, silts, drilling muds) unless prior approval has been received from Monterey One Water.
11. The Waste shall not exceed any “Action Levels” as defined by the State Water Resources Control Board Division of Drinking Water or the County of Monterey Department of Environmental Health.

### **§2.09.2 Insurance and Binder Requirements**

Each Waste hauler discharging wastes to the RTP shall be required to maintain insurance for Commercial General Liability, Vehicle Liability, and Workers’ Compensation. Required provisions and conditions of the policies are as follows:

1. The insurance shall have an endorsement naming Monterey One Water as an additional insured, and the policy shall have a standard cross-liability clause or endorsement.
2. The coverage shall be primary, and no other insurance or self-insurance such as may be utilized by Monterey One Water shall contribute to a loss under these policies.
3. The policy shall not be cancelled or materially altered without thirty (30) days prior notice to Monterey One Water.
4. The certificate and endorsement are to be signed by a person authorized by the insurers to bind coverage on their behalf.
5. Insurances shall have at least an “A: policy holders’ rating and XI financial rating” in accordance with the most current Best’s Key Rating Guide.

6. The Waste hauler shall furnish Monterey One Water with adequate certificates of insurance and endorsements demonstrating that the provisions and/or requirements stated above have been complied with.
7. Monterey One Water reserves the right to require complete, certified copies of all required insurance policies and endorsements at any time.
8. In lieu of all or a portion of the above-required coverage, Monterey One Water may accept, in its sole discretion, satisfactory evidence of equivalent self-insurance.

#### Commercial General Liability Insurance

Each waste hauler shall be required to maintain Commercial General Liability Insurance coverage which insures the hauler and Monterey One Water and its employees against claims of bodily injury, personal injury, and property damage. A minimum of \$1,000,000 per occurrence and combined single limit coverage for bodily injury, personal injury, and property damage is required. Coverage shall also include any vehicle (owned, leased, rented, or borrowed) used by the Waste hauler to dispose of hauled Waste at the RTP.

#### Vehicle Insurance

Each Waste hauler shall be required to maintain Vehicle Insurance coverage which insures the hauler and Monterey One Water and its employees against claims of bodily injury and property damage. A minimum of \$1,000,000 per occurrence and combined single limit coverage for bodily injury and property damage is required. Coverage shall also include any vehicle (owned, leased, rented, or borrowed) used by the Waste hauler to dispose of hauled Waste at the RTP.

#### Workers' Compensation Insurance

Each Waste hauler shall be required to maintain Workers' Compensation coverage as required by the State of California, which insures the hauler and Monterey One Water and its employees against claims of bodily injury and disease. A minimum of \$1,000,000 per occurrence and combined single limit coverage for bodily injury or disease is required.

#### Binder

Each Waste hauling company must furnish Monterey One Water with a cash deposit or an irrevocable letter of credit in the form acceptable to Monterey One Water in the sum of \$2,500.00, which shall be retained by Monterey One Water for so long as the Waste hauler is permitted and until a written application for a refund or release is received. All or a portion of the cash deposit or letter of credit may be surrendered to Monterey One Water pursuant a violation as outlined in Articles 6 and 7 of this Ordinance.

**§2.10 Hauled Waste Generators** – All hauled Waste generators shall request approval from Monterey One Water to have their Wastes disposed of at the RTP. A hauled Waste generator permit may be issued to a hauled Waste generator. The hauled Waste generator permit may include provisions requiring monitoring and reporting depending on the type and volume of Wastes that will be disposed of at the RTP. Violations of conditions of the hauled Waste

generator permit may result in denial of the Waste being disposed of at the RTP and subject to enforcement actions outlined in Articles 6 and 7 of this Ordinance.

**§2.11 Local Limits**

**§2.11.1** The General Manager or their designee is authorized to establish Local Limits pursuant to 40 CFR Part 403.5(c).

**§2.11.2** The following pollutant limits are established to protect against pass through and Interference. No User shall discharge Wastewater containing in excess of the following Daily Maximum Limits:

<b>Pollutant</b>	<b>Maximum Daily Limit (mg/L)</b>	<b>Pollutant</b>	<b>Maximum Daily Limit (mg/L)</b>
Ammonia as N	44	Molybdenum	90
Arsenic	0.42	Nickel	1.5
Cadmium	0.27	Selenium	0.80
Chromium	1.7	Silver	1.1
Copper	1.9	Phenolic compounds	8.1
Cyanide, total	0.53	Total Dissolved Solids	7,400
Lead	2.5	Zinc	2.6
Mercury, total	0.018		

The above Local Limits apply at the point where the Wastewater is discharged to the POTW. All concentrations for metallic substances are for total recoverable metal unless indicated otherwise. The General Manager, or their designee, may impose mass limitations in lieu of or in addition to the concentration-based limitations above.

**§2.11.3 Best Management Practices** – The General Manager, or their designee, may develop BMPs, by Ordinance or in a Wastewater discharge permit, to implement Local Limits and the requirements of Article 2.

**§2.12 Denial of New or Increased Pollutant Contributions** – Monterey One Water may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the Community Sewer or RTP by Users where such contributions do not meet applicable Pretreatment Standards and requirements or where such contributions would cause the RTP to violate Monterey One Water’s NPDES permit.

**§2.13 Slug Discharge Evaluations** – Monterey One Water shall evaluate whether each SIU needs a plan or other action to control Slug Discharges to the Community Sewer or RTP as required by 40 CFR Part 403.8(2)(vi). Monterey One Water will include any slug control requirements in a User's Wastewater discharge permit.

**§2.14 Sewerage Design Requirements** – All new sewers and connections to the Community Sewer or RTP shall meet all design requirements of all Member Entities owning the Community Sewer and having area jurisdiction in question, pursuant to the applicable Uniform Plumbing



Code adopted by said Member Entity, and shall also meet all design requirements as may be established from time to time by Monterey One Water.

**§2.15 Monterey One Water's Right to Revision** – Monterey One Water reserves the right to establish, by Ordinance, or in a Wastewater discharge permit, more stringent standards or requirements on discharges to the Community Sewer or RTP consistent with the purpose of this Ordinance.

