



CENTRAL MARIN SANITATION
AGENCY

SEWER USE ORDINANCE

DRAFT

ORDINANCE No. 2018-2

December 2018

TABLE OF CONTENTS

SECTION 1 - INTRODUCTION	1
A. PURPOSE AND POLICY	1
B. APPLICABILITY OF THE SEWER USE ORDINANCE	2
SECTION 2 - DEFINITIONS AND ABBREVIATIONS.....	3
A. LIST OF DEFINITIONS.....	3
B. LIST OF ABBREVIATIONS	11
SECTION 3 - STANDARDS AND LIMITATIONS	12
A. GENERAL DISCHARGE PROHIBITIONS	12
B. SPECIFIC PROHIBITIONS	12
C. OTHER PROHIBITIONS.....	14
D. LOCAL LIMITS	14
E. NATIONAL CATEGORICAL STANDARDS.....	15
F. POINT OF APPLICATION OF LIMITS	16
G. AGENCY'S RIGHT OF REVISION.....	16
SECTION 4 - AUTHORITY AND RESPONSIBILITY.....	17
A. AUTHORITIES OF THE COMMISSION.....	17
B. AUTHORITIES OF THE GENERAL MANAGER.....	17
C. RESPONSIBILITIES OF THE GENERAL MANAGER.....	19
SECTION 5 - ADMINISTRATION	20
A. CLASSIFICATION OF USERS.....	20
B. RESPONSIBILITY OF USERS	21
C. PERMIT PROCEDURE	21
D. AUTHORITY TO ASSESS AND COLLECT FEES.....	29
E. DELINQUENT FEES.....	30
SECTION 6 - REPORTING, PLANS, AND RECORD-KEEPING.....	31
A. REQUIRED REPORTING.....	31
B. ADDITIONAL REPORTS	33
C. SLUG DISCHARGE CONTROL PLANS.....	35
D. RECORD KEEPING REQUIREMENTS.....	36
E. INDUSTRIAL PARK REPORTING.....	37
F. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE	37
SECTION 7 - INSPECTION & MONITORING	38
A. INSPECTION PROCEDURE.....	38

B. SELF-MONITORING REQUIREMENTS	39
C. SAMPLING.....	40
D. PRETREATMENT	41
SECTION 8 - CONTAMINATED GROUNDWATER	42
A. SOURCES	42
B. PERMITTING.....	42
C. EMERGENCY EVENT	42
D. SUSPENSION OF DISCHARGE	42
E. DISCHARGE REQUIREMENTS.....	43
SECTION 9 - CONFIDENTIALITY.....	44
SECTION 10 - ENFORCEMENT.....	45
A. ENFORCEMENT MECHANISMS	45
B. COSTS FOR ENFORCEMENT ACTIONS.....	50
C. ADDITIONAL EMERGENCY MEASURES.....	50
SECTION 11 – HEARINGS AND APPEALS.....	51
SECTION 12 - SEVERABILITY	52
SECTION 13 - REVISION.....	53
SECTION 14 - EFFECT OF ADOPTION OF ORDINANCE 2018-2 ON ORDINANCE 2013-1	54
SECTION 15 - EFFECTIVE DATE.....	55
SCHEDULE A – INDUSTRIAL MONITORING FEES.....	56
SEWER USE ORDINANCE ATTACHMENT	

CENTRAL MARIN SANITATION AGENCY

Ordinance No. 2018-2

**AN ORDINANCE PROVIDING FOR AND REGULATING THE ACCEPTANCE OF INDUSTRIAL
WASTE AND CONTAMINATED GROUNDWATER
INTO THE WATER POLLUTION CONTROL SYSTEM OF THE
CENTRAL MARIN SANITATION AGENCY**

SECTION 1 - INTRODUCTION

The Commission of the Central Marin Sanitation Agency of Marin County does adopt as follows:

This ordinance shall be known as the "Sewer Use Ordinance of the Central Marin Sanitation Agency" and may be so cited and pleaded.

This Sewer Use Ordinance (Ordinance) is adopted pursuant to provisions of Section 6400 *et seq.* of the Health and Safety Code of the State of California.

A. PURPOSE AND POLICY

This Ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) of the Central Marin Sanitation Agency (CMSA) and enables CMSA to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

1. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
2. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
3. To protect the physical structures of the POTW and the efficient functioning of its component parts;
4. To protect the health and safety of the personnel of CMSA and its member agencies and preserve the safety and health of the public;

5. To comply with the entire applicable and compatible local, State of California and Federal laws, rules, regulations, or orders;
6. To protect the environment from threat of hazard or harm resulting from the disposal of waste;
7. To prevent the introduction of wastes to the POTW that could result in CMSA being classified as a hazardous waste treatment, storage, or disposal facility under the laws of the State of California or the United States;
8. To maintain the suitability of wastewater treated by CMSA for any adopted recycling use.

B. APPLICABILITY OF THE SEWER USE ORDINANCE

This ordinance shall apply to all Users of the POTW. The ordinance authorizes the issuance of Wastewater Discharge Permits, provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

C. ADMINISTRATION

Except as otherwise provided herein, the General Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the General Manager may be delegated by the General Manager to a duly authorized CMSA employee. Throughout this Ordinance, references to CMSA shall mean the General Manager or designee.

SECTION 2 - DEFINITIONS AND ABBREVIATIONS

A. LIST OF DEFINITIONS

Act: Any regulation contained in or amendment of the Clean Water Act.

Administrative Complaint: A presentation (written document) by CMSA normally reserved for the advanced stages of formal enforcement, giving notice to the User of the nature and basis of the violations asserted and demanding specified amounts of money for noncompliance.

Administrative Inspection Warrant: An Administrative Warrant as defined by 21 CFR 880 providing authority to the Agency for the purposes of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made.

Administrative Order: An Administrative Order is an enforcement document which directs Users to implement corrective or remedial measures. Levels of enforcement include: Cease and Desist Orders, Compliance Orders, and Show Cause Orders.

Agency: Refers to the Central Marin Sanitation Agency.

Agent: Any person designated or retained by CMSA, including the Commission or the General Manager, to fulfill the sampling, monitoring, reporting, or inspection services of CMSA as required by this Ordinance, the Waste Discharge Permit and/or all applicable State, Federal, or local regulations, and/or to perform the enforcement actions required by this Ordinance. CMSA agents may include, but are not limited to, any of the following: the CMSA General Manager, the CMSA Laboratory Director, other designated Technical Services staff, a consultant for CMSA, or the County District Attorney.

Authorized Representative of User: An authorized representative of a User may be: (1) principal executive officer, if the User is a corporation; (2) general partner or proprietor if the User is a partnership or proprietorship, respectively; or (3) duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the discharge originates and if such representative is identified in writing by the individual designated in (1) or (2) above.

Best Management Practices: Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a) (1) and (b). Best Management Practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical Oxygen Demand(BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° Celsius, usually expressed as a concentration (e.g., mg/l).

Bypass: The intentional diversion of waste streams from any portion of the User's treatment facility.

Categorical Industrial User (CIU): Any User who, on the basis of the industrial activity at the facility in question, must comply with National Categorical Standards.

Categorical Pretreatment Standard or Categorical Standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the 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.

Cease and Desist Order: An Administrative Order directing a User to immediately halt illegal or unauthorized discharges, or to terminate its discharge altogether.

Central Marin Sanitation Agency (CMSA): The public agency formed in Marin County, California by the "Central Marin Sanitation Agency Joint Exercise of Powers Agreement".

Chemical Oxygen Demand (COD): A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

Commission: The governing board of Central Marin Sanitation Agency, who are appointed as specified in the CMSA Joint Exercise of Powers Agreement.

Compliance Order: An Administrative Order directing the User to achieve or restore compliance by a specified date. A Compliance Order may include a compliance schedule with specific milestones for achieving steps toward compliance, for tracking progress, and for the User to report progress.

Contaminated Groundwater: Any storm water, groundwater, surface water, landfill leachate, or subsurface drainage which has been contaminated with pollutants or by exposure to pollutants to the extent that it cannot readily be discharged to the storm drain.

Control Authority: The Central Marin Sanitation Agency.

Daily Maximum: The arithmetic maximum of all effluent samples for a pollutant collected during a calendar day.

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 concentration derived from all measurements taken that day.

Discharger: Any User discharging industrial waste to the Water Pollution Control System. This term specifically includes any Categorical industries connected to the Water Pollution Control System, whether or not they discharge process wastewater. It also includes any facilities with a reasonable potential for discharging significant quantities of industrial waste, whether or not they are currently discharging process waste.

Domestic Waste: Any waterborne waste of the type normally resulting from flushing and washing waste products from residences and lavatories.

Emergency: A situation or occurrence of a serious nature, developing suddenly and unexpectedly, and demanding immediate action.

Enforcement Response Plan: A plan which describes how CMSA will investigate and take appropriate enforcement actions for instances of noncompliance.

Existing Source: Any source of discharge that is not a "New Source."

Fee: A charge for professional or special service.

Federal Pretreatment Regulations: Any regulations promulgated by the EPA in accordance with Sections 307(b) and (c) and 402(b) (8) of the "Act" (33 U.S.C. 1317) for the implementation, administration, and enforcement of pretreatment standards.

General Manager: The Manager of the Central Marin Sanitation Agency or his/her designated agent.

General Permit: A permit developed by CMSA to control the discharges of the following conditions;

- a) Users with the same of substantially similar types of operations;
- b) Discharges from the same types of wastes;
- c) Users that require the same effluent limitations;
- d) Users that require the same or similar monitoring; and
- e) Users who in the opinion of CMSA are more appropriately controlled under a General Permit than under an individual Wastewater Discharge Permit.

Grab Sample: A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Illegal Discharge: Any discharge of waste containing contaminants or pollutants prohibited by S or F law, or local limits including discharge to the wastewater treatment plant and collection system, or to the storm drain system.

