

ORDINANCE NO. 1308-86

AN ORDINANCE establishing wastewater pretreatment regulations.

THE CITY OF EVERETT DOES ORDAIN:

Section 1: PURPOSE AND POLICY.

This ordinance sets forth uniform requirements for Dischargers into the City of Everett (City) Municipal Sewer System and enables the City to protect public health in conformity with all applicable local, State, and Federal laws relating thereto.

The objectives of this ordinance are:

A. To prevent the introduction of pollutants into the City's Municipal Sewer System, which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;

B. To prevent the introduction of pollutants into the City's Municipal Sewer System, which do not receive adequate treatment in the Publicly Owned Treatment Works (POTW), and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system; and

C. To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

Section 2: DEFINITIONS.

The following definitions apply to this ordinance:

A. Act. The Clean Water Act, 33 U.S.C. 1251, et seq., as amended.

B. Applicable Pretreatment Standards. Any federal, state or city discharge prohibition or standard whichever is most stringent.

C. Categorical Pretreatment Standards. National Pretreatment Standards specifying quantities or concentrations of pollutant or pollutant properties which may be discharged or introduced into the Municipal Sewer System by specific Industrial Dischargers.

D. City. City of Everett, Washington.

1 E. Director. The Director of the City of Everett Public Works
2 Department or his duly authorized representative.

3 F. Discharger/Industrial Discharger. Any non-residential user who
4 discharges an effluent into the Municipal Sewer System by means of pipes,
5 conduits, pumping stations, force mains, tank trucks, or any constructed
6 devices or appliances appurtenant thereto.

7 G. Indirect Discharge. The discharge or the introduction of
8 non-domestic pollutants from a source regulated under Section 307(b) of the
9 Act (33 U.S.C. 1317) into the Municipal Sewer System.

10 H. Industrial Waste. Solid, liquid or gaseous waste resulting
11 from any industrial, manufacturing, trade, or business process or from the
12 development, recovery or processing of natural resources.

13 I. Interference. Discharge by an Industrial Discharger which,
14 alone or in conjunction with discharges by other sources, inhibits or
15 disrupts the POTW, its treatment processes or operations, or its sludge
16 processes, use or disposal, and which is a cause of a violation of any
17 requirement of the POTW's NPDES permit (including an increase in the
18 magnitude or duration of a violation) or of the prevention of sewage sludge
19 use or disposal by the POTW as a result of said sludge use or disposal not
20 being in compliance with state or local regulations or permits or the
21 following statutory provisions and regulations or permits issued thereunder;
22 Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA),
23 including Title II, more commonly referred to as the Resource Conservation
24 and Recovery Act (RCRA), and including State regulations contained in any
25 State sludge management plan prepared pursuant to Subtitle D of the (SWDA),
26 the Clean Air Act, and the Toxic Substance Control Act.

27 J. Municipal Sewer System. The system of conduits, pumps,
28 treatment plants (POTWs), structures, and properties, including without
29 limitation all properties, interests, physical and intangible rights of
30 every kind or nature owned or held by the City and all appurtenances
31 thereto, however acquired, insofar as they relate to or concern drainage,
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1 transportation, storage or treatment, in any manner whatsoever, of sewage,
2 pollutants or storm and surface water of any nature now or hereafter
3 permitted by this chapter to enter the Municipal Sewer System. Sanitary
4 sewers and storm drains, separately and in combination, are, without
5 limitation, included in the Municipal Sewer System.

6 K. NPDES. National Pollutant Discharge Elimination System permit
7 program as administered by the EPA or State.

8 L. New Source/New Discharger. Any building, structure, facility,
9 or installation from which there is or may be a discharge of pollutants, the
10 construction of which commenced after the publication of proposed
11 Pretreatment Standards under Section 307(c) of the Act (33 U.S.C. 1317)
12 which will be applicable to such source if such standards are thereafter
13 promulgated in accordance with that section.

14 M. O and M. Operations and maintenance.

15 N. Other Wastes. Decayed wood, sawdust, shavings, bark, lime,
16 refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances
17 except sewage and industrial wastes.

18 O. Pollutant. Any substance discharged into the Municipal Sewer
19 System or its collection system.

20 P. Pretreatment. The reduction of the amount of pollutants, the
21 elimination of pollutants, or the alteration of the nature of pollutant
22 properties in wastewater to a less harmful state prior to or in lieu of
23 discharging or otherwise introducing such pollutants into the Municipal
24 Sewer System.