### **ARTICLE 3 – WASTEWATER VOLUME DETERMINATION**

**§3.01 Determination of Volume** – The volume of Wastewater that a User discharges to a Community Sewer shall be determined by Monterey One Water by use of one of the alternative methods described in this Article, with the method for each User or group of Users to be selected by Monterey One Water. Selection of such method will be based upon the principal activities of the User as they relate to Wastewater flows, fluctuation of flows, practicality of obtaining flow measurements, and other pertinent factors. The volume of the Wastewater being discharged shall be one of the factors used in establishing charges and may require certain Users to obtain Wastewater discharge permits in conjunction with the determination of their Wastewater volume.

**§3.02 Metered Water Supply and Water Diversions** – When charges and fees are to be 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 Monterey One Water significant portions of water received are not discharged to a Community 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 and approved by Monterey One Water. When charges and fees are to be based upon water usage, and where, in the opinion of Monterey One Water, a significant portion of the water received from any metered source does not flow into the Community 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 Community Sewer. Written notification and proof of the diversion of water must be provided by the User, and approved by Monterey One Water, if the User is to avoid the application of the charges and fees against the total amount of water used from all sources. If acceptable to Monterey One Water, the User may install a meter of a type and at a location approved by Monterey One Water and at the User's expense. Such meters shall measure the amount of water diverted. Such meters shall be maintained at the expense of the User and be tested for accuracy when deemed necessary by Monterey One Water, at the expense of the User.

**§3.03 Metered Wastewater Volume** – When charges and fees are to be based upon the metered volume of Wastewater being discharged to a Community Sewer, the User shall install a meter of a type and at a location approved by Monterey One Water, at the User's expense. Such meter shall measure the amount of Wastewater being discharged and shall be maintained and tested for accuracy when deemed necessary by Monterey One Water, at the expense of the User.

**§3.04 Estimated Wastewater Volume** – For Users where, in the opinion of Monterey One Water, it is unnecessary or impractical to install meters, the charges and fees may be based upon an estimate of the volume to be discharged as calculated by Monterey One Water. 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 determination of water use necessary to estimate the Wastewater volume discharged.

## **ARTICLE 4 – DISCHARGE REPORTS, WASTEWATER DISCHARGE PERMITS, NOTIFICATION, REPORTING REQUIREMENTS AND ADMINISTRATION**

### **§4.01 Notification of Hazardous Wastes Discharged to the Community Sewer or POTW**

**§4.01.1** All Users shall notify Monterey One Water, the USEPA Regional Waste Management Division Director, and state hazardous Waste authorities in writing of any discharge into the Community Sewer or RTP of a substance, which, if otherwise disposed of, would be a hazardous Waste under 40 CFR Part 261. Such notification must include the name of the hazardous Waste as set forth in 40 CFR Part 261, the USEPA 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 Community Sewer or RTP, the notification shall also contain the following information:

1. An identification of the hazardous constituents contained in the Wastes;
2. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and
3. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All Users shall provide notification no later than one hundred and eighty (180) days after the discharge of the listed or characteristic hazardous Waste.

**§4.01.2** Discharges are exempt from the requirements of §4.01.1 of this Ordinance during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous Wastes, unless the Wastes are acute hazardous Wastes as specified in 40 CFR Parts 261.30(d) and 261.33(3). Discharge of more than fifteen (15) kilograms of non-acute hazardous Wastes in a calendar month, or of any quantity of acute hazardous Wastes as specified in 40 CFR Parts 261.30(d) and 261.33(3), requires notification.

**§4.01.3** In the case of any new regulations under Section 3001 of RCRA, identifying additional characteristics of hazardous Waste or listing any additional substance as a hazardous Waste, the User must notify Monterey One Water, the USEPA Regional Waste Management Division Director, and state hazardous Waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

**§4.01.4** In the case of any notification made under §4.01 of this Ordinance, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous Wastes generated to the degree it has determined to be economically practical.

**§4.02 Notification of Potential Problems** – All Users shall notify Monterey One Water *immediately* of all discharges that could cause problems in the Community Sewer, at the RTP, or the receiving waters, including any Slug Discharges of compatible or Incompatible Pollutants, accidental discharge of non-routine, episodic nature, or a non-customary batch discharge. This notification shall include the location of the discharge, the type of Waste, concentration and volume, if known, and corrective actions taken by the User. Monterey One Water may require that the User submit a detailed written report, describing the cause(s) of the discharge and measures taken by the User to prevent similar future occurrences, within five (5) days following such discharge.

Such notification does not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Community Sewer or POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant of this Ordinance.

**§4.02.1 Notices to Employees** – In order that employees of Users be informed of Monterey One Water requirements, Users shall make available to their employees copies of this Ordinance together with such other Wastewater information and notices which may be furnished by Monterey One Water from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the User's bulletin board advising employees whom to call in case of an accidental discharge in violation of this Ordinance.

**§4.02.2 Preventive Measures** – Any direct or indirect connection or entry point for persistent or deleterious Wastes to the User's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable, the User shall appropriately label such entry points to warn against discharge of such Wastes in violation of this Ordinance.

**§4.03 Notification of Changes in Discharge** – All Users shall notify Monterey One Water at least thirty (30) days in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous Wastes for which the User has submitted initial notification under 40 CFR Part 403.12(p) and §4.01 of this Ordinance. Monterey One Water may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater discharge permit application. Monterey One Water may modify the existing Wastewater discharge permit in response to the changed conditions or anticipated changed conditions. Monterey One Water may also deny such discharge in accordance with §2.12 of this Ordinance.

#### **§4.04 Discharge Reports**

**§4.04.1 General Discharge Report** – Monterey One Water may require that any User discharging or proposing to discharge Wastewater into a Community Sewer or to the RTP, file a periodic discharge report. The discharge report, at the discretion of Monterey One Water, may include but not be limited to, nature or process, volume, rates of flow, mass emissions rate, production quantities, hours of operation, number and classification of employees, or other information which relates to the generation of Waste including Wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they are not normally discharged. In addition to discharge reports,

Monterey One Water may require information in the form of Wastewater discharge permit applications and self-monitoring reports.