Indirect Discharge: The introduction of pollutants into the POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Act.

Industrial Park: A location in the service area where multiple industrial or commercial concerns, owned and operated by different persons, are discharging through one or more common connections to the Water Pollution Control System.

Industrial User: A source of indirect discharge.

Industrial Waste: Any waterborne waste from manufacturing, processing, or other industrial activity, excluding domestic waste, boiler blowdown, and uncontaminated cooling water. Substantial discharge of boiler blowdown closely associated with industrial activity shall be considered an industrial waste discharge when such discharge has, in the opinion of CMSA, a reasonable potential to affect the Water Pollution Control System. Waterborne wastes from "commercial" activities, such as automobile repair or photo processing, are expressly included in this definition. Contaminated groundwater is also included in this definition.

Interference: Any discharge which, alone or in conjunction with a discharge or discharges from other sources both: 1) inhibits or disrupts the POTW, its treatment processes or operations, or its biosolids processes, use or disposal; and 2) therefore is a cause of a violation of any requirement of the CMSA NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of biosolids use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent California State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including California State regulations in any California State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

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 the industrial flow rate and the duration of the sampling event.

Local Limit: Specific discharge limits developed and enforced by CMSA upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

Medical Waste: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Member Agency: Ross Valley Sanitary District, Sanitary District No. 2 of Marin County, San Rafael Sanitation District. These agencies are members of the CMSA Joint Exercise of Powers Agreement.

National Categorical Standards: Any regulations containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 USC 1317) and which apply to a specific category of User. These regulations are found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

Monthly Average: The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

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.

National Pretreatment Standard: Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Users. This term includes both the general and specific prohibitions found in 40 CFR 403.5 and the National Categorical Standards.

New Source: A new discharger to the Water Pollution Control System. See the specific definition in the Attachment.

Noncompliance: Any violation of any part of this Sewer Use Ordinance, the Waste Discharge Permit, General Permit, National Categorical Standards, or any other Federal, State or local law, regulation or order related to the discharge, indirect or otherwise, of industrial waste.

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.

Notice of Violation (NOV): An official written communication from the POTW to the noncompliant User informing him that a violation has occurred and that appropriate corrective action must be taken in a prescribed period of time.

National Pollution Discharge Elimination System (NPDES) Permit: A permit issued for direct discharge to San Francisco Bay or other waters of the State. The permits are issued by the Regional Water Quality Control Board, as part of the National Pollutant Discharge Elimination System.

Nuisance: Any nuisance defined by California statutes or known at common law or in equity jurisprudence.

Pass-through: A discharge which exits the POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of CMSA's NPDES permit, including an increase in the magnitude or duration of a violation.

Penalty (Fine): A sum of money imposed upon a person as a penalty for an act of wrongdoing.

Person: Any individual, firm, partnership, corporation, association or public agency, including the State of California and the United States of America. The singular shall include the plural; the masculine gender shall include the feminine.

pH: A measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, biosolids, 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, BOD, COD, toxicity, or odor).

Prohibited Discharge Standards or Prohibited Discharges: Absolute prohibitions against the discharge of certain substances.

Premises: The location of the process, storage, discharge, and business actions of any person discharging to the Water Pollution Control System.

Pretreatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment Requirement: Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, applicable to a User.

Publicly Owned Treatment Works (POTW): A "treatment works", as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by CMSA or its Member Agencies. This definition includes any devices or systems used in the collection, storage, treatment, and recycling of wastewater or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Self-monitoring: Documented discharge sampling and/or facility maintenance performed by a User, per this Ordinance or the Wastewater Discharge Permit.

Service Area: The geographical area served by the POTW. This includes Paradise Cay, Fairfax, Ross, San Anselmo, Greenbrae, Kentfield, Larkspur, Corte Madera, areas of San Rafael south of the Santa Venetia ridge, and unincorporated areas in the Ross Valley.

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

Sewage: Any combination of domestic waste and industrial waste together with such ground, surface and storm waters as may be present.

Sewer Use Ordinance (Ordinance): This document numbered 2018-2 and any amendments thereto.

Significant Industrial User (SIU): Significant industrial Users include all of the following: All Categorical Users and any non-Categorical User which discharges 25,000 gallon per day or more of process wastewater, excluding sanitary, noncontact cooling, and boiler blowdown wastewater; contributes a process wastewater which makes up five percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc.) capacity of the POTW; or has a reasonable potential, in the opinion of the General Manager, to adversely affect the POTW treatment plant, including interference, pass-through of pollutants, biosolids contamination, or endangerment of POTW workers.

Slug Load or Slug Discharge: A discharge capable of causing adverse impacts to CMSA, its workers, or the environment, or any pollutant including an oxygen-demanding pollutant released in a discharge at a flow rate and/or pollutant concentration which may cause interference with the operation of the wastewater collection system and POTW. The discharge will be considered a Slug Discharge if the flow rate or concentrations or quantities of pollutants exceed, for any time period longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration, quantity, or flow during normal operations. A Slug Discharge is considered to be a discharge of a non-routine, episodic nature, including, but not limited to a Bypass of the pretreatment system, an accidental spill, or a non-customary batch discharge. Batch discharges are intentional, controllable discharges that occur periodically within a User's process (typically the result of a non-continuous process). Accidental spills are unintentional, largely uncontrolled discharges that may result from leaks or spills of storage containers or manufacturing processes in an area with access to floor drains.

Storm Water: Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Total Suspended Solids or Suspended Solids: 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.

User: Any person or business who contributes or causes a contribution of wastewater, including domestic waste, into the Water Pollution Control System.

Wastewater Discharge Permit: A control mechanism document issued to a User, as described in this Ordinance.

Water Pollution Control System: All facilities of the Central Marin Sanitation Agency and/or all facilities of any Member Agency for collecting, pumping, treating and disposing of sewage or for reclaiming sewage by-products.

Waters of the State: Any waters, surface or underground, saline or fresh, within the boundaries of the State.

Working Day: Monday, Tuesday, Wednesday, Thursday, or Friday, excluding Federal or California State holidays.

B. LIST OF ABBREVIATIONS

BOD - Biochemical Oxygen Demand

BMP – Best Management Practice

BMR – Baseline Monitoring Report

CCR – California Code of Regulations

CFR – Code of Federal Regulations

CIU – Categorical Industrial User

COD – Chemical Oxygen Demand

CMSA - Central Marin Sanitation Agency

EPA - United States Environmental Protection Agency

GPD – Gallons per day

IU – Industrial User

mg/L - Milligrams per Liter concentration

NPDES - National Pollutant Discharge Elimination System

NSCIU – Non-Significant Categorical Industrial User

pH - A numerical value representing the relative acidity or alkalinity of the waste discharge

POTW - Publicly Owned Treatment Works

RCRA – Resource Conservation and Recovery Act

RWQCB - Regional Water Quality Control Board, San Francisco Bay Region

SNC – Significant Noncompliance

TSS – Total Suspended Solids

SECTION 3 - STANDARDS AND LIMITATIONS

CMSA has set forth the following prohibitions and limitations for waste discharge to the CMSA Water Pollution Control System. Where National Categorical Standards are applicable, the User must comply with the more stringent of the CMSA local limit or the applicable Categorical standard for a given pollutant.

A. GENERAL DISCHARGE PROHIBITIONS

No person shall contribute to or cause to be contributed to the Water Pollution Control System any waste or any pollutant which will:

1. Cause interference with the Water Pollution Control System.
2. Damage the Water Pollution Control System.
3. Cause pass-through of the Water Pollution Control System.
4. Cause hazard to the public safety, the environment, or to Water Pollution Control System personnel.

B. SPECIFIC PROHIBITIONS

No person shall discharge any waste, industrial or domestic, including trucked or hauled pollutants, to the POTW, except through sewer connections approved by CMSA and the relevant member agency or at approved discharge locations at the CMSA treatment plant. Discharge at any other location, specifically including collection system manholes, is prohibited without prior written approval from CMSA.

Except as hereinafter provided, no person shall discharge, or cause to be discharged, to the Water Pollution Control System any of the following described waters or wastes:

1. Any solid or viscous pollutants in amounts which will cause obstruction to the flow in the collection system or the treatment plant, or which will require unusual attention or expense to convey and/or treat. In no case shall there be discharge of any solid material not capable of passing through a 3/8 inch mesh screen.
2. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.

3. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 104°F (40°C), and any heated discharges which pose a hazard to the Water Pollution Control System personnel.
4. Any discharge which has been diluted as a partial or complete substitute for treatment to achieve compliance with this Ordinance, the User's Waste Discharge Permit, or the National Categorical Standards.
5. Any discharge of hazardous waste, as defined by Title 22 of the California Code of Regulations, without the written approval of CMSA.
6. Any discharge which causes noxious or malodorous gases at or near the CMSA Water Pollution Control System facilities or the facilities of CMSA member agencies, or which otherwise creates a public nuisance.
7. Pollutants which result in the presence of toxic gases, fumes, or vapors within the POTW in a quantity that endangers the health or safety of POTW personnel.
8. Any discharge of pesticides, herbicides, or polychlorinated biphenyls (PCBs) in quantities deemed significant by CMSA.
9. Any radioactive wastes, except as allowed under the "California Radiation Control Regulations", CCR Title 23 sec 30100 et seq.
10. Any discharge of any pollutant, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or concentration which will cause interference with the Water Pollution Control System.
11. Any discharge waters having an average daily flow greater than 0.5 percent of CMSA's average dry weather flow (ADWF), without the approval of CMSA.
12. Any discharge containing petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that, alone or in conjunction with other discharges, will cause interference or pass-through.
13. Any discharge which, alone or in conjunction with a discharge or discharges from other sources, will compromise the suitability of CMSA treated wastewater for any adopted reclamation use.
14. Pollutants which will cause corrosive structural damage to the POTW.

15. Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by CMSA.
16. Trucked or hauled pollutants, except at discharge points designated by the CMSA in accordance with this ordinance.
17. Sludges, screenings, or other residues from the pretreatment of industrial wastes, except at discharge points designated by CMSA in accordance with this ordinance.
18. Medical Wastes, except as specifically authorized by CMSA in an individual Wastewater Discharge Permit or a General Permit.
19. Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

C. OTHER PROHIBITIONS

1. Use of Dilution Prohibited:

Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no User shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national pretreatment standards, or in any other pollutant specific limitation developed by CMSA. An increase in the use of process water which is reasonably proportional to increased production and which is required for said increase in product will not be considered a use of dilution.

2. Slug Discharges:

All Users are prohibited from allowing Slug Discharges from entering the Water Pollution Control System. Each User shall provide protection from Slug Discharges of restricted materials or other substances regulated by this Ordinance.

D. LOCAL LIMITS

CMSA is authorized to establish Local Limits pursuant to 40 CFR 403.5(c). Any exceedance or violation of these limits is considered to be a violation of this Ordinance and is enforceable by penalties.

1. No discharge shall have a pH less than 6.0 or greater than or equal to 12.5.
2. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following Daily Maximum Limit.

Pollutant	Daily Maximum Concentration
Arsenic	0.59
Cadmium	0.13
Chromium (Total)	2.0
Copper	1.5
Lead	1.6
Mercury	0.011
Nickel	1.0
Silver	1.0
Zinc	1.0
Cyanide	1.2
Oil & Grease	100

Units in mg/L unless otherwise cited. All concentrations for metallic substances are for total metal unless indicated otherwise. CMSA may impose mass limitations in addition to the concentration based limitations above.

CMSA may develop Best Management Practices (BMPs), by Ordinance or in individual Wastewater Discharge Permits or General Permits, to implement Local Limits and the requirements of this Ordinance.

4. For all Users who are not “Significant Industrial Users,” the maximum discharge concentration for zinc shall be 2.5 mg/L, rather than 1.0 mg/L as specified in Section 3.D.2. above.

E. NATIONAL CATEGORICAL STANDARDS

The National Categorical Standards found in 40 CFR Chapter I, Parts 405-471, are hereby incorporated into this and made a part thereof. All Categorical Users are required to comply with those National Categorical Standards which are applicable to them.

Categorical Standards shall apply to the effluent of the process regulated by the Standard, or as otherwise specified by the standard. Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by CMSA, as defined in 40 CFR 403.6(e).

F. POINT OF APPLICATION OF LIMITS

Compliance with the discharge limits and standards listed in this section shall be determined at a location or locations deemed appropriate by CMSA.

G. AGENCY'S RIGHT OF REVISION

CMSA reserves the right to establish by ordinance or resolution more stringent limitations or requirements on Users to the POTW if deemed necessary to comply with the objectives presented in this Ordinance. No revision of limitations or requirements hereunder shall subject CMSA to civil liability or penalty for interference with a vested right of any User.

DRAFT

SECTION 4 - AUTHORITY AND RESPONSIBILITY

CMSA shall have the authority to regulate all discharges to, and other uses of, the Water Pollution Control System in order to ensure compliance with the National Pretreatment Standards and all provisions of this Ordinance.

A. AUTHORITIES OF THE COMMISSION

1. The Commission shall have the authority to seek injunctive relief and pursue civil and criminal penalties for violations of this Ordinance as may be provided for under the Act and California State and Federal laws.
2. The Commission and its agent shall have all the authorities of the General Manager, as specified in this Ordinance.

B. AUTHORITIES OF THE GENERAL MANAGER

The General Manager and/or his/her agent(s), referred to as CMSA throughout this Ordinance, shall have the authority to:

1. Issue an Administrative Order, including a Show Cause Order, Cease and Desist Order, and Compliance Order to any User of the Water Pollution Control System.
2. To assess administrative penalties to any User of the water pollution control system.
3. Terminate service and disconnect any person from the Water Pollution Control System who does not comply with the requirements of this Ordinance or the requirements of the User's permit.
4. Seek criminal penalties for violations of this Ordinance as may be provided for under the Act and California State and Federal laws.
5. Halt or suspend a discharge in the event of an actual or threatened discharge which is in violation of this Ordinance, the Waste Discharge Permit, or the regulatory conditions of 40 CFR 403.8(f) (l) (vi) (B), or in the event of an emergency.
6. Levy fees for additional services or to recover damage costs which are a result of a discharge, as described in this Ordinance.

7. Inspect, at any reasonable time, the premises of any User of the Water Pollution Control System, including but not limited to, any areas or points of sampling, discharge, process, storage, and/or any other areas as deemed reasonable and necessary by the CMSA to document the person's compliance with the requirements of this Ordinance, a Waste Discharge Permit, or General Permit. The authority to inspect includes the authority to take photographs and/or collect samples of any wastes either being discharged to the Water Pollution Control System or with the potential for such discharge, or for any other violation of local, State or Federal law which may impact the POTW.
8. Witness any sampling and sampling procedures as required as part of the self-monitoring program and under the terms of this Ordinance and the Waste Discharge Permit.
9. Obtain copies of any monitoring and sampling records as necessary to establish compliance or non-compliance with the objectives of this Ordinance or the Waste Discharge Permit, and if necessary, remove those records from the premises for copying purposes. These records include, but are not limited to, record keeping required under 40 CFR 403.12.
10. Require a User to install and operate pretreatment facilities and/or sampling locations as deemed reasonable and necessary by the CMSA to meet the local limits described in this Ordinance and the National Pretreatment Standards.
11. Specify a compliance schedule for the User to install pretreatment, monitoring, and sampling equipment, and shall have the authority to require compliance schedules and compliance reports on completing scheduled milestones to meet compliance.
12. Inspect the installation and operation of the pretreatment facilities.
13. Require submission of all notices and self-monitoring reports from any User as required by this Ordinance and the User's permit, and any additional reports required to demonstrate compliance with this Ordinance and the permit requirements, including, but not limited to, the reports required in CFR 403.12, with the signatory requirements of 40 CFR 403.12(l).

C. RESPONSIBILITIES OF THE GENERAL MANAGER

1. The General Manager shall be charged with the administration of the Water Pollution Control System and the enforcement of the provisions of this Ordinance. For such purposes, upon presentation of proper credentials and identification, the CMSA may enter at reasonable times any premise in the service area to perform any duty imposed upon by this Ordinance.
2. The General Manager shall be responsible for checking the quantitative or qualitative compliance with the established regulations. Such quantitative or qualitative analysis may be made either by spot checks or regularly scheduled checks of all waste material.
3. If the waste material is found to be in violation of the standards established in this Ordinance, it will be the responsibility of the General Manager to request compliance and make reports on the progress of corrective measures to the Commission.

SECTION 5 - ADMINISTRATION

A. CLASSIFICATION OF USERS

All Users shall be classified for wastewater disposal purposes in accordance with the activities conducted upon their premises, as determined by CMSA. The purpose of classification is to facilitate the regulation of Users of the Water Pollution Control System on the basis of each User's waste quality, quantity, and flow, and the recovery of equitable and appropriate fees. The classification of a User will be used to determine the Permit Fee, as described in this Ordinance, and the connection charge as provided for in the CMSA Fee Ordinance. The classification shall further provide a means of imposing an appropriate level of oversight, control, and enforcement.

User Classes

Class I User: Any User meeting the definition of a "Significant Industrial User" in Section 2 of this Ordinance. This includes all "Categorical Users", whether or not they discharge process wastewater into the sanitary sewers.

Class II User: Any User who, in the opinion of the CMSA, may have an impact on CMSA's ability to meet the objectives of this Ordinance and who is not appropriately classified as a Class I, III, or IV User. Typically, these are manufacturing or mass transit facilities, but other types of facilities may be classified as a Class II User. The following criteria shall be used to determine if a User is a Class II User and shall also be used to determine the permit term.

- Wastewater flowrate
- Wastewater characteristics, actual and/or potential
- Quantity and type of hazardous wastes generated at the facility.
- The potential for spills to the sanitary sewers from the facility and the impact of such spills if they should occur.
- The size and complexity of the facility, to the degree that this affects the effort required to verify compliance with Ordinance requirements.

Class III User: Any User performing business activity which has been designated by CMSA as a Class III category. This designation shall be based on the criteria listed above for Class II Users, taking into consideration the cumulative effect of all Users in the category under consideration. Individual permits will be issued to each facility, but these permits shall be "short form" permits, standardized within each category.

Radiator repair shops and vehicle maintenance/repair facilities are designated Class III categories. Other categories of business activity may be designated as Class III.

Before any additional categories are designated Class III, CMSA shall notify facilities in the category of the proposed regulation and give them an opportunity to comment on the proposal. CMSA shall attempt to notify all Users in the category in the service area, but failure of a User to receive prior notification shall not exempt them from the permit requirement, after the category has been designated a Class III category.

A facility performing business activity in a Class III category may be classified instead as a Class II User. This shall be done if it is determined, based on the criteria listed above for Class II Users, that a standardized Class III permit is not adequate to assure facility compliance with this Ordinance.

Class IV User: Users of contaminated groundwater and similar discharges. These discharges are discussed in this Ordinance. A facility requiring a Class I, II or III permit will require a separate Class IV permit for groundwater discharge from the facility.