25 Q. POTW. Publicly Owned Treatment Works. Any sewage treatment
26 works and the sewers and conveyance appurtenances discharging thereto,
27 owned, and operated by the City.

28 R. Sewage. Water-carried human wastes or a combination of
29 water-carried wastes from residences, business buildings, institutions and
30 industrial establishments, together with such ground, surface, storm, or
31 other waters that may also enter the system.

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1 S. Sewer. Any pipe, conduit, ditch, or other device used to
2 collect and transport sewage from the generating source.

3 T. Sewer Rates. Rates and charges for the collection and
4 disposal of sewage for users connected to the Municipal Sewer System.

5 U. Shall. A mandatory requirement.

6 V. Significant Industrial Discharger. Any industrial user of
7 the City's municipal sewer system who: (1) is subject to, or potentially
8 subject to, national pretreatment standards promulgated under Section 307(b)
9 or (c) of the Act (33 U.S.C. 1317); or (2) has in its wastes any priority
10 toxic pollutants listed in 40 CFR Part 403 which is incorporated herein by
11 reference; or (3) has in its wastes toxic pollutants as defined pursuant to
12 Section 307 of the Act (33 U.S.C. 1317); or (4) has a discharge flow of
13 25,000 gallons or more per average workday; or (5) has a flow greater than 5
14 percent of the flow in the City's wastewater treatment system; or (6) is
15 determined by the City to have a significant impact or potential for
16 significant impact, either singly or in combination with other contributing
17 industrial discharges, on the POTW, the quality of the sludge, the system's
18 effluent quality, or air emissions generated by the system.

19 W. Slug Load. Substances (including flow) released in a
20 discharge at a rate and/or concentration which may cause interference to the
21 Municipal Sewer System.

22 X. State. State of Washington.

23 Y. Toxic Pollutants. Those pollutants, or combinations of
24 pollutants, including disease-causing agents, which after discharge and upon
25 exposure, ingestion, inhalation or assimilation into any organism, either
26 directly from the environment or indirectly by ingestion through food
27 chains, will, on the basis of information available to the Director, cause
28 death, disease, behavioral abnormalities, cancer, genetic mutations,
29 physiological malfunctions (including malfunctions in reproduction) or
30 physical deformations, in such organisms or their offspring. "Toxic
31 pollutants" shall include those substances listed in the federal priority
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1 pollutant list and any other pollutant or combination of pollutants listed
2 as toxic in regulations promulgated by the Administrator of the
3 Environmental Protection Agency pursuant to Section 307 of the Act (33
4 U.S.C. 1317).

5 Z. Upset. An exceptional incident in which a Discharger
6 unintentionally and temporarily is in a state of noncompliance with the
7 applicable pretreatment standards due to factors beyond the reasonable
8 control of the Discharger.

9 AA. Wastewater. Industrial waste or sewage that may be discharged
10 to the Municipal Sewer System.

11 Section 3: GENERAL DISCHARGE PROHIBITIONS.

12 No Discharger shall discharge, or cause to be discharged, or permit to
13 be discharged, directly or indirectly, any of the following described
14 substances into the Municipal Sewer System;

15 A. Any liquids, solids or gases which by reason of their
16 nature or quantity are, or may be, sufficient either alone
17 or by interaction to cause fire or explosion or be
18 injurious in any other way to the operation of the
19 Municipal Sewer System. At no time shall two successive
20 readings on a combustible gas meter, at the point of
21 discharge into the system (or at any point in the system),
22 be more than five percent (5%), nor any single reading over
23 ten percent (10%), of the Lower Explosive Limit (LEL) for
24 combustible vapors. Prohibited materials include, but are
not limited to, gasoline, kerosene, naphtha, benzene,
toluene, xylene, ethers, alcohols, ketones, aldehydes,
peroxides, chlorates, perchlorates, bromines, carbides,
hydrides, sulfides, biphenyls, stoddard solvents, any
substances which constitute a fire hazard or hazard to the
Municipal Sewer System, and any other substances which the
City, State or EPA has notified the discharger constitute a
fire hazard or hazard to the Municipal Sewer System.

25 B. Solid or viscous substances which may cause obstruction to
26 the flow in a sewer or other interference with the
27 operation of the Municipal Sewer System, such as, but not
28 limited to: garbage with particles greater than
29 one-quarter inch (1/4") in any dimension, animal guts or
30 tissues, paunch manure, bones, hair, hides or fleshings,
31 entrails, whole blood, feathers, ashes, cinders, sand,
32 earth, gravel, coal, rubbish, spent lime, stone or marble
dust, metal, glass, straw, shavings, grass clippings, rags,
spent grains, spent hops, waste paper, wood, plastics, gas,
grease, tar, asphalt residues, residues from refining, or
processing of fuel or lubricating oil, mud, glass or metal
grinding or polishing wastes, or any matter which is not

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chemically or physically stable for at least 5 days at 20 degrees centigrade.