**§4.04.2 Baseline Monitoring Report** – Users subject to federal Categorical Pretreatment Standards that are currently discharging to or are scheduled to discharge to the Community Sewer or RTP shall submit to Monterey One Water a Baseline Monitoring Report that meets all requirements and time guidelines set forth in 40 CFR Part 403.12(b) and any other such requirements as deemed appropriate by Monterey One Water.

**§4.04.3 Pretreatment Compliance Report** – Users subject to federal Categorical Pretreatment Standards shall submit to Monterey One Water a report on their compliance status with any Categorical Pretreatment Standard deadline. This report must be received within ninety (90) days following the date for final compliance with the applicable Categorical Pretreatment Standards, or in the case of a New Source within ninety (90) days following the commencement of introduction of Wastewater to the Community Sewer or RTP. This report shall contain the information described in 40 CFR Part 403.12(d).

**§4.04.4 Periodic Compliance Reports** – All SIUs shall submit periodic compliance reports on a semiannual basis (usually by July 15 and January 15 of each calendar year) to Monterey One Water that contain the information described in 40 CFR Parts 403.12(e) and (h).

**§4.04.5 Report Certification Statement** – All semiannual compliance reports shall contain a certification statement signed by a qualified professional indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the User to meet the applicable Pretreatment Standards and requirements. This statement shall contain the information described in 40 CFR Part 403.12(b)(6).

**§4.04.6 Report Accuracy Statement** – All reports, self-monitoring data submissions, and Wastewater discharge permit applications to Monterey One Water by Users shall contain the following accuracy statement and must be signed by the authorized or duly authorized representative of the User as defined in §1.03(2) of this Ordinance:

"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".

**§4.04.7 Non-Significant Categorical Industrial User Certification** – A User determined to be an NSCIU by Monterey One Water must annually submit the following certification statement signed by the authorized or duly authorized representative of the User as defined in §1.03(2) of

this Ordinance. This certification must accompany the report(s) required by Monterey One Water:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR Part \_\_\_\_\_, I certify that, to the best of my knowledge and believe that during the period from \_\_\_\_\_ to \_\_\_\_\_:

1. The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in §1.03(52)(c) of the Monterey One Water Ordinance XXXX;
2. The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
3. The facility never discharged more than 100 gallons of total categorical Wastewater on any given day during this reporting period.

This compliance certification is based on the following information:

---

**§4.04.8 Date of Receipt of Reports** – Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

#### **§4.05 Wastewater Discharge Permits**

**§4.05.1 Mandatory Permits** – Each SIU as defined in §1.03(52) of this Ordinance must obtain a Wastewater discharge permit before connecting to or discharging into a Community Sewer or the RTP.

**§4.05.2 Optional Permits** – Monterey One Water may require a Wastewater discharge permit for any User, in accordance with the terms of §4.05 of this Ordinance, including, but not limited to, the following categories:

- a. A User who request charges and fees to be based on metered water supply and water diversions, or metered Wastewater volume, or
- b. Any User whose Wastewater strength is less than the normal range for User classification to which he is assigned because of pretreatment, process changes or other reason, or
- c. Any User who will discharge Wastewater on a temporary basis, such as groundwater clean-up or storage tank rinsings.

**§4.05.3 Wastewater Discharge Permit Application** – Users seeking a Wastewater discharge permit shall complete and file with Monterey One Water a Wastewater discharge permit application, accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

1. Name, address, and SIC number of the applicant;
2. Volume of Wastewater to be discharged;

3. Wastewater constituents and characteristics including, but not limited to, those identified in §2.11 as determined by a laboratory approved by Monterey One Water;
4. Time and duration of discharge;
5. Average and thirty- (30-) minute peak Wastewater flow rates, including daily, monthly and seasonal variations, if any;
6. Site plan, floor plans, mechanical and plumbing plans and details to show all sewer and appurtenances by size, location and elevation;
7. Description of activities, facilities and plant processes on the premises, including all materials, processes and types of materials which are or could be discharged;
8. Each product produced by type, amount and rate of production;
9. Where known, the nature and concentration of any pollutants in the discharge which are limited by any Monterey One Water, state, or federal Pretreatment Standards, and a statement regarding whether or not the Pretreatment Standards are being met on a consistent basis and if not, whether additional operations and maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards;
10. If additional pretreatment and/or O&M will be required to meet Pretreatment Standards; the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
  - a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
  - b. No increment referred to in paragraph (a) above shall exceed nine (9) months.
  - c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to Monterey One Water including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with the increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to Monterey One Water.
11. Number and type of employees, and hours of work;
12. Any other information as may be deemed by Monterey One Water to be necessary to evaluate the Wastewater discharge permit application.

All Wastewater discharge permit applications must be signed by an authorized or duly authorized representative of the User, as defined in §1.03(2) of this Ordinance and contain the certification statement in §4.04.6 of this Ordinance. If the designation of an authorized or duly authorized representative of the User is no longer accurate because a different individual or

position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the User, a new written authorization satisfying the requirements of this section must be submitted to Monterey One Water prior to or together with any reports to be signed by an authorized or duly authorized representative of the User.

Monterey One Water will evaluate the data furnished by the User and may require additional information. After evaluation and approval of all the data required, Monterey One Water may issue a Wastewater discharge permit subject to terms and conditions provided herein. Incomplete or inaccurate Wastewater discharge permit applications will not be processed and will be returned to the User for revision. Monterey One Water may deny any application for a Wastewater discharge permit.

**§4.05.4 Permit Conditions** – Wastewater discharge permits shall be expressly subject to all provisions of this Ordinance and all other applicable ordinances, regulations, and charges and fees established by Monterey One Water. The conditions of Wastewater discharge permits shall be uniformly enforced by the General Manager, or their designee, in accordance with this Ordinance and applicable state and federal regulations.