B. RESPONSIBILITY OF USERS

It shall be the responsibility of the User to comply with all of the provisions of this Sewer Use Ordinance. The omission to act by CMSA and/or the failure of CMSA to notice the nature of the operation of the User and/or the properties of the User's wastewater shall not relieve the User of responsibility to comply with the conditions of this Ordinance, including, but not limited to, such requirements regarding permitting, pretreatment, monitoring, and reporting. It shall be the responsibility of the User to make determinations as to the nature of its operation and wastewater flow and to take such actions as may be required under this Ordinance prior to any discharge of wastewater, whether or not the User has been informed by CMSA of the requirements which may apply to the User regarding its discharge.

C. PERMIT PROCEDURE

1. Applicability

Any User classified as a Class I, II, III, or IV User, as described in this Ordinance shall apply for a Wastewater Discharge Permit or General Permit from CMSA and shall not discharge into the Water Pollution Control System without an approved permit. The applicant will also be required to apply for any permit required by the Member Agency in whose jurisdiction the discharge may occur.

The permitted discharge herein is accepted only on a capacity available basis. Such discharge is subject to reduction, modification, suspension, or termination at any time by CMSA with a phone call or written notice. Discharge shall cease immediately upon request by CMSA and shall not be continued without written permission from CMSA.

2. Application for Permit

- a. Users required, or who may be required, to obtain a Wastewater Discharge Permit or General Permit shall complete and file with CMSA an application in the form prescribed by CMSA. A new permit fee may be assessed at the time of the application. All new Users shall apply at least 30 calendar days prior to connecting to or contributing to the Water Pollution Control System. In support of the application, the User may be required to submit, in units and terms appropriate for evaluation, some or all of the following information, but will in all cases be required to submit item 16:
 1. Name and address of the operator or owner and location of the facility for which the permit application is being made.
 2. SIC number(s) according to the Standard Industrial Classification Manual, Bureau of the Budget, as amended, for all operations conducted at the facility.
 3. A list of all environmental control permits and hazardous substance release response (spill) plans that are held by or for the facility.
 4. Time(s) and duration of all process discharges.
 5. Average daily and 15 minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any. Flow rates shall be provided for each regulated process stream.
 6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation.
 7. Description of activities, facilities, and plant processes on the premises including all materials which are or could be discharged, provided such existing or proposed wastewater pretreatment facilities. Construction drawings and design criteria shall also be submitted.

8. The nature and concentration of any pollutants in the discharge which are limited by an Agency or State pretreatment standard or requirement or by a national pretreatment standard, or which are otherwise requested by CMSA. Pollutant data shall be provided for each regulated process stream. In the case of an existing User, a statement regarding whether or not the pretreatment standards and requirements are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable pretreatment standards and requirements.
9. The nature and concentration of any pollutants in the discharge which are limited by State or Federal standards concerning the release or discharge of any hazardous substance or waste.
10. If additional pretreatment housekeeping, process changes, and/or operations will be required to meet the pretreatment standards and requirements, the User shall submit the shortest schedule by which the User will provide such additional pretreatment. The completion data in this schedule shall not be later than the compliance date established by the EPA, the State, or CMSA for the applicable standard.
11. Each product produced by type, amount, process or processes, and rate of production.
12. Type and amount of raw materials processed (average and maximum per day), provided such raw materials are present in quantities sufficient to cause harm to the operations of CMSA or to the environment if released.
13. Number, type, and volume/amount of hazardous substances stored on the premises and a description of the method of storage and/or the containment device for such substances, provided such substances are present in quantities sufficient to cause harm to the operations of CMSA or to the environment if released.
14. A description of the spill protection and emergency response procedures used or proposed to be used at the facility.
15. Number and classification of employees, hours of operation of the facility, and proposed or actual hours of operation of the pretreatment system.

16. A signed statement of the authorized representative of the industrial User applicant that the information presented in the permit application is true and accurate to the best of the authorized representative's knowledge, and that the applicant is or upon connection will be in compliance with applicable pretreatment standards and requirements on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the applicant to meet such standards and requirements.
17. A signed certification of a qualified professional that the applicant is or upon connection will be in compliance with applicable pretreatment standards and requirements on a consistent basis and if not, whether additional O&M and/or pretreatment is required for the applicant to meet such standards and/or requirements.
18. Any other information as may be deemed by CMSA to be necessary to evaluate the permit application.

The permit application for Class I and II Users shall include a statement that any information submitted by the applicant shall be available for public review, except where such information is specified by the applicant to be entitled to protection as trade secrets. The application form will specify procedures for designating submitted information as confidential, in accordance with this Ordinance. This statement and procedures may be omitted from permit application forms for Class III and IV Users, if the information requested on the forms does not include any potential trade secrets.

- b. When CMSA, becomes aware of discharge of industrial waste without a permit, the CMSA may issue a Cease and Desist Order (CDO) requiring the User to immediately halt discharge to the Water Pollution Control System. If a CDO is not issued, a NOV will be issued to the User. The NOV will be accompanied by a statement of the material required for an acceptable permit application, a statement of the Permit Fee, and a deadline for submission of the completed application. The NOV deadline for submission of a completed application will be 15 to 60 calendar days after the date of the NOV, as deemed appropriate by CMSA. This deadline shall not negate CMSA's authority to halt, in a timely fashion, discharges which cause a nuisance, pass-through, interference, or any hazard or threat to the public safety or any other violation of this Ordinance.
- c. A copy of the following documents are available on the CMSA website at <https://www.cmsa.us>.

The CMSA Fee Ordinance, the Enforcement Response Plan, this Ordinance, and any other applicable CMSA ordinances governing the potential discharge as deemed necessary by CMSA.

- d. A review of the permit application shall be conducted to determine if a permit is required, if the application is complete, and if a permit shall be granted or denied.

If CMSA determines that the application is incomplete, it may require the User to submit additional information before granting or denying a permit. When the CMSA determines the permit application has been satisfactorily completed and all appropriate fees have been paid a discharge permit will be issued, unless there are other reasons for denial. If a permit is denied, CMSA shall provide the person with a written explanation for denial.

All discharge permits will include a deadline for submission of a permit renewal application, prior to the expiration date of the permit. Users failing to submit an acceptable application, and the permit fee, by the application deadline are subject to enforcement action. This enforcement action may include administrative penalties and/or an Administrative Order as defined in this Ordinance.

3. Permit Requirements

- a. An individual Wastewater Discharge Permit or a General Permit shall include such conditions as are deemed reasonably necessary by CMSA to prevent Pass Through or Interference, protect the quality of the water body receiving the CMSA treatment plant's effluent, protect employee health and safety, facilitate biosolids management and reuse, and protect against damage to the POTW. Individual Wastewater Discharge Permits and General Permits must contain the requirement, provisions, and conditions listed in the Attachment.
- b. CMSA may, at any time before or after granting a permit, require additional information from each person applying for a Wastewater Discharge Permit. Each such person shall notify the CMSA of any changes in process of operation that may affect the quantity or quality of the waste discharge prior to implementing such changes.
- c. Each permittee may be required to sample and monitor their discharge and provide monitoring reports as required by CMSA in accordance with the Federal Pretreatment Regulations and the Wastewater Discharge Permit. CMSA may, at any time, require the person to submit additional or more frequent reports to demonstrate compliance with this Ordinance and all applicable State and Federal regulations.

- d. All costs for sampling and monitoring, whether completed by CMSA or the permittee, shall be borne by the permittee. These costs are discussed in this Ordinance.
- d. Each User's discharging waste into the Water Pollution Control System shall construct suitable sampling and gauging stations or provide such inspection facilities as may be required by CMSA. CMSA shall be permitted access to these stations and/or facilities.
- e. Each User's discharging industrial waste into the Water Pollution Control System shall, at his own expense, provide and maintain continuously in satisfactory and effective operation such pretreatment as may be required by CMSA.
- f. If a pretreatment system is necessary to establish compliance with this Ordinance and any applicable National Pretreatment Standards, the system must meet the approval of and be inspected by CMSA prior to operation.

4. Permit Conditions

Except as provided immediately below, General Permits and Wastewater Discharge Permits shall be expressly subject to all provisions of these regulations and all other regulations, User charges, and fees established by CMSA. The conditions of Wastewater Discharge Permits shall be uniformly enforced by CMSA in accordance with these regulations, and applicable State and Federal regulations.

No statement contained in this Ordinance shall be construed as preventing any special agreement between CMSA and any person, User, or class of Users whereby a waste of unusual strength or character may be accepted into the POTW.

Any special agreement made between CMSA and any person, User, or class of Users shall include regulations at least as stringent as any applicable State and Federal regulations.

5. Permit Limitations

- a. No vested rights of any type of discharge to or wastewater system capacity in the POTW is created by the issuance of a permit.
- b. Each permit is subject to renewal upon request to CMSA, provided the User makes application for renewal prior to the renewal application deadline stated in the current permit. Permit renewal is not guaranteed and shall be subject to capacity limitations and compliance history considerations.

- c. CMSA, its officers, employees and agents shall not be liable for damages, judgments, costs, and expenses which may in any manner accrue against the CMSA in consequence of the granting of such permit.
- d. An individual Wastewater Discharge Permit or a General Permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual Wastewater Discharge Permit or a General Permit may be issued for a period less than five (5) years, at the discretion of CMSA. Each individual Wastewater Discharge Permit or a General Permit will indicate a specific date upon which it will expire.

6. Permit Modification

CMSA reserves the right to modify, at any time, the terms and conditions of the Waste Discharge Permit, General Permit, or the discharge quantity and concentration limits authorized therein.

7. Appeal to Permit

If a permittee wishes to appeal or challenge any conditions, requirements, or limits contained in a permit issued by CMSA, the permittee shall file a request for modification of the permit within 30 calendar days of receipt of the permit. The request shall be in writing and shall specify each permit element that is not acceptable to the permittee and shall list all relevant facts supporting the request for change of that element. Failure to request a modification of the permit within 30 calendar days of receipt of the permit is deemed a waiver by the permittee of his right to challenge the terms of the permit.