- C. Any wastewater having a pH less than 5.0 or higher than 10.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the Municipal Sewer System.
- D. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, to constitute a hazard to humans or animals, or to exceed the limitations set forth in the National Categorical Pretreatment Standards, general discharge prohibitions, specific City limitations of the sewer connections or state standards.
- E. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
- F. Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. Under no circumstances will a substance discharged to the POTW be a contributing cause to rendering the sludge unusable for agricultural uses.
- G. Any substance which will cause the POTW to violate its NPDES Permit and/or other disposal permits.
- H. Any substance with color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- I. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the City's sewage collection system which exceeds 65° C (149° F).
- J. Any slug load.
- K. Any amount of unpolluted water, including, but not limited to, non-contact cooling water.
- L. Any wastewater containing any radioactive wastes.
- M. Any wastewater which causes a hazard to human life or creates a public nuisance.
- N. Toxic pollutants, including, but not limited to:

aldrin	a-BHC-Apha
dieldrin	b-BHC-Beta
chlordan	c-BHC-(lindane)-Gamma
4, 4'-DDT	g-BHC-Delta
4, 4'-DDC (p, p'-DDX)	Toxaphene
4, 4'-DDD (p, p'-TDE)	2, 4, 5-TP (Silvex)
a-endosulfan-Alpha	2, 4-D

1 Municipal Sewer System after the aforesaid date shall be permitted to
2 introduce pollutants into the system until Accidental Discharge Protection
3 Procedures have been approved by the Director. Review and approval of such
4 plans and operating procedures by the Director shall not relieve the
5 Discharger from the responsibility to modify its facility as necessary to
6 meet the requirements of this ordinance.

7 B. Notification. Dischargers shall notify the Director
8 immediately upon the occurrence of a slug load or accidental discharge of
9 substances prohibited by this ordinance. Notification by telephone call
10 shall be followed by a written report containing the following information
11 within five (5) days. The notification shall include location of discharge,
12 date and time thereof, type of waste, concentration and volume, and
13 corrective actions. Any Discharger who discharges a slug load of prohibited
14 materials shall be liable for any expense, loss or damage to the Municipal
15 Sewer System, in addition to the amount of any fines imposed by the Director
16 on account thereof under state or federal law.

17 Signs shall be permanently posted in conspicuous places on Discharger's
18 premises, advising employees whom to call in the event of a slug or
19 accidental discharge. Employers shall instruct all employees who may cause
20 or discover such a discharge with respect to emergency notification
21 procedure.

22 Section 6: PRETREATMENT FACILITIES.

23 Dischargers shall provide necessary wastewater pretreatment as required
24 to comply with this ordinance and shall achieve compliance with all
25 applicable pretreatment standards within the time limitations as specified
26 by appropriate statutes, regulations, and ordinance. Any facilities
27 required to pretreat wastewater to a level acceptable to the Director shall
28 be provided, properly operated, and maintained at the user's expense.
29 Detailed plans showing the pretreatment facilities shall be submitted to the
30 Director and the Washington Department of Ecology (WDOE) for review, and
31 must be acceptable to the Director and the WDOE before construction of the
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1 facility. The Discharger shall obtain all necessary construction/operating
2 permits from the Director. The review of such plans shall in no way relieve
3 the user from the responsibility of modifying its facility as necessary to
4 produce an effluent acceptable to the Director under the provisions of this
5 ordinance. Within a reasonable time after the completion of the wastewater
6 pretreatment facility, the Discharger shall furnish its operations and
7 maintenance procedures for the Director and WDOE to review. Any subsequent
8 significant changes in the pretreatment facilities or method of operation
9 shall be reported to and be accepted by the Director and WDOE prior to the
10 Discharger's initiation of the changes.

11 Section 7: FEES AND CHARGES.

12 Dischargers to the Municipal Sewer System shall pay charges to
13 compensate the City for the cost of administration of the pretreatment
14 program established herein in such amounts as are established by resolution
15 of the City-Council.

16 These charges relate solely to the matters covered by this ordinance
17 and are separate from all other rates or charges for sewer service; provided
18 that city shall collect said charges in the same manner as all other sewer
19 utility rates and charges and penalties are collected, including but not
20 limited to the sewer lien procedures provided under Chapter 35.67 RCW.