Wastewater discharge permits must contain:

1. A statement that indicates the Wastewater discharge permit issuance date, expiration date, and effective date;
2. A statement that the Wastewater discharge permit is nontransferable in accordance with §4.05.7 of this Ordinance;
3. Effluent limits, including BMPs, based on applicable Pretreatment Standards;
4. Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
5. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with §4.05.9.1 of this Ordinance.
6. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law;
7. Requirements to control Slug Discharges, if determined by Monterey One Water to be necessary; and
8. Any grant of the monitoring waiver by Monterey One Water must be included as a condition in the User's Wastewater discharge permit.

Wastewater discharge permits may contain the following:

1. The unit charge or schedule of charges and fees for the Wastewater to be discharged to the Community Sewer or RTP;
2. The average and maximum Wastewater constituents and characteristics;

3. Limits on rate and time of discharge or requirements for flow regulations and equalization;
4. Requirements for the installation of pretreatment technology, pollution control, construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the Community Sewer or RTP;
5. Requirements for installation of inspection and sampling facilities, including flow measurement devices; and
6. Other conditions as deemed appropriate by Monterey One Water to ensure compliance with this Ordinance or any regulations affecting the operation of the Community Sewer or RTP.

**§4.05.5 Duration of Wastewater Discharge Permits** – Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A Wastewater discharge permit may be issued for a period less than a year or may be stated to expire on a specific date. The terms and conditions of the Wastewater discharge permit may be subject to modification and change by Monterey One Water during the term of the Wastewater discharge permit as limitations or requirements are modified and changed. Any changes or new conditions to a Wastewater discharge permit shall include a reasonable time schedule for compliance.

A User with an expiring Wastewater discharge permit shall apply for a Wastewater discharge permit reissuance by submitting a complete Wastewater discharge permit application, in accordance with §4.05.03 of this Ordinance, a minimum of ninety (90) days prior to the expiration of the User's Wastewater discharge permit.

**§4.05.6 Wastewater Discharge Permit Modification** – Within nine (9) months of the promulgation of a national Categorical Pretreatment Standard, Wastewater discharge permit of Users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a User, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater discharge permit, they must do so within one hundred and eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the User with an existing Wastewater discharge permit shall submit to Monterey One Water within one hundred and eighty (180) days after the promulgation of an applicable Pretreatment Standard the information required in §4.05.3 of this Ordinance.

Monterey One Water may also modify a Wastewater discharge permit for good cause including, but not limited to, the following reasons:

1. To address significant alterations or additions to the User's operation, processes, or Wastewater volume or character since the time of the Wastewater discharge permit issuance;
2. A change in the Community Sewer or RTP that requires either a temporary or permanent reduction or elimination of the authorized discharge;
3. Information indicating that the permitted discharge poses a threat to the Community Sewer, RTP, the public, personnel, or receiving water;
4. Violation of any terms or conditions of the Wastewater discharge permit;



5. Misrepresentation or failure to fully disclose all relevant facts in the Wastewater discharge permit application or in any required reporting; or
6. To correct typographical or other errors in the Wastewater discharge permit.

**§4.05.7 Transfer of a Wastewater Discharge Permit** – Wastewater discharge permits are issued to a specific User for a specific operation. A Wastewater discharge permit shall not be reassigned, transferred or sold to a new owner, new User, different premises, or a new or changed operation.

**§4.05.8 Revocation of Wastewater Discharge Permit** – Any User who violates the conditions of its Wastewater discharge permit, applicable state and federal regulations, *or any provisions of this Ordinance, including, but not limited to, the following*, is subject to having its Wastewater discharge permit revoked:

1. Failure to notify Monterey One Water of significant changes to its discharge including, but not limited to, the volume and characteristics of the Wastewater, prior to the changed discharge;
2. Failure to provide prior notification to Monterey One Water of changed conditions pursuant to §4.03 of this Ordinance;
3. Misrepresentation or failure to fully disclose all relevant facts in the Wastewater discharge permit application;
4. Falsifying self-monitoring reports and certification statements;
5. Tampering with monitoring equipment;
6. Refusing to allow the General Manager, or their designee, timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a Wastewater survey or the Wastewater discharge permit application; or
12. Violation of any Pretreatment Standard or requirement, or any terms of the Wastewater discharge permit or this Ordinance.

Any violation of the terms and conditions of a Wastewater discharge permit shall be deemed a violation of this Ordinance and subjects the User to the sanctions set out in Articles 6 and 7 of this Ordinance. Obtaining a Wastewater discharge permit does not relieve a User of its obligation to comply with all applicable federal and state Pretreatment Standards or requirements or with any other requirements of federal, state, or local law.

#### **§4.05.9 Self-Monitoring**

1. **Monitoring and Analysis to Demonstrate Continued Compliance** – Self-monitoring reports required in this section shall contain the results of sampling and analysis of the User's discharge, including the flow and the nature and concentration, or production and mass where requested by Monterey One Water, of pollutants contained therein which are limited by the applicable national, state

and local Pretreatment Standards and Wastewater discharge permit requirements and which meet all sampling, analysis, and monitoring requirements contained in 40 CFR Part 403.12(g).

2. Notification of Self-Monitoring Violations and Repeat Sampling and Analysis Requirements – If sampling performed by a User indicates a violation, the User shall notify Monterey One Water within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to Monterey One Water within thirty (30) days after becoming aware of the violation.
3. Self-Monitoring Reports – The reports required in this section shall be based upon all data obtained through Monterey One Water-approved self-monitoring sampling and analysis which is performed by the User during the period covered by the report (all monitoring results must be reported). Monterey One Water shall specify the frequency and type of monitoring necessary to assess and assure compliance by Users with applicable national, state and local Pretreatment Standards and requirements.
4. Sample Collection – All Wastewater samples must be representative of the User’s discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
  - a. Except as indicated in §4.05.9(4)(b) and (c) of this Ordinance, the User must collect Wastewater samples using 24-hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by Monterey One Water. Where time-proportional composite sampling or grab sampling is authorized by Monterey One Water, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate USEPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by composited procedures as documented in approved USEPA methodologies may be authorized by Monterey One Water, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.
  - b. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection methods.
  - c. For sampling required in support of baseline monitoring and ninety (90)-compliance reports, a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, Monterey

One Water may authorize a lower minimum. For periodic compliance reports, the User is required to collect the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and requirements.