CMSA shall render a decision in writing on the request for permit modification within 10 working days of receiving such request. If the decision of CMSA is still unacceptable to the permittee, the permittee may file a written request to have the request for permit modification considered by the Commission. Failure to file such request within 10 working days of notice of the CMSA's decision shall be deemed a waiver by the permittee of his right to challenge the terms of the permit. When a request for reconsideration of the General Manager's decision has been received by the Commission, the board shall make a ruling on CMSA's decision within 90 calendar days of receiving the request. The decision of the Commission shall be final.

Except where deemed appropriate by CMSA, the permittee is required to comply with all conditions, requirements, and limits contained in the permit, effective on the date of issuance of the permit. The filing of a request for permit modification shall not delay implementation of the permit.

8. Permit Suspension, Revocation, or Denial

CMSA reserves the right to suspend a permit in the event of a violation of this Ordinance or the Wastewater Discharge Permit, or to deny a permit application. CMSA may revoke an individual Wastewater Discharge Permit or coverage under a General Permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify CMSA of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to CMSA of changed conditions pursuant to this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the Wastewater Discharge Permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow CMSA timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay CMSA fees;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the Wastewater Discharge Permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any Pretreatment Standard or requirement, or any terms of the Wastewater Discharge Permit or the General Permit or this ordinance.

All individual Wastewater Discharge Permits or General Permits issued to a User are void upon the issuance of a new individual Wastewater Discharge Permit or a General Permit to that User.

9. Reconnection After Termination of Service

Whenever a sewer has been disconnected (termination of service) for failure to comply with the provisions of this Ordinance, reconnection may be made only upon issuance of a Wastewater Discharge Permit or General Permit. Before such a permit is issued, the applicant shall reimburse CMSA for the cost of the disconnection. Any reconnection will be at the expense of the permittee.

10. Permit Transfer

The Wastewater Discharge Permit is issued only to a specific person and for a specific location, as designated in the permit, and shall not be assignable or transferable to any other person or any other location. Sale or relocation of a business, public agency, or any other person shall obligate the business, public agency, or person to obtain written approval from CMSA prior to continuing the discharge under the terms and conditions of the original permit, and to make application to obtain a new permit within 30 calendar days after commencing the continued discharge. Permit transfer as a result of corporate or personnel reorganization, insolvency or bankruptcy shall be subject to the approval CMSA and must be requested in writing by the User. Failure to submit such a request is subject to penalty.

D. AUTHORITY TO ASSESS AND COLLECT FEES

All Users of the Water Pollution Control System shall be subject to the terms and conditions of this Ordinance and to the terms, conditions, fees, and fines as described below and as contained in the CMSA Fee Ordinance and as set forth in this Ordinance.

CMSA shall have the authority to assess and collect fees for cost recovery purposes. The fees are cumulative and may include, but are not limited to, the following:

1. **Permit Fee:** A permit fee is due when the permit application is submitted to CMSA. The purpose of this fee is to recover CMSA costs for application review, permit issuance, administration of the permit, and scheduled inspections to verify application information. The permit fee shall be as specified in Schedule A of this Ordinance, based on the classification of the User by CMSA. Where a permit is denied, after payment of the permit fee, a portion of the fee may be refunded to the User, at the discretion of CMSA.
2. **Monitoring Fee:** The purpose of this fee is to recover CMSA costs for sampling, lab analyses fees, travel, equipment, labor or any other costs accrued by CMSA to complete sampling and other monitoring as required by this Ordinance, the Waste Discharge Permit, General Permit, or under directive of CMSA to demonstrate compliance.

3. **Administrative Fee:** Fees for reviewing and responding to accidental discharge procedures; fees for filing appeals; fees to recover administrative and legal costs associated with the enforcement activity taken by CMSA to address Industrial User noncompliance; and other fees as CMSA may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by CMSA.

The fees listed and described above, shall be payable to CMSA only and do not include any additional fees which may be levied by CMSA member agencies.

CMSA may decline to issue or reissue an individual Wastewater Discharge Permit or a General Permit to any User who has failed to pay any delinquent fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual Wastewater Discharge Permit, or a previous General Permit or order issued hereunder.

E. DELINQUENT FEES

All fees as described above are due and payable upon receipt of such invoice. All fees not paid within 60 calendar days of issuance of invoice will be considered delinquent and are subject to a subsequent delinquent charge amounting to 10% of the amount of the fee in question. Failure to pay fees within 90 calendar days of issuance of invoice shall result in enforcement action by CMSA. This enforcement action may include termination of service and/or civil action to collect all outstanding fees, and delinquent charges. All costs resulting from this enforcement action will be paid by the User.

D. CERTIFICATION STATEMENTS

Certification statements shall be included on permit applications, User reports, Monitoring Waivers, annual certification for Non-Significant Industrial Users, and Certification for Pollutants Not Present. Certification statements are provided in the Attachment.

SECTION 6 - REPORTING, PLANS, AND RECORD-KEEPING

A. REQUIRED REPORTING

Under the terms and conditions of this Ordinance all Users of the Water Pollution Control System shall report to CMSA any and all of the following events. Failure to comply with any of the reporting requirements specified in this section is a violation of this Ordinance.

- 1. Noncompliance** - Any User required to perform self-monitoring shall report any violation to CMSA, within 24 hours of becoming aware of the violation. This reporting may coincide with, or be in addition to, any self-monitoring reports required by the discharge permit. Where the discharge in violation has a reasonable potential to affect the Water Pollution Control System, notification to CMSA shall be made immediately. Subsequent to the notification, CMSA shall issue a NOV, as described in this Ordinance and in the Enforcement Response Plan.

The User shall repeat the sampling and analysis and submit the results of the repeat analysis to CMSA within 30 calendar days after becoming aware of the violation. The User will not be required to resample if the conditions of 40 CFR 403.12(g)(2)(i) or (ii) are met.

If CMSA performed the sampling and analysis in lieu of the Discharger, CMSA will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis.

- 2. Change in Process** - All Users of the Water Pollution Control System shall report any change in their industrial, manufacturing, or operating processes that could affect the quality or quantity of their discharge, prior to commencing the changed discharge. Notification will be to CMSA. Notification may be by telephone, in person, or in writing. Where notification is in person or by telephone, such notification shall be followed by a written report. Where the anticipated changes in discharge volume or content have a reasonable potential to affect the Water Pollution Control System, notification shall be at least 10 working days prior to commencing the changed discharge.

CMSA 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 subject to this ordinance.

CMSA may issue an individual Wastewater Discharge Permit or a General Permit or modify an existing Wastewater Discharge Permit or a General Permit in response to changed conditions or anticipated changed conditions.

3. **Slug Discharge** - Any User who make a Slug Discharge, as elsewhere defined herein, to the Water Pollution Control System, shall notify the General Manager or his/her agent of the discharge immediately. This notification shall be by phone call or in person, and shall be followed by a written report within 5 working days. "Voice mail" messages are not sufficient initial notification.
4. **Bypass Notification** – Bypass is prohibited, and CMSA may take an enforcement action against a User for a Bypass, unless
 - a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - a. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a Bypass. Severe property damage does not mean economic loss caused by delays in production.
 - b) A User may allow any Bypass to occur if it is for essential maintenance of equipment to assure efficient operation, and does not cause a violation of Pretreatment Standards or Requirements. Reworded
 - c) There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventive maintenance.
 - d) CMSA may approve an anticipated Bypass, after considering its adverse effects, if CMSA determines that it will meet the conditions listed in this Section.

Any person who knows in advance of the need for a Bypass shall submit prior notice to the General Manager or his/her agent, if possible at least 10 working days before the date of the Bypass. Verbal notice of an unanticipated Bypass that exceeds applicable Pretreatment Standards shall be made to CMSA within 24 hours from the time the User becomes aware of the Bypass. A written submission shall also be provided within 5 working days of the time the User becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass. CMSA may waive the written report on a case-by-case basis if the verbal report has been received within 24 hours.

5. **Discharge of Hazardous Waste** - All Users shall notify CMSA, the EPA regional Waste Management Division Director, and State hazardous waste authorities in writing, of any discharge to the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 or as otherwise defined by State or Federal statute or regulation.

Such notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than 100 kilograms of such waste per calendar month to CMSA's facilities, the notification shall also contain the following information, if known: (1) an identification of the hazardous waste constituents contained in the waste; (2) an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and (3) an estimation of the mass constituents in the waste stream expected to be discharged during the following 12 months.

In the case of any notification made under this section, the User shall certify that it has a program in place to reduce the volume or toxicity of hazardous waste generated to the degree it has determined to be economically practical.

Nothing contained in this section of the Ordinance is intended to modify the prohibitions set forth in other sections of this Ordinance.

6. **Monitoring Waivers** - CMSA may authorize an User subject to a Categorical Pretreatment Standard or this Ordinance to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard or this Ordinance, 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 Industrial User. This authorization is subject to the conditions in the Attachment.

B. **ADDITIONAL REPORTS**

CMSA may require any User to submit any or all of the following reports in addition to any reports required under this Ordinance. Failure to submit complete, accurate reports when due is a violation of this Ordinance.

- Baseline Monitoring Reports
- Periodic Compliance Reports
- Compliance Schedule Progress Reports
- Any other reports as reasonable and necessary to demonstrate compliance with this Ordinance or the Waste Discharge Permit.

All submitted Baseline Monitoring Reports, Compliance Reports, and Compliance Schedule Progress Reports shall be signed by the User or his authorized agent in accordance with 40 CFR 403.12 (l). This person shall be the same person who signs the Application for a Waste Discharge Permit, unless an agent is designated at the time the Waste Discharge Permit is issued. These reports shall contain the certification statement specified in 40 CFR 403.6(a) (2) (ii). For other reports required by CMSA, these certification and signatory requirements may be modified as deemed appropriate by the General Manager.