21 Section 8: ADMINISTRATION.

22 A. Wastewater Discharges. It shall be unlawful to discharge
23 sewage, industrial wastes, or other wastes except as authorized by the
24 Director in accordance with the provisions of this ordinance, to the
25 Municipal Sewer System.

26 B. Wastewater Discharge Permit Requirements. All Significant
27 Industrial Dischargers proposing to connect to or to discharge sewage,
28 industrial wastes, and other wastes to the Municipal Sewer System shall
29 obtain a Wastewater Discharge Permit before connecting to or discharging to
30 the Municipal Sewer System. All existing Significant Industrial Dischargers
31 connected to or discharging to the Municipal Sewer System shall obtain a
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1 Wastewater Discharge Permit within 120 days of being notified by the City.
2 New source Dischargers shall obtain a Wastewater Discharge Permit prior to
3 discharging.

4 C. Permit Application. Significant Industrial Dischargers shall
5 complete and file with the Director a permit application in the form
6 prescribed by the Director. The permit application filed with the Director
7 shall be accompanied by the appropriate fee. Existing Significant
8 Industrial Dischargers shall apply for a Wastewater Discharge Permit within
9 60 days of being notified by the City, and proposed new Dischargers shall
10 apply at least 90 days prior to connecting to the Municipal Sewer System.
11 No discharge permit shall be issued unless and until the following
12 information has been provided:

- 13 1. Disclosure of name, address, and location of the Discharger.
- 14 2. Disclosure of Standard Industrial Classification (SIC)
15 number according to the Standard Industrial Classification
16 Manual, Bureau of the Budget, 1972, as amended.
- 17 3. Disclosure of wastewater constituents and characteristics
18 as requested by the Director and determined by bona fide
19 chemical and biological analyses. Sampling and analysis
20 shall be performed in accordance with procedures
21 established by the EPA and contained in 40 CRF, Part 136,
22 as amended.
- 23 4. Disclosure of time and duration of discharges.
- 24 5. Disclosure of average daily and instantaneous peak
25 wastewater flow rates, in gallons per day, including daily,
26 monthly and seasonal variations, if any. All flows shall
27 be measured unless other verifiable techniques are approved
28 by the Director due to cost or nonfeasibility.
- 29 6. Disclosure of site plans, floor plans, mechanical and
30 plumbing plans and details to show all sewers, sewer
31 connections, inspection manholes, sampling chambers and
32 appurtenances by size, location, and elevation.
7. Description of activities, facilities, and plant processes
on the premises including all materials which are or may be
discharged to the Municipal Sewer System.
8. Disclosure of the nature and concentration of any
pollutants or materials prohibited by this ordinance in the
discharge, together with a statement regarding whether or
not compliance is being achieved with this ordinance on a
consistent basis and if not, whether additional operation
and maintenance activities and/or additional pretreatment
is required for the Discharger to comply with this
ordinance.

1 9. Where additional pretreatment and/or operation and
2 maintenance activities will be required to comply with this
3 ordinance, the Discharger shall provide a declaration of
4 the shortest schedule by which the Discharger will provide
5 such additional pretreatment and/or implementation of
6 additional operational and maintenance activities.

7 a. The schedule shall contain milestone dates for the
8 commencement and completion of major events leading
9 to the construction and operation of additional
10 pretreatment required for the Discharger to comply
11 with the requirements of this ordinance including,
12 but not limited to, dates relating to hiring an
13 engineer, hiring other appropriate personnel,
14 completing preliminary plans, completing final plans,
15 executing contract for major components, commencing
16 construction, completing construction, and all other
17 acts necessary to achieve compliance with this
18 ordinance.

19 b. Under no circumstances shall the Director permit a
20 time increment for a single step directed toward
21 compliance which exceeds nine (9) months.

22 c. Not later than 14 days following each milestone date
23 in the schedule, and the final date for compliance,
24 the Discharger shall submit a progress report to the
25 Director, including no less than a statement as to
26 whether or not it complied with the increment of
27 progress represented by that milestone date, and, if
28 not, the date on which it expects to comply with this
29 increment of progress, the reason for delay, and the
30 steps being taken by the Discharger to return the
31 construction to the approved schedule. In no event
32 shall more than 9 months elapse between such progress
reports to the Director.

10. Disclosure of each product produced by type, amount,
process or processes, and rate of production.

11. Disclosure of the type and amount of raw materials
(including chemicals) utilized (average and maximum per
day). A Materials Safety Data Sheet shall also be required.