5. Analytical Requirements – All self-monitoring analyses shall be performed in accordance with procedures established by Monterey One Water pursuant to Section 304(h) of the Act and contained in 40 CFR Part 136 and amendments thereto, or with any other test procedures approved by Monterey One Water. Sampling shall be performed in accordance with the techniques approved by Monterey One Water. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Monterey One Water determines that 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by Monterey One Water.
6. Reporting of Self-Monitoring Analysis Performed More Frequently Than Required – If a User is subject to self-monitoring reporting requirement(s), any pollutant monitored more frequently than required by Monterey One Water shall include the results of this monitoring in the self-monitoring report.

#### **§4.05.9.1 Monitoring Waiver**

Monterey One Water may authorize a User subject to a Pretreatment Standard, including a Categorical Pretreatment Standard, to forego sampling of a pollutant regulated by a Pretreatment Standard if the User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the User. This authorization is subject to the following conditions:

1. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary Wastewater discharged from the facility provided that the sanitary Wastewater is not regulated by an applicable standard and otherwise includes no process Wastewater.
2. The monitoring waiver is only valid for the duration of the effective period of the Wastewater discharge permit, but in no case longer than five (5) years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent Wastewater discharge permit.
3. In making a demonstration that a pollutant is not present, the User must provide data from at least one sampling of the facility's process Wastewater prior to any treatment present at the facility that is representative of all Wastewater from all processes.
4. The request for a monitoring waiver must be signed by the authorized or duly authorized representative of the User as defined in §1.03(2) of this Ordinance and include the certification statement in §4.05.9.1(7) of this Ordinance.
5. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the USEPA-approved method from 40 CFR Part 136

with the lowest minimum detection level for that pollutant was used in the analysis.

6. Any grant of the monitoring waiver by Monterey One Water must be included as a condition in the User's Wastewater discharge permit. The reasons for supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by Monterey One Water for three (3) years after expiration of the waiver.
7. Upon approval of the monitoring waiver and revision of the User's Wastewater discharge permit by Monterey One Water, the User must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR Part \_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_ [list pollutant(s)] in the Wastewaters due to the activities at the facility since the filing of the last periodic report.”

8. In the event that a waived pollutant is found to be present or is expected to present because of changes that occur in the User's operations, the User must immediately comply with the monitoring requirements outlined in its Wastewater discharge permit.
9. This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

**§4.05.10 Record-Keeping Requirements** – Any User subject to the reporting requirements established in Article 4 of this Ordinance shall maintain records of all information resulting from any monitoring activities required. Such records shall include for all samples:

1. The date, exact location, method and time of sampling and the name(s) of the person or persons taking the samples;
2. The dates analyses were performed;
3. Who performed the analyses;
4. The analytical techniques/methods used; and
5. The results of such analyses.

Any User subject to reporting requirements shall be required to retain for a minimum of three (3) years any records of monitoring activities and results and shall make such records available for inspection and copying by Monterey One Water. This period of retention shall be extended during the course of any unresolved litigation regarding the User when requested by Monterey One Water.

**§4.06 Monitoring Facilities** – Users who propose to discharge, or who in the judgment of Monterey One Water could discharge now or in the future, Wastewater with Incompatible Pollutants (see §5.04 of this Ordinance) may be required to install a monitoring facility.

When more than one User discharges into a common building sewer, Monterey One Water may require installation of a separate monitoring facility for each User. Also when, in the judgment of Monterey One Water, there is a significant difference in Wastewater constituents and characteristics produced by different operations of a single User, Monterey One Water may require that separate monitoring facilities be installed for each separate discharge.

Monitoring facilities that are required to be installed shall be constructed, operated, and maintained at the User's expense. The purpose of a facility is to enable inspection, sampling, and/or flow measurement of Wastewaters produced by a User. If sampling or metering equipment is also required by Monterey One Water, it shall be provided, installed, and operated at the User's expense. The monitoring facility will normally be required to be located on the User's premises outside of the building. Monterey One Water may, however, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area with the approval of the public agency having jurisdiction over that street or sidewalk, and located so that it will not be obstructed by landscaping or parked vehicles.

If the monitoring facility is inside the User's fence, there shall be accommodations to allow safe and immediate access for Monterey One Water personnel, such as a gate secured with a Monterey One Water lock. There shall be ample room in or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the User.

When, in the judgment of Monterey One Water, an existing User requires a monitoring facility, the User will be so notified in writing. Construction must be completed within ninety (90) days following written notification unless a time extension is otherwise granted by Monterey One Water.

**§4.07 Inspection and Sampling** – Monterey One Water shall inspect the facilities of any User to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where Wastewater is created or discharged shall allow Monterey One Water personnel ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. Monterey One Water shall have the right to set up on the User's property such devices as are necessary to conduct sampling or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards, that upon presentation of suitable identification, personnel from Monterey One Water shall be permitted to enter without delay for the purpose of performing their specific responsibilities.

**§4.08 Pretreatment** – Users shall make Wastewater acceptable under the limitations established herein before discharging into any Community Sewer or to the RTP. Any facilities required to pretreat Wastewater to a level acceptable to Monterey One Water shall be provided and maintained at User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to Monterey One Water for review and approval by Monterey One Water before construction of the facility. The review and approval of such plans and operating

procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by Monterey One Water. Any pretreatment facilities necessary to achieve compliance with all Categorical Pretreatment Standards, Local Limits, and prohibitions of this Ordinance must be provided within the time limitations specified by USEPA, the state, or Monterey One Water, whichever is more stringent.

**§4.09 Protection from Accidental Discharge** – Each User shall provide protection from accidental discharge of prohibited materials or other Wastes regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the User's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to Monterey One Water for review and approval by Monterey One Water before construction of the facility.

The review and approval of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this Ordinance.