- 1. Baseline Monitoring Report** - Users subject to National Categorical Standards shall submit, 90 days before commencement of discharge, a Baseline Monitoring Report. This report shall be in writing and be submitted to CMSA. Baseline Monitoring Reports for categorical users shall include all the information set forth in 40 CFR 403.12 (b) (1)-(7), as shown in the Attachment.
- 2. Periodic Compliance Reports** - Any User of the Water Pollution Control System may be required to submit to CMSA a report demonstrating compliance with this Ordinance, any applicable Waste Discharge Permit, and any applicable National Categorical Standards. This report shall be submitted, at a minimum, semi-annually and as specified in the User's Wastewater Discharge Permit. In cases of known or suspected noncompliance, CMSA may require additional and more frequent compliance reporting.

All Categorical Users shall submit a report demonstrating compliance with the applicable National Categorical Standards within 90 calendar days following the date for final compliance with those Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW. This report shall contain the information described in 40 CFR 403.12(b)(4-6).

These reports shall indicate the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by CMSA or the Pretreatment Standard necessary to determine the compliance status of the User.

- 3. Compliance Schedule Progress Reports** - All persons found to be in violation of this Ordinance, their Wastewater Discharge Permit, or any State or Federal regulation prohibiting or limiting waste discharge, may be required to prepare a schedule of actions to bring their discharge into compliance under the direction of the CMSA.

CMSA shall have the final authority for the determination if an action is acceptable and appropriate, to set the time frame to complete compliance action; to set the frequency of required compliance reporting; to set the frequency for required sampling, monitoring and inspection; and to determine any additional actions necessary for the Industrial User to meet the compliance schedule on a timely basis.

Any User subject to a Compliance Schedule shall submit to CMSA, for each compliance step in the Schedule, a report stating whether or not compliance was achieved..

The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards. These events may include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation. No increment referred to above shall exceed nine (9) months.

The User shall submit a progress report to the CMSA no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the CMSA.

4. **Other Reports** - All Users shall submit to CMSA any other reports as deemed reasonable and necessary, in addition to those described above, to demonstrate compliance with this Ordinance, their Wastewater Discharge Permit, or any applicable State or Federal regulations. Such reports include, but are not limited to, any reports or plans required by Federal, California State, or local laws or regulations.

C. SLUG DISCHARGE CONTROL PLANS

Each User shall provide protection from Slug Discharges of restricted materials or other substances regulated by this Ordinance and shall report such discharges as required in this Ordinance. CMSA shall evaluate the effectiveness and sufficiency of measures implemented to prevent Slug Discharges. Where appropriate, a User shall be required to prepare a Slug Discharge Control Plan containing at a minimum the following information:

1. A description of the discharge practices including non-routine batch discharges.

2. A description of stored chemicals.
3. The procedures for promptly notifying CMSA of Slug Discharges, including any discharge that would violate a specific discharge prohibition, with procedures for follow-up written notification within 5 working days.
4. If required by CMSA, procedures to prevent adverse impact from accidental spills including maintenance and inspection of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building or containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures or equipment for emergency response.
5. If required by CMSA, follow-up practices to limit the damage suffered by the POTW or the environment.

These plans shall be submitted to CMSA for review and approval. All Users required to have a Slug Discharge Control Plan shall submit such a plan within 3 months and complete implementation within 6 months of notice regarding the requirements of such plan. Review and approval of such plans and operating procedures shall not relieve the User from the responsibility to modify the User's facility as necessary to meet the requirements of this Ordinance.

Significant Industrial Users are required to notify CMSA immediately of any changes at the facility affecting the potential for a Slug Discharge.

Each User who violates any of the requirements of the Slug Discharge Control Plan shall be subject to the enforcement provisions of this Ordinance.

D. RECORD KEEPING REQUIREMENTS

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least 3 years. This period shall be automatically extended for the duration of any litigation concerning the User or where the User has been specifically notified of a longer retention period by CMSA.

E. INDUSTRIAL PARK REPORTING

CMSA may require owners or managers of any industrial park in the service area to provide CMSA with information regarding the tenants of the industrial park. The requirement may be for periodic submission of a list of the business names and type of activity of each tenant. Industrial park owners or managers may also be required to notify CMSA, in a timely fashion, of occupancy by certain categories of industrial or commercial Users. CMSA may issue permits to industrial parks, to facilitate consistent receipt of this information. These permits will be identical to CMSA Waste Discharge Permits, except that, under normal circumstances, the specific reporting requirements stated in this paragraph shall be the only permit requirements, and no permit fee will be assessed.

F. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

CMSA shall publish annually, in the Marin Independent Journal newspaper, a list of the industrial Users which, any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards as defined in this Ordinance (definitions and abbreviations). This publication is required by 40 CFR 403.8(f)(2)(viii).

G. 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.

SECTION 7 - INSPECTION & MONITORING

A. INSPECTION PROCEDURE

CMSA can inspect the premises of any User to determine whether the User is complying with the provisions of this Ordinance, the User's Wastewater Discharge Permit, and any applicable State, Federal, and local laws and regulations pertaining to the treatment and discharge of waste to the Water Pollution Control System.

1. Inspections shall be made under the provisions of this Ordinance, Waste Discharger Permit, and General Permit, and with the consent of the User. However, if such consent is refused, CMSA shall notify the User that it is in violation of this Ordinance. If the User persists in refusing reasonable access to the premises for purposes of inspection and monitoring, CMSA shall obtain or authorize the appropriate CMSA staff to obtain an Administrative Inspection Warrant, mandating such access by a specified date and at all reasonable times subsequent to that date. Failure to comply with the Administrative Inspection Warrant will result in termination of sewer service.
2. A search warrant shall be obtained in instances where the CMSA believes there is substantial evidence that User refusal to consent to inspection and/or monitoring is concealing criminal acts, that is, willful or negligent discharges in violation of this Ordinance or other applicable laws or regulations.
3. Where deemed necessary to protect the Water Pollution Control System; the environment, or the public health, safety, or welfare from the effects of present or imminent discharges, CMSA may employ emergency measures, as described in this Ordinance. These measures include providing access to a premises for CMSA staff, without the express consent of the owner.
4. CMSA also retains the right to enter the premises to inspect the premises, processes, and records of the User; to sample or monitor the discharge, and to copy all records relating to pretreatment, chemical and waste storage, and waste discharge to the CMSA Water Pollution Control System, pursuant to 40 CFR 403.8 (f)(1)(v), to verify that the waste discharge is in compliance with Waste Discharge Permit, with this Ordinance, and all applicable State, Federal, and local laws pertaining to pretreatment and waste disposal to POTWs or waters of the United States. CMSA shall also have the right to install and operate any necessary sampling and monitoring equipment on the premises of the User, at the expense of the User, to document compliance.
5. Any person discharging industrial waste to the Water Pollution Control System shall provide a discharge sampling point and CMSA personnel shall have access to the sampling point at all reasonable times. CMSA has the right to observe any waste sampling conducted by the User.

6. CMSA may require the User to install monitoring equipment as necessary. The User's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least biannually to ensure their accuracy.

B. SELF-MONITORING REQUIREMENTS

CMSA can require User's to monitor their discharge to the Water Pollution Control System and report the results of the monitoring to CMSA periodically. These monitoring and reporting requirements are specific to the User, and are listed in the Wastewater Discharge Permit. CMSA can require additional monitoring and reporting to document compliance.

1. CMSA can require User's to install and operate monitoring facilities at the point of discharge to the Water Pollution Control System, at the expense of the User. CMSA may also choose to install and operate monitoring facilities on the premises of the User to document compliance. These facilities, if required, will be provided at the expense of the User. The monitoring facilities will be constructed, installed and operated to allow for inspection, sampling, and measurement of flow or other parameters of the regulated discharge. The monitoring facilities shall be in accordance with CMSA construction standards and specifications. The facilities also shall be maintained at all times in a safe and proper operating condition at the expense of the User.
2. CMSA can require Users to conduct sampling and analysis of the discharge at a frequency and type as specified by CMSA or as required by the Federal Pretreatment Regulations to demonstrate compliance with the prescribed waste discharge limits.
3. If a User performs any monitoring of their discharge to the Water Pollution Control System for any pollutant for which there is a pollutant limit listed in their Wastewater Discharge Permit, whether or not the monitoring is required by CMSA, the User shall report the results of the monitoring to CMSA. If any sampling performed by the User indicates a violation, the User shall notify CMSA within 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 CMSA within 30 calendar days after becoming aware of the violation.

C. SAMPLING

The User shall sample its discharge to the Water Pollution Control System at the frequency provided in the Waste Discharge Permit, General Permit, or as deemed reasonable and necessary by CMSA to demonstrate compliance. CMSA may require sampling to be conducted by non-permitted Users, at its discretion. In which case, non-permitted Users will be subject to the same sampling and reporting requirements as permitted Users. The User shall use the sampling and test procedures prescribed in 40 CFR Part 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants", or amendments there to, or otherwise approved by the EPA. Sampling and analysis data shall be representative of conditions occurring during the reporting period. CMSA also may specify additional sampling requirements or conduct sampling as necessary and reasonable to insure compliance with this Ordinance and/or an issued permit.