12. The signature of an authorized official of the applicant.

24 The Director will evaluate the complete application and data furnished
25 by the Discharger and may require additional information. Within 30 days
26 after full evaluation and acceptance of the data furnished, the Director
27 shall issue a Wastewater Discharge Permit subject to terms and conditions
28 provided herein.

29 All sewers shall have an inspection and sampling manhole or structure
30 with an opening of no less than 24 inches diameter and an internal diameter
31 of no less than 48 inches. The Director may require inspection and sampling
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1 of manholes and/or flow measuring, recording, and sampling equipment as
2 required by the Director to assure compliance with this ordinance.

3 D. Permit Modifications. The Director reserves the right to
4 amend any Wastewater Discharge Permit issued hereunder in order to assure
5 compliance by the City with applicable laws and regulations. Within nine
6 months of the promulgation of a National Categorical Pretreatment Standard,
7 the Wastewater Discharge Permit of each Discharger subject to such standards
8 shall be revised to require compliance with such standards if more stringent
9 within the time frame prescribed by such standards. All National
10 Categorical Pretreatment Standards adopted after the promulgation of this
11 ordinance shall be enforced by the City as part of this ordinance. Where a
12 Discharger subject to a National Categorical Pretreatment Standard has not
13 previously submitted an application for a Wastewater Discharge Permit as
14 required herein, the Discharger shall apply for a Wastewater Discharge
15 Permit from the Director and the WDOE within 180 days after the promulgation
16 of the applicable National Categorical Pretreatment Standard by the EPA. In
17 addition, the Discharger with an existing Wastewater Discharge permit shall
18 submit to the Director within 180 days after the promulgation of an
19 applicable National Categorical Pretreatment Standard the information
20 required by paragraphs 8 and 9 of Section 7(C) herein. The Discharger shall
21 be informed of any proposed changes in his permit at least 30 days prior to
22 the effective date of change. Any changes or new conditions upon the
23 Discharger may require modification of the Wastewater Discharge Permit, as
24 well as include a reasonable time schedule for compliance.

25 E. Permit Conditions. Wastewater Discharge Permits shall specify
26 no less than the following:

- 27 a. Fees and charges to be paid upon initial permit issuance.
- 28 b. Limits on wastewater constituents and characteristics
29 regulated herein.
- 30 c. Limits on rate and time of discharge and/or requirements
31 for flow regulations and equalization.
- 32 d. Requirements for installation and maintenance of inspection
and sampling facilities.

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- e. Special conditions as the Director may reasonably require under particular circumstances of a given discharge, including sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedule.
- f. Compliance schedules.
- g. Requirements for submission of special technical reports or discharge reports where same differ from those prescribed by this ordinance.
- h. Any special agreements the Director chooses to continue or develop between the City and the Discharger.
- i. Non-compliance reporting requirements (at least within five (5) working days).

F. Permit Duration. All Wastewater Discharge Permits shall be issued for a five year duration, subject to amendment or revocation as provided by this ordinance. Under extraordinary circumstances, a permit may be issued for a stated period or may be stated to expire on a specific date.

G. Limitations on Permit Transfer. Wastewater Discharge Permits are issued to a specific Discharger for a specific operation and are not assignable to another Discharger without the prior written approval of the Director, or transferrable to any other location.

H. Reporting Requirements for Discharger. Within ninety (90) days following the date for final compliance by the Discharger with applicable Pretreatment Standards set forth in this ordinance, or following commencement of the introduction of wastewater into the Municipal Sewer System by a new Discharger, any Discharger subject to this ordinance shall submit to the Director a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and if not, what additional O & M and/or pretreatment is necessary to bring the Discharger into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Discharger. If permit conditions are not being met, the statement must be signed by a professional engineer licensed in the state of Washington.

1 I. Periodic Compliance Reports. Any Discharger subject to a
2 Pretreatment Standard set forth in this ordinance, after the compliance date
3 of such Pretreatment Standard, or, in the case of a new Discharger, after
4 commencement of the discharge to the City, shall submit to the Director,
5 monthly (or other frequency as specified by the Director), a report
6 indicating the nature and concentration of prohibited or regulated
7 substances in the effluent which are limited by the Pretreatment Standards
8 hereof. In addition, this report shall include a record of all measured
9 average and maximum daily flows during the reporting period. Flows shall be
10 reported on the basis of actual measurement.

11 Reports of permittees shall contain all results of sampling and
12 analysis of the discharge, including the flow and the nature and
13 concentration, or production and mass where required by the Director. The
14 frequency of monitoring by the Discharger shall be as prescribed in the
15 Wastewater Discharge Permit. All analyses shall be performed in accordance
16 with 40 CFR, Part 136 and amendments thereto.