**§4.10 Confidential Information** – All information and data on a User obtained from reports, questionnaires, Wastewater discharge permit applications, Wastewater discharge permit and monitoring programs, and inspections shall be available to the public or any other governmental agency without restriction unless the User specifically requests and is able to demonstrate, to the satisfaction of Monterey One Water, that the release of such information would divulge information, processes or methods which would be detrimental to the User's competitive position.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be available to governmental agencies for use in making studies; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics are not be recognized as confidential information.

Information accepted by Monterey One Water as confidential, shall not be transmitted to any governmental agency or to the general public by Monterey One Water until and unless prior and adequate notification is given to the User.

**§4.11 Discharge from Outside Monterey One Water Service Area** – Any User located partially or fully outside Monterey One Water's Service Area which seeks to discharge wastewater to the Community Sewer or the POTW shall first request in writing permission to discharge from the General Manager. Upon review and approval of such a request, Monterey One Water may enter a contractual agreement with the User which shall require the User to comply with all local, state, and federal pretreatment regulations as well as any National Categorical Pretreatment Standards yet to be promulgated. The agreement shall also be subject to such terms, conditions, and fees as Monterey One Water finds necessary or appropriate.

**§4.12 Special Agreements** – Special agreements and arrangements between Monterey One Water and any Users or agencies may be established when in the opinion of Monterey One Water, unusual or extraordinary circumstances compel special terms and conditions. Such agreements shall not, however, exempt the User from complying with any National Categorical Pretreatment Standard.

**§4.13 Regulation of Waste Received from Within Monterey One Water Service Area**

If a Person or jurisdiction within the Monterey One Water Service Area seeks to contribute Wastewater to the Community Sewer or to the RTP, it shall first request in writing permission to contribute or discharge from the General Manager. Upon review and approval of such a request, Monterey One Water may enter into an agreement with the contributing Person or jurisdiction. Prior to entering into the agreement, Monterey One Water shall request and obtain the following information from the contributing jurisdiction:

1. A description of the quality and volume of Wastewater discharged to the Community Sewer and/or RTP by the contributing Person or jurisdiction;
2. An inventory of all Users located within the contributing jurisdiction or the Person's property that are discharging to the Community Sewer and/or RTP; and
3. Such other information as Monterey One Water may deem necessary.

An agreement shall contain the following conditions:

1. A requirement for the contributing jurisdiction to adopt or the Person to agree to a sewer use ordinance which is at least as stringent as this Ordinance and Local Limits, including required baseline monitoring reports which are at least as stringent as those set out in §4.04.2 of this Ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to Monterey One Water's Ordinance or Local Limits;
2. A requirement for the contributing Person or jurisdiction to submit a revised User inventory on at least an annual basis;
3. A provision specifying which pretreatment implementation activities, including Wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing Person or jurisdiction; which of these activities will be conducted by Monterey One Water; and which of these activities will be conducted jointly by the contributing Person or jurisdiction and Monterey One Water;
4. A requirement for the contributing Person or jurisdiction to provide Monterey One Water with access to all information that the contributing jurisdiction obtains as part of its pretreatment activities;
5. Limits on the nature, quality, and volume of the contributing Person's or jurisdiction's Wastewater at the point where it discharges to the Community Sewer and/or RTP;
6. Requirements for monitoring the contributing Person's jurisdiction's discharge;
7. A provision ensuring Monterey One Water access to the facilities of Users located within the contributing Person's jurisdiction's boundaries for the purpose of

inspection, sampling, and other duties deemed necessary by Monterey One Water;  
and

8. A provision specifying remedies available for breach of terms of the agreement.



## **ARTICLE 5 – WASTEWATER CHARGES AND FEES**

**§5.01 Schedule of Charges and Fees** – A schedule of charges and fees shall be adopted by Monterey One Water, by ordinance or resolution, as permitted by law, which will enable it to comply with the revenue requirements of any grants or loans from local, state, or federal sources, and such charges and fees shall be determined in a manner consistent with regulations of those funding programs.

**§5.02 Classification of Users** – All Users are to be classified by Monterey One Water either by assigning each one to a "User category" according to the principal activity conducted on the User's premises, by individual User analyzation or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of Wastewater discharges based on 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 Monterey One Water's costs.

**§5.03 Types of Charges and Fees** – The charges and fees as established in Monterey One Water's schedules of charges and fees, may include, but not be limited to:

1. User category charges;
2. Fees for connection to sewer system;
3. Fees for monitoring;
4. Fees for Wastewater discharge permit applications;
5. Appeal fees;
6. Charges and fees based on Wastewater constituents and characteristics to include cost recovery provisions of the Act;
7. Interruptible rate fees; and
8. Annexation fees.

**§5.04 Basis for Determination of Charges** – The charges and fees established for all Users or categories of Users shall be based upon the measured or estimated constituents and characteristics of the Wastewater discharge of that User or User category which may include, but not be limited to, CBOD, TSS, and volume. The constituents and characteristics may be either measured or estimated, as determined by Monterey One Water. The volume subject to charge shall be determined in accordance with Article 3 of this Ordinance.

**§5.05 Basic Minimum Charge** – Notwithstanding the provisions of §5.04, in any event the basic charge so determined for Users in the residential category shall constitute the basic minimum charge for all Users, and no User shall be charged less than this amount.

### **§5.06 Waste Hauler Fee Schedule**

#### **§5.06.1 Discharge Fees**

There will be a discharge fee assessed to all Waste haulers, which for saline Waste, septic, and chemical toilet pumping trucks shall be based on the permitted capacity of the Waste hauler's truck and/or derived from the certified weight of the load delivered.

Monthly billing statements will be transmitted to the Waste haulers for the number of loads discharged at the RTP. If the Waste hauler does not record a load, it will be considered a violation of this Ordinance.

All billing statements will be transmitted at the end of the month and payment from the Waste haulers shall be due within fifteen (15) days of the billing date, after which it will be deemed delinquent. Delinquent Waste hauler fees may be grounds for termination of the Waste hauler's permit. There shall be a ten (10) percent surcharge assessed to all delinquent fees and any balances over sixty (60) days old shall be subject to a 1.5 percent monthly late charge.