Initial sampling equipment and methods shall be observed by the CMSA staff. Before conducting initial sampling, the User shall notify CMSA three working days in advance and schedule a time for CMSA personnel to be present to observe the sampling procedure. All sampling required by the Waste Discharge Permit, General Permit, this Ordinance, or CMSA is at the expense of the User. The installation of sampling equipment and/or the conducting of sampling on the User's premises is at the expense of the User. Any attempt to tamper with a sampling procedure or to misrepresent a sampling analysis will be grounds for criminal prosecution and/or termination of services.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

Except as indicated below, 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 CMSA. Where time proportional composite sampling or grab sampling is authorized by CMSA, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA 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 the compositing procedures as documented in approved EPA methodologies may be authorized by CMSA, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

For sampling required in support of baseline monitoring and 90 day compliance reports required in 40 CFR 403.12(b) and (d), a minimum of 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, CMSA may authorize a lower minimum. For the reports required by 40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

D. PRETREATMENT

Users discharging waste to the Water Pollution Control System shall install and operate any necessary wastewater treatment facilities or equipment as required by CMSA to achieve compliance with this Ordinance and all National Pretreatment Standards, within the time limitations specified in the Federal Pretreatment Regulations, this Ordinance, a Waste Discharge Permit, or General Permit, whichever occurs first. Any pretreatment facilities or equipment required to bring the discharge into compliance with the requirements of the Federal Pretreatment Regulations, of this Ordinance, or of the Wastewater Discharge Permit shall be provided by the User at his expense.

Detailed plans for the construction and operation of the pretreatment facilities shall be provided to CMSA for review and approval prior to commencing construction. However, the review and approval of such plans shall in no way relieve the User of the responsibility to modify the pretreatment facilities, equipment, or operating procedures as necessary to bring the effluent to an acceptable level of treatment. Any subsequent changes to the design, installation, construction, or operation of the pretreatment facilities or equipment shall be reported to CMSA in writing and shall be acceptable to CMSA prior initiating such changes.

CMSA may specify operational and/or recording procedures relative to routine operation of the pretreatment facilities. Such requirements may include, but are not limited to, Operation and Maintenance Manuals, operation logbooks, operator training, and on-site storage of spare parts and reserve treatment chemicals.

SECTION 8 - CONTAMINATED GROUNDWATER

The discharge of contaminated groundwater is a special service outside of the normal service provided by CMSA and is therefore a privilege and not a right. Acceptance of this discharge by CMSA or the member agency into whose collection system the water is discharged is done as a service to the community. Prior to any discharge, Users must obtain a Wastewater Discharge Permit from CMSA and any permit or approval required by the member agency into whose collection system the water is discharged.

The discharge of contaminated groundwater is subject to all of the guidelines, standards, limitations, and requirements of this Ordinance. Only contaminated groundwater generated within the CMSA service area will be accepted for discharge to the Water Pollution Control System.

A. SOURCES

Contaminated groundwater may include continuous discharges (e.g., from groundwater cleanup or from construction in areas of contaminated soil) and batch or one-time discharges (e.g., from monitoring wells from underground tanks). These discharges may be either treated or untreated.

B. PERMITTING

The discharge of contaminated groundwater is subject to the Waste Discharge Permit requirements presented in this Ordinance as well as any additional requirements stated in the present section.

C. EMERGENCY EVENT

In the event of an emergency, a member agency may discharge contaminated groundwater meeting the discharge requirements of this Ordinance to the Water Pollution Control System without the required permit, upon the prior notification of and approval of CMSA.

D. SUSPENSION OF DISCHARGE

The User may be required to stop discharging to the Water Pollution Control System during periods of rainfall or at other times and/or conditions determined appropriate by CMSA or its member agencies.

E. DISCHARGE REQUIREMENTS

Contaminated groundwater discharged into the Water Pollution Control System, prior to dilution by any other discharges, shall comply with all discharge standards and limitations contained in this Ordinance.

The discharge also is subject to all of the requirements for sampling, monitoring, inspection, reporting, and pretreatment presented in this Ordinance.

In addition, any contaminated groundwater discharged into the Water Pollution Control System must not exceed the following concentration limitations:

1. Total petroleum hydrocarbons (TPH) - 1.0 mg/L
2. The total concentration of BTEX (benzene, toluene, ethylbenzene, and xylenes) and MTBE (methyl tertiary butyl ether) - 1.0 mg/L
3. Any EPA Priority Pollutant - 0.75 mg/L (This does not apply to metals listed in Section 3 of this Sewer Use Ordinance).

SECTION 9 - CONFIDENTIALITY

All information and reports obtained from a User or submitted by a User in accordance with this Ordinance shall be available for public review or review by other public agencies without restriction, unless the User specifies that the release of such information and reports to the general public would divulge information on processes or methods of production entitled to protection as trade secrets. The constituents and/or characteristics of the waste discharge will not be recognized as confidential information. Any such claim must be asserted at the time of submission in the manner prescribed in the application for permit to discharge, or in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the submission, CMSA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

Request for public review of a User file shall be submitted in writing to CMSA. Such requests are subject to reasonable conditions regarding scheduling of access to files and fees for copying. Release of information to other public agencies, on a strict confidentiality basis, will not be considered a violation of this confidentiality clause.

SECTION 10 - ENFORCEMENT

This section presents the enforcement mechanisms and penalties available to CMSA to respond to instances of noncompliance. The remedies for noncompliance, enforcement mechanisms, and penalties are cumulative.

A. ENFORCEMENT MECHANISMS

It is the intent of this enforcement section to provide adequate mechanisms to achieve a maximum degree of compliance with this Ordinance by all Users. These enforcement provisions apply to all classes of Users to the extent such User violates any provision of this Ordinance or administrative order of CMSA pursuant to this Ordinance. In order to achieve the maximum degree of compliance desired, CMSA will use a variety of enforcement mechanisms, as described in CMSA's Enforcement Response Plan. The enforcement mechanisms set forth range from informal administrative action to formal criminal prosecution. CMSA may, in its discretion, implement the use of any mechanism or the concurrent use of several mechanisms in order to enforce the provisions of this Ordinance. The enforcement mechanisms provided herein may be cumulative in respect to such other enforcement mechanisms or civil and criminal penalties as may be otherwise available under the laws of the State of California and the United States of America. Nothing in this Ordinance is intended to prevent State and/or Federal regulatory agencies from undertaking enforcement actions as may otherwise be available due to a violation of this Ordinance which also constitutes a violation of Federal or State statutes and regulations, such as: (1) the Clean Water Act (33 U.S.C.A. §1251, *et seq.*); (2) the California Porter-Cologne Water Quality Act (California Water Code §13000, *et seq.*); (3) the California Hazardous Waste Control Law (California Health and Safety Code §25100 - §25250); (4) the Resource Conservation and Recovery Act (42 U.S.C.A. §6901, *et seq.*) and (5) California Government Code §54739 - §54740.6. The referenced State and Federal laws, along with other pertinent laws, provide authority for CMSA's enforcement mechanisms.

1. Notice of Violation (NOV)

When CMSA finds that a User has violated, or continues to violate, any provision of this Ordinance, an individual Wastewater Discharge Permit, or a General Permit or order issued hereunder, or any other Pretreatment Standard or requirement, CMSA may serve upon that User a written NOV. Within 15 working days of the 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 CMSA. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the NOV. Nothing in this Section shall limit the authority of CMSA to take any action, including emergency actions or any other enforcement action, without first issuing a NOV.

2. Compliance Orders

When CMSA finds that a User has violated, or continues to violate, any provision of this ordinance, an individual Wastewater Discharge Permit, or a General Permit or order issued hereunder, or any other Pretreatment Standard or Requirement, CMSA may issue an order to the User responsible for the discharge directing that the User come into compliance. Such orders shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. 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 also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a 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.

3. Cease and Desist Orders

When CMSA finds that a User has violated, or continues to violate, any provision of this ordinance, an individual Wastewater Discharge Permit, or a General Permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, CMSA may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- a. Immediately comply with all requirements; and
- b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

4. Suspend Service

Any User who violates any of the following conditions is subject to discharge termination:

- A. Violation of individual Wastewater Discharge Permit or General Permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards within this Ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause ? under this Ordinance why the proposed action should not be taken. Exercise of this option by CMSA shall not be a bar to, or a prerequisite for, taking any other action against the User.

3. Administrative Civil Penalties

Pursuant to the authority of California Government Code Sections 54739 to 54740.6, CMSA may issue administrative complaints, conduct administrative hearings and/or impose civil penalties in accordance with the procedures set forth in these sections for violation of CMSA's requirements into the Water Pollution Control System.

When an administrative complaint is issued by staff, a copy of the complaint will be provided to the Commission.

These penalties shall be as follows:

- a. When CMSA finds that a User has violated, or continues to violate, any provision of this Ordinance, an individual Wastewater Discharge Permit, or a General Permit or order issued hereunder, or any other Pretreatment Standard or Requirement, CMSA may fine such User in an amount not to exceed \$5,000. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- b. In an amount which shall not exceed three thousand dollars (\$3,000) for each day for failing or refusing to comply in a timely manner with any compliance schedule established by CMSA.

Unless appealed, orders setting administrative civil penalties shall become effective and final upon issuance thereof, and payment shall be made within 30 calendar days. Users desiring to dispute such fines must file a written request for CMSA to reconsider the fine along with full payment of the fine amount within 15 working days of being notified of the fine. Where a request has merit, CMSA may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. CMSA may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

As to court actions authorized by the above referenced sections, the special counsel designated by the Commission shall institute appropriate actions to affect statutorily authorized remedies. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

4. Civil Actions for Penalties

Any User who violates any provision of the Ordinance or permit condition, or who violates any Cease and Desist Order, prohibition or effluent limitation, shall be liable civilly for a penalty not to exceed Twenty-Five Thousand Dollars (\$25,000) for each day in which such violation occurs pursuant to California Government Code Section 54740. The special counsel designated by the Commission, upon order of the Commission, shall institute such actions as may be appropriate in a court of competent jurisdiction to impose, assess, and recover such sums.

Pursuant to the authority of the Clean Water Act, 33 U.S.C.A. Section 1251, *et seq.*, any User committing a violation of any provision of the Ordinance, which is also a violation of a pretreatment standard, effluent standard or limitation or other applicable provisions of the Clean Water Act shall be liable civilly for a sum not to exceed Twenty-Five Thousand Dollars (\$25,000) per violation for each day in which such violation occurs. CMSA may bring an action under the Act as a citizen's suit at the discretion of the Commission.