17 Where 40 CFR, Part 136, does not include a sampling or analytical
18 technique for the pollutant in question, sampling and analysis shall be
19 performed in accordance with the procedures set forth in the EPA
20 publication, Sampling and Analysis Procedures for Screening of Industrial
21 Effluents for Priority Pollutants, April, 1977, and amendments thereto, or
22 with any other sampling and analytical procedures approved by the
23 Administrator of the EPA.

24 J. Monitoring Facilities. Each Discharger shall provide and
25 operate, at the Discharger's own expense, a monitoring facility to allow
26 inspection, sampling, and flow measurement of each sewer discharge to the
27 Municipal Sewer System, as required by the Director to assure compliance
28 with this ordinance. The monitoring facilities shall include a shut off
29 valve or other approved device with which industrial waste may be prevented
30 from entering the Municipal Sewer System. Each monitoring facility shall be
31 situated on the Discharger's premises, except where such a location would be
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1 impractical or cause undue hardship on the Discharger, the Director may
2 concur with the facility being constructed in the public street or sidewalk
3 area providing that the facility is located so that it will not be
4 obstructed by landscaping or parked vehicles.

5 There shall be ample room in or near such sampling facility to allow
6 accurate sampling and preparation of samples for analysis by the Discharger
7 and the Director. The facility, sampling, and measuring equipment shall be
8 maintained at all times in a safe and proper operating condition at the
9 expense of the Discharger.

10 All monitoring facilities shall be constructed and maintained in
11 accordance with all applicable local construction standards and
12 specifications. Construction shall be completed in the time period
13 prescribed by the City.

14 K. Inspection and Sampling. The Director may inspect the
15 monitoring facilities of any Discharger to determine compliance with the
16 requirements of this ordinance. As a condition of the permit, the
17 Discharger shall allow the Director to enter upon the premises of the
18 Discharger at all reasonable hours for the purposes of inspection, sampling,
19 or records examination. The Director shall have the right to set up on the
20 Discharger's property such devices as are necessary to conduct sampling,
21 inspection, compliance monitoring, and/or metering operations.

22 L. Confidential Information. Information on data furnished to
23 the Director with respect to the nature and frequency of discharge shall be
24 available to the public or other governmental agency without restriction
25 unless the Discharger specifically requests and is able to demonstrate to
26 the satisfaction of the Director that the release of such information would
27 divulge information, processes, or methods of production entitled to
28 protection as trade secrets or proprietary information of the Discharger.
29 When requested by a Discharger furnishing a report, the portions of a report
30 or other information which may disclose trade secrets or secret processes
31 shall not be made available for inspection by the public but shall be made
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1 available upon written request to governmental agencies for uses related to
2 this ordinance, the National Pollutant Discharge Elimination System (NPDES)
3 permit, State Disposal System Permit, and/or the Pretreatment Programs;
4 provided, however, that such portions of a report or other information shall
5 be available for use by the state or any state agency in judicial review or
6 enforcement proceedings involving the Discharger furnishing the report.
7 Wastewater constituents and characteristics will not be recognized as
8 confidential information. Information accepted by the Director as
9 confidential shall not be transmitted to any governmental agency or to the
10 general public by the Director until and unless a ten-day notification is
11 given to the Discharger.

12 Section 9: ENFORCEMENT.

13 A. Emergency Suspension of Service and Discharge Permits. The
14 Director may, without advance notice, order suspension of the wastewater
15 treatment service and the Wastewater Discharge Permit of a Discharger when
16 it appears to the Director that an actual or threatened discharge:
17 (a) presents or threatens an imminent or substantial danger to the health or
18 welfare of persons or substantial danger to the environment; or
19 (b) threatens interference with the operation of the Municipal Sewer
20 Service, or violation of any pretreatment limits imposed by the ordinance or
21 any Wastewater Discharge Permit issued pursuant to this ordinance. Any
22 Discharger notified of the Director's suspension order shall immediately
23 cease all discharges. In the event of failure of the Discharger to comply
24 with the suspension order, the Director is authorized, upon reasonable
25 notice, to immediately terminate water service to the discharger or take
26 other actions as appropriate to terminate discharges into the sewer system,
27 and/or to commence judicial proceedings immediately thereafter to compel the
28 Discharger's specific compliance with such order and/or to recover civil
29 penalties. The Director shall reinstate the Wastewater Discharge Permit
30 and/or the wastewater treatment service upon proof by the Discharger of the
31 elimination of the noncomplying discharge or conditions creating the threat
32 as set forth above.