#### **§5.06.2 Waste Hauler Permit Fees**

There will be an annual Waste hauler permit fee assessed to all Waste haulers each year. The fee shall be due and payable on January 15<sup>th</sup> of each calendar year and deemed delinquent on January 31<sup>st</sup>. Delinquent Waste hauler permit fees shall be grounds for termination of a Waste hauler's permit.

#### **§5.07 Hauled Waste Generator Permit Fees**

There will be an annual hauled Waste generator permit fee assessed to all generators of hauled Waste each year. The fee shall be due and payable on January 15<sup>th</sup> of each calendar year and deemed delinquent on January 31<sup>st</sup>. Delinquent hauled Waste generator permit fees shall be grounds for termination of a hauled Waste generator's permit.

## **ARTICLE 6 – ENFORCEMENT**

**§6.01 Notice of Violation** – When Monterey One Water finds that a User has violated, or continues to violate, any provision of this Ordinance, a Wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, Monterey One Water may serve upon that User a written notice of violation. Within fourteen (14) days of receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to Monterey One Water. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after the receipt of the notice of violation. Issuance of a notice of violation shall not be a bar against, or a prerequisite for, taking any other action against a User.

**§6.02 Consent Orders** – Monterey One Water may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as administrative orders issued pursuant to §6.04 and §6.05 of this Ordinance and shall be judicially enforceable. Issuance of a consent order shall not be a bar against, or a prerequisite for, taking any other action against a User.

**§6.03 Show Cause Hearing** – Monterey One Water may order a User which has violated, or continues to violate, any provision of this Ordinance, a Wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, to appear before the General Manager, or their designee, and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. A show cause hearing shall not be a bar against, or a prerequisite for, taking any other action against the User.

**§6.04 Compliance Order** – When Monterey One Water finds that the User has violated, or continues to violate, any provision of this Ordinance, a Wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, Monterey One Water may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may contain other requirements to address noncompliance, including additional self-monitoring and BMPs designed to minimize the amount of pollutants discharged to the Community Sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

**§6.05 Cease and Desist Orders** – When Monterey One Water finds that a discharge of Wastewater has taken place, in violation of prohibitions or limitations of this Ordinance, or the provisions of a Wastewater discharge permit, Monterey One Water may issue an order to cease

and desist, and direct the User not complying with such prohibitions, limits, requirements, or provisions to:

1. Comply forthwith;
2. Comply in accordance with a time schedule set forth by Monterey One Water; or
3. Take appropriate remedial or preventive action in the event of a threatened violation.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against a User.

**§6.06 Administrative Fines** – When the Director finds that a User has violated, or has continued to violate, any provision of this Ordinance, a Wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Director may assess an administrative fine on such User. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term discharge limits, fines shall be assessed for each day during the period of violation.

A User not paying a duly assessed fine within the date specified in the issued notice of the fine shall be assessed a penalty, and interest (at the maximum legal rate) shall accrue on the total of the fine plus penalty as of the date of User's receipt of the penalty notice.

By ordinance or resolution the Monterey One Water Board shall adopt a schedule of fines, penalties and payment deadlines, to enable the Director to carry out the requirements of this Section 6.06.

A User assessed a fine and/or penalties may file a written request for Director's reconsideration, to be accompanied by full payment of fines and/or penalties then due, within 10 days following such assessment. By ordinance or resolution Monterey One Water shall adopt procedures for Director's reconsideration, notices, hearings where required, and other procedural matters including placement of liens on User property.

**§6.07 Harmful Contributions** – Monterey One Water may immediately suspend the Wastewater treatment service and/or Wastewater discharge permit when such suspension is necessary, in the opinion of Monterey One Water, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of the public or to the environment, causes Interference to the Community Sewer or RTP, or causes Monterey One Water to violate any condition of its applicable discharge permits.

Any User notified of a suspension of the Wastewater treatment service and/or the Wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, Monterey One Water shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the Community Sewer or RTP or endangerment to any individuals. Monterey One Water shall reinstate the Wastewater discharge permit and/or the Wastewater treatment service upon proof of the elimination of the non-complying User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. This proof shall be submitted to Monterey One Water within fifteen (15) days of the date of occurrence.

**§6.08 Appeals** – Any User, Wastewater discharge permit applicant, or Wastewater discharge permit holder affected by any decision, action, or determination made by Monterey One Water, interpreting or implementing the provisions of this Ordinance or in any permit issued herein, may file with Monterey One Water a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the User's request for reconsideration.

If the ruling made by Monterey One Water is unsatisfactory to the User requesting reconsideration, the User may within ten (10) days after notification of Monterey One Water action, file a written appeal to the Monterey One Water Board of Directors. The written appeal shall be heard by the Board of Directors within thirty (30) days from the date of filing. The Board of Directors shall make a final ruling on the appeal within fifteen (15) days of the close of the meeting. The General Manager's decision, action, or determination shall remain in effect during such period of reconsideration.

**§6.09 Enforcement Response Plan** – The General Manager, or their designee, is authorized and directed to prescribe regulations necessary to implement Articles 6 and 7 of this Ordinance and a Pretreatment Enforcement and Response Plan (ERP) as required by and in compliance with state and federal law and regulations. The ERP and any changes thereto shall be effective upon approval by resolution of the Board of Directors. Any enforcement measure or procedure contained in Articles 6 and 7 of this Ordinance and the ERP shall be considered to be complimentary and cumulative and not exclusive of any other enforcement measure or procedure and Monterey One Water may pursue any one or all of such measures or any other remedy or relief which may be provided for by law.

**§6.11 Publishing of Dischargers in Significant Non-Compliance** – Monterey One Water will provide annual public notification in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by Monterey One Water of Users which at any time during the previous twelve (12) months were in Significant Non-Compliance with applicable pretreatment requirements as defined in 40 CFR Part 403.8(f)(2)(viii) and §1.03(53) of this Ordinance.

## **ARTICLE 7 – ABATEMENT**

**§7.01 Public Nuisance** – Discharge of Wastewater in any manner in violation of this Ordinance or of any order issued by Monterey One Water as authorized by this Ordinance, is hereby declared a public nuisance and shall be corrected or abated as directed by Monterey One Water. Any person creating a public nuisance shall be subject to provisions of Monterey One Water codes or ordinances governing such nuisance.