5. Other Noncompliance Penalties

The following enforcement measures will be used in instances of serious noncompliance, usually resulting in extreme damage to the Water Pollution Control System, or from fraudulent practices, criminal noncompliance, violation of an Administrative Order, violation of a compliance schedule, or negligent or intentional discharge of waste which causes a threat to the health and/or safety of the public, CMSA personnel, Water Pollution Control System, or the environment.

- Violation of an Administrative Order.

- Refusal to cooperate with CMSA personnel.
 - Refusal to allow CMSA personnel reasonable access to a premise for purposes of inspection, monitoring, or abating an illegal discharge.
 - Fraudulent actions concerning reporting, self-monitoring, or CMSA sampling or inspection.
 - One or more serious violations which endanger the health and/or safety of the public or CMSA personnel or which endanger the Water Pollution Control System and/or the environment.
- a. **Pursuit of Criminal Prosecution.** Where CMSA or its General Manager determines that a violation of the Ordinance has occurred, CMSA may pursue criminal prosecution, pursuant to Health & Safety Code Section 6523 and 40 CFR 403. The offender can face up to 1 year in jail, per violation, or a fine of \$5,000, per day per violation, or both.
- b. **Pursuit of Civil Action.** Where deemed appropriate by the General Manager, CMSA will pursue civil action other than that referenced in Section 10, Subsection 4 above. Actions taken may include, but are not limited to: Civil suits for damage to the Water Pollution Control System and/or injunctive relief. Civil actions may be pursued on a strict liability basis, regardless of intent, and shall include reimbursement for all costs incurred by CMSA, including costs for repair and/or administrative costs.
- c. **Late Reports.** A penalty of \$2,000 shall be assessed to any User for each day that a report required by this Ordinance, a permit or order issued hereunder is late, beginning five days after the date the report is due. Higher penalties may also be assessed where reports are more than 30-45 days late. Actions taken by CMSA to collect late reporting penalties shall not limit CMSA's authority to initiate other enforcement actions that may include penalties for late reporting violations.
- d. **Liability Insurance.** CMSA may decline to issue or reissue an individual Wastewater Discharge Permit or a General Permit to any User who has failed to comply with any provision of this Ordinance, a previous individual Wastewater Discharge Permit, or a previous General Permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

- e. **Payment of Outstanding Fees and Penalties.** CMSA may decline to issue or reissue an individual Wastewater Discharge Permit or a General Permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this Ordinance, a previous individual Wastewater Discharge Permit, or a previous General Permit or order issued hereunder.
- f. **Public Nuisances.** A violation of any provision of this ordinance, an individual Wastewater Discharge Permit, a General Permit, order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by CMSA. Any person(s) creating a public nuisance shall be subject to the provisions of the City Codes governing such nuisances, including reimbursing the respective Agency for any costs incurred in removing, abating, or remedying said nuisance.

6. COSTS FOR ENFORCEMENT ACTIONS

All costs accrued by CMSA to undertake enforcement actions shall be paid by the User in violation. These costs include, but are not limited to, all fees mentioned above in this section of this Ordinance, attorney's fees, and fees associated with termination of service. All such fees are payable to CMSA and are in addition to any costs accrued by member agencies. All such fees are due and payable upon receipt of notice. Delinquent fees will result in delinquent charges and/or enforcement actions, as described in this Ordinance.

C. ADDITIONAL EMERGENCY MEASURES

CMSA shall have full power and authority to take any necessary precautions against a condition that is likely to result in a discharge which presents an imminent hazard to the public health, safety, or welfare; or which, either singly or by interaction with other discharges, is an imminent hazard to the Water Pollution Control System; or which places CMSA in violation of its NPDES permit or any other Federal, State, or local permits. The precautions include, but are not limited to, decontamination, packaging, diking, and transportation of materials, in order to protect life, protect property, or prevent further damage to the environment or the Water Pollution Control System. In the pursuit of such an operation, CMSA personnel, any person contracting with CMSA, or the duly authorized representative of another governmental agency shall have immediate access to the premises. CMSA may prohibit approach to the scene of such emergency by any person, vehicle, vessel, or thing, and all persons not actually employed in the correction of the conditions or the preservation of lives and property in the vicinity thereof.

SECTION 11 – HEARINGS AND APPEALS

Any User, found in violation of this Ordinance, a Wastewater Discharge Permit, General Permit, or adversely affected by a decision, action, or determination of CMSA staff, or CMSA interpreting or implementing this Ordinance or in any permit enforcement action issued herein, may file a written request for reconsideration of the decision, action, or determination within 10 working days of notification of said decision, action, or determination. The written request for reconsideration shall detail facts supporting the User's request and such facts must include a statement listing all relevant facts which must be considered, including such facts that may not have been known or available to CMSA at the date of such decision, action, or determination.

The General Manager shall render decision in writing on the request for reconsideration within 10 working days of receiving such a request. If the decision on the request for reconsideration still is unacceptable to the User, the User may file a request for appeal to the CMSA Commission, within 10 working days of notice of the General Manger's decision. When a written request for appeal has been received and logged with the Commission, the Commission shall schedule a hearing before the Commission within 45 calendar days from receipt of the request for appeal and the Commission shall make a final ruling on the General Manager's decision within 90 calendar days from receiving the request for appeal.

Except where deemed appropriate by the General Manager, this reconsideration and appeal process described in this section of this Ordinance shall not halt or delay any enforcement action taken by CMSA.

CMSA reserves the authority to designate a hearing officer to hear all testimony presented for a hearing or appeal.

Prior to any court challenge of any CMSA action, decision, or determination, the User shall exhaust all administrative remedies contained in this Ordinance.

Notwithstanding the foregoing, the statutory appeal procedures set forth in California Government Code Section 54739, *et seq.*, applicable to administrative civil penalties imposed or sought pursuant to Section 10 A.4., of the Ordinance, shall exclusively apply to such penalties.

SECTION 12 - SEVERABILITY

If any provision, paragraph, word, section, or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provision, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

DRAFT

SECTION 13 - REVISION

The Commissioners reserve the right to update, change, or modify this Ordinance when deemed advisable and necessary.

This Ordinance 2018-2 and the repeal or amendment of any portion of this Ordinance does not release or extinguish any penalty, forfeiture or liability incurred or right accruing or accrued under the provision repealed or amended unless the repealing or amending act expressly so provides. The provisions of Ordinance 2013-1 shall be treated as remaining in force for the purpose of an action or prosecution for the enforcement of the right, penalty, forfeiture or liability occurring from the effective date of Ordinance No. 2013-1 until the effective date of this Ordinance.

If a section, subsection, sentence, clause or phrase of this Ordinance or the application of it to any person or circumstance is for any reason held to be unconstitutional or invalid, the decision shall not affect the validity of the remaining portions of this Ordinance or the application of the provision to other persons or circumstances. The Board declares that it would have passed this Ordinance or the section, subsection, sentence, clause or phrase irrespective of the fact that a section, subsection, sentence, clause, or phrase is declared to be unconstitutional.

SECTION 14 - EFFECT OF ADOPTION OF ORDINANCE 2018-2 ON ORDINANCE 2013-1

The Ordinance 2018-2 revises Ordinances 2013-1. Ordinance 2014-1, An Ordinance Regulating the Acceptance of Fats, Oils and Grease (FOG) Into the Water Pollution Control System of CMSA, makes multiple references to the Ordinance 2013-1. All references within Ordinance 2014-1 to Ordinance 2013-1 shall be deemed hereafter references to these same sections within this Ordinance 2018-2.

“Attachment A reflects existing federal law as codified in the Code of Regulations. In passing this Ordinance, the Board specifically authorizes staff to update the Attachment to reflect changes in the Code of Regulations without amending the Ordinance since the Ordinance is designed to reflect the current laws and current regulations.”

DRAFT

SECTION 15 - EFFECTIVE DATE

This Ordinance shall be effective 30 calendar days after its passage. Before the expiration of 15 calendar days after its passage, a summary of the Ordinance shall be published once, with the names of the members voting for and against it, in the San Rafael, California, Marin Independent Journal, a newspaper of general circulation published within CMSA boundaries.

PASSED AND ADOPTED this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

Attest:

_____/s/_____ Chairperson

_____/s/_____ Secretary

SCHEDULE A – INDUSTRIAL MONITORING FEES

The fees listed below are defined in Section 5.D. of this Ordinance. These fees shall remain in effect until the CMSA Fee Schedule Ordinance is updated to include these fees.

1. Permit Fee

Permit Class	Permit Fee	Permit Description
I	\$435	Significant Industrial User, discharging
I	\$250	Significant Industrial User, "zero- discharge"
II	\$300	Manufacturing, mass transit, and other facility, other than Class I or Class III
III	\$150	Business activity in a designated "Class III category" <u>e.g.</u> , auto service facility. Permit fee is waived for "zero- discharge" permits.
IV	\$370	Groundwater Discharger, intermittent or continuous discharge

2. Monitoring Fee

All routine monitoring events, pursuant to verifying compliance with a Wastewater Discharge Permit or as follow-up to an instance of non-compliance detected during a previous monitoring event, shall be assessed one of the standard monitoring fees listed below.

Grab Sample(s)

The sum of: 1) One hour labor at the current weighted salary of a CMSA Environmental Services Analyst II (B Step); 2) 60% overhead assessed on the labor charge; and 3) The cost of any analytical work performed on the sample(s) by CMSA's currently contracted analytical laboratory, per the invoice to CMSA.

24-hour Composite Sample(s)

Identical to the Grab Sample fee, except that two hours of labor will be charged.