1 B. Termination of Treatment Services. A Discharger shall not
2 (a) fail to factually report accurately the wastewater constituents and
3 characteristics of its discharge; (b) fail to report significant changes in
4 wastewater constituents or characteristics; (c) refuse reasonable access to
5 the Discharger's premises by representatives of the Director for the purpose
6 of inspection or monitoring; or (d) violate the conditions of its permit or
7 the provisions of this ordinance, or any order of the Director with respect
8 thereto. The Director may terminate water utility service and/or wastewater
9 treatment services or revoke the permit to any Discharger who violates any
10 of the foregoing prohibitions.

11 C. Notification of Violation--Administrative Adjustment. In
12 situations where the Director finds that emergency conditions as provided in
13 Section A above do not exist but that a Discharger has violated the
14 provisions of this ordinance, the Director shall cause to be served upon
15 such Discharger a written notice (either personally or by certified or
16 registered mail, return receipt requested) stating the nature of the alleged
17 violation. Within seven days of the date of receipt of the notice, the
18 Discharger shall respond personally or in writing or by certified or
19 registered mail, return receipt requested, to the Director, advising of its
20 position with respect to the allegations. Thereafter, the Discharger shall
21 be given the opportunity to meet with the Director to ascertain the veracity
22 of the allegations and establish a plan for the satisfactory correction of
23 the violations and prevention of a recurrence thereof.

24 D. Show Cause Hearing. Where the violation of this ordinance
25 hereof is not corrected by timely compliance by means of Administration
26 Adjustment, the Director may order any Discharger which suffers or permits a
27 violation hereof to show cause before the Director why the proposed service
28 termination action, as provided in Section A above, should not be taken. In
29 addition, the Director may order any Discharger to show cause why the costs
30 to the Municipal Sewer System related to said interference or violation
31 should not be paid, plus a penalty to be determined by the Director (not to
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1 exceed \$5,000). A written notice shall be served on the Discharger by
2 personal service, certified or registered mail, return receipt requested,
3 specifying the time and place of a hearing to be held by the Director
4 regarding the violation, the reasons why the enforcement action is to be
5 taken, the proposed enforcement action, and directing the Discharger to show
6 cause before the Director why the enforcement action should not be taken.
7 The notice of the hearing shall be served no less than ten (10) days before
8 the hearing. Service may be made on any agent, officer, or authorized
9 representative of a Discharger. The proceedings at the hearing shall be
10 considered by the Director, which shall then enter appropriate orders with
11 respect to the alleged violations of the Discharger. Appeal of such orders
12 may be taken by the Discharger in accordance with Section G herein.

13 E. Judicial Proceedings by City. Following the entry of any
14 order by the Director with respect to the violation by a Discharger of this
15 ordinance, the Director may commence an action for appropriate legal and/or
16 equitable relief in the appropriate local court.

17 F. Enforcement Actions--Annual Publication. In compliance with
18 40 CFR 403.8(f) 2(vii), a list of all significant Dischargers which were in
19 significant violation of this ordinance during the twelve (12) previous
20 months shall be annually published by the Director in the largest daily
21 newspaper summarizing the violation and the enforcement actions taken, if
22 any, against the Dischargers during the same twelve (12) months whose
23 violations remained uncorrected 45 or more days after notification of
24 noncompliance; or which have exhibited a pattern of noncompliance over that
25 twelve-month period, or which involve failure to accurately report
26 noncompliance; or which results in the Director exercising its emergency
27 authority under Section 9(A) of this ordinance.

28 G. Right of Appeal of Discharger. Any Discharger or any
29 interested party shall have the right to request in writing an
30 interpretation or ruling or order by the Director on any matter covered by
31 this section or this ordinance and shall be entitled to a prompt, written
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1 reply. In the event that such inquiry is by a Discharger and deals with an
2 enforcement activity relating to an alleged interference violation, receipt
3 of a Discharger's request shall not stay enforcement proceedings pending.
4 Appeals of an order of the Director must be commenced by written notice
5 directed to the City Clerk within thirty (30) days of the date of the order,
6 unless the Director shall, in writing, extend the time. Said appeal shall
7 be held before the Mayor or his designee who shall provide for a record of
8 the proceedings.