**§7.02 Injunction** – Whenever a discharge of Wastewater is in violation of the provisions of this Ordinance or otherwise causes or threatens to cause a condition of Contamination, pollution or nuisance, Monterey One Water may petition the Superior Court of Monterey County for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such discharge. A petition for an injunction shall not be a bar against, or a prerequisite for, taking any other action against a User.

**§7.03 Damage to Facilities** – When a discharge of wastes causes an obstruction, damage, or any other impairment to Monterey One Water facilities, Monterey One Water may assess a charge against the User for the work required to clean or repair the facility and add such charge to the User's sewer service charge.

**§7.04 Correction of Violations; Collection of Costs; Injunction** – In order to enforce the provision of this Ordinance, Monterey One Water may correct any violation hereof. The cost of such correction may be added to any sewer service charge payable by the person violating the Ordinance or the owner or tenant of the property upon which the violation occurred, and Monterey One Water shall have such remedies for the collection of such costs as it has for the collections of sewer service charges. Monterey One Water may also petition the Superior Court of Monterey County for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of this Ordinance.

**§7.05 Civil Liabilities and Penalties** – Any User who intentionally or negligently violates any provision of this Ordinance, requirements, or conditions set forth in a Wastewater discharge permit duly issued, or who discharges Wastewater which causes pollution, or violates any cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard, including non-discharge Pretreatment Standards, shall be liable to injunctive relief for non-compliance imposed by Monterey One Water for a maximum civil penalty of ten thousand dollars (\$10,000) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation. Monterey One Water may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including inspection, sampling, and monitoring expenses, and the cost of any actual damage incurred by Monterey One Water or its Member Entities.

Monterey One Water may petition the Superior Court of Monterey County to impose, assess and recover such sums. In determining such amount the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

**§7.06 Falsifying of Information** – Any User who knowingly makes any false statements, representation record, report, plan or other document filed with Monterey One Water, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, is hereby declared to be in violation of this Ordinance, and subject to the civil liabilities imposed under §7.05 of this Ordinance.

### **§7.07 Emergency Suspensions**

Monterey One Water may immediately suspend a User’s discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. Monterey One Water may also immediately suspend a User’s discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the RTP, or which presents, or may present, an endangerment to the environment.

1. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event a User’s failure to comply voluntarily with the suspension order, Monterey One Water may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the Community Sewer or RTP, its receiving stream, or endangerment to any persons. Monterey One Water may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the General Manager that the period of endangerment has passed, unless termination proceedings in §7.08 of this Ordinance are initiated against the User.
2. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to Monterey One Water prior to the date of any show cause or termination hearing under §6.03 or §7.08 of this Ordinance.

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

**§7.08 Termination of Service** – In order to effect its powers, Monterey One Water may enter upon private property for the purpose of inspection and maintenance of sanitary and Waste disposal facilities and may terminate service to property in which a violation of any rule, regulation, or this Ordinance is found to exist, including, but not limited to:

1. Violation of Wastewater discharge permit conditions;
2. Failure to accurately report the Wastewater constituents and characteristics of the discharge;
3. Failure to report significant changes in operations or Wastewater volume, constituents, and characteristics prior to discharge;

4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of Pretreatment Standards in Article 2 of this Ordinance.

Prior to termination of service, however, the Monterey One Water Board of Directors shall notify, in writing, the owner and tenant, if any, of such property that service is intended to be so terminated and conduct a hearing thereon as herein provided. Such notice shall be mailed to the owner at the address shown on the records of the Assessor of the County, or as known to Monterey One Water, and a copy shall be delivered to the tenant or posted conspicuously on the property. The notice shall state the date of proposed termination of service and the reasons therefore and the date the Monterey One Water Board of Directors shall hold a hearing upon such intended termination. Such a hearing shall not be held less than ten (10) days subsequent to the giving of the notice as herein required.

#### **§7.09 Criminal Prosecution**

1. A User who willfully or negligently violates any provision of this Ordinance, Wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, or who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, Wastewater discharge permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or through method shall, upon conviction, be guilty of a misdemeanor. Punishment for conviction shall be as set forth in Sections 19, 19.2, and 19.3 of the California Penal Code.
2. In the event of a second conviction, a User shall be punished by a fine of not more than the maximum allowable under state law per violation per day or imprisonment, or both.

#### **§7.10 Remedies Nonexclusive**

The remedies provided for this Ordinance are not exclusive. Monterey One Water may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with Monterey One Water's ERP. However, Monterey One Water may take other action against any User when the circumstances warrant. Further, Monterey One Water is empowered to take more than one enforcement action against any noncompliant User as necessary.



## ARTICLE 8 – MISCELLANEOUS PROVISIONS

**§8.01 Severability** – If any provision, section, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, or the application thereof to any User or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The Monterey One Water Board of Directors hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

**§8.02 Repeal of Conflicting Ordinances** – Ordinances No. 92-02, 93-03, 2000-01, 2008-01, and 2015-01 hereby are repealed. Further, in the event of conflict between this Ordinance and other ordinances, rules and regulations of Monterey One Water adopted prior to this Ordinance, the provisions of this Ordinance shall prevail.

**§8.03 Publication of Ordinance** – Within fifteen (15) days after the passage of this Ordinance, the Monterey One Water General Manager/Secretary shall cause it to be published at least once in a newspaper of general circulation published and circulated within Monterey County.

The foregoing Ordinance was introduced at a regular meeting of the Board of Directors of the Monterey One Water and was passed and adopted on August 26, 2019 by the following vote:

**Effective Date** – This Ordinance shall take effect and be in force thirty (30) days from and after the final passage and adoption hereof.

**AYES:** STEFANI, CARBONE, PHILLIPS, GAGLIOTI, MOORE, WILLIAMSON, SMITH, DE LA ROSA, KISPERSKY

**NOES:** NONE

**ABSENT:** GRIER



---

Ron Stefani, Board Chair  
Board of Directors

**ATTEST:**



---

Paul A. Sciuto, General Manager  
Secretary to Board of Directors