9 The Mayor or his designee shall make a final determination of the
10 appeal in writing. The action of the Mayor or his designee shall approve,
11 modify or reject the order of the Director and shall be final and
12 conclusive, unless within thirty calendar days from the date of said final
13 determination, the City, the Washington State Department of Ecology, the
14 Environmental Protection Agency, or the Discharger obtains a writ of
15 certiorari from the Superior Court of Washington for Snohomish County, for
16 purpose of review of the action taken. No other person shall have standing
17 to appeal said final determination.

18 For purposes of the writ proceedings, the petitioner shall be
19 responsible for transcribing the record and shall bear the costs of said
20 transcription.

21 H. Operating Upsets. Any Discharger which experiences an upset
22 in operations which places the Discharger in a temporary state of
23 noncompliance with this ordinance or a Wastewater Discharge Permit issued
24 pursuant hereto shall inform the Director thereof immediately after first
25 awareness of the commencement of the upset. Where such information is given
26 orally, a written follow-up report thereof shall be filed by the Discharger
27 with the Director within five days. The report shall specify:

- 28 a. Description of the upset, the cause thereof, and the
29 upset's impact on the Discharger's compliance status.
- 30 b. Duration of noncompliance, including exact dates and times
31 of noncompliance, and if the noncompliance continues, the
32 time by which compliance is reasonably expected to occur.

1 c. All steps taken or to be taken to reduce, eliminate and
2 prevent recurrence of such an upset or other conditions of
3 noncompliance.

4 A documented and verified bona fide operating upset shall be an
5 affirmative defense to any enforcement action brought by the Director
6 against the Discharger for any noncompliance with the ordinance or any
7 Wastewater Discharge Permit issued pursuant hereto, which arises out of
8 violations alleged to have occurred during the period of the upset.

9 Section 10: PENALTIES.

10 A. Civil Penalties. Any Discharger who violates an order of the
11 Director, or who willfully or negligently fails to comply with (a) any
12 provision of this ordinance, or (b) any regulations, rule, or permit of the
13 City, issued pursuant to this ordinance, shall be liable to the City for
14 civil penalty. The amount of such civil penalty shall not be less than \$250
15 per violation nor more than \$5,000 per violation. Each day upon which a
16 violation occurs or continues shall constitute a separate violation. Such
17 penalties may be recovered by judicial actions and/or, to the extent
18 permissible by state law, by administrative procedures.

19 In addition to the penalties provided herein, the City may recover
20 reasonable administrative costs, fees for wastewater testing, attorneys'
21 fees, court costs, court reporters' fees, and other expenses of litigation
22 against the person found to have violated this ordinance or the orders,
23 rules, and regulations issued hereunder.

24 Penalties shall be subject to the enforcement procedures provided under
25 Section 9 hereof. Collection of said penalties may be in accordance with
26 Section 7 hereof or any other remedies available at law.

27 B. Recovery of Costs Incurred by the City. Any Discharger
28 violating any of the provisions of this ordinance who discharges or causes a
29 discharge producing a deposit or obstruction or causes damage to or impairs
30 the City's wastewater disposal system shall be liable to the City for any
31 expense, loss, or damage caused by such violation or discharge. The
32 Director shall bill the Discharger for the cost incurred by the City for any

1 cleaning, repair, or replacement work caused by the violation or discharge,
2 including the costs for bringing the POTW back into compliance with its
3 NPDES permit, which shall include any and all civil penalties incurred by
4 the City as a result of violations of its NPDES permit associated with
5 violation of this ordinance. Refusal to pay the assessed costs shall
6 constitute a violation of this ordinance, enforceable under the provisions
7 of Section 9 of this ordinance and collectable as provided under Section 7
8 hereof, or any other remedies available at law.

9 C. Falsifying Information. Any person who knowingly makes any
10 false statement, representation or certification in any application, record,
11 plan or other document filed or required to be maintained pursuant to this
12 ordinance, or who falsifies, tampers with, or knowingly renders inaccurate
13 any monitoring device or method required under this ordinance, shall (in
14 addition to civil and/or criminal penalties provided herein or by State law)
15 be guilty of a misdemeanor.

16 Section 11: RECORDS RETENTION.

17 All Discharges subject to this ordinance shall retain and preserve for
18 no less than three (3) years, any records, books, documents, memoranda,
19 reports, correspondence, and any and all summaries thereof, relating to
20 monitoring, sampling and chemical analyses made by or in behalf of a
21 Discharger in connection with its discharge. All records which pertain to
22 matters which are the subject of Administrative Adjustment or any other
23 enforcement or litigation activities brought by the Director pursuant hereto
24 shall be retained and preserved by the Discharger until all enforcement
25 activities have concluded and all periods of limitation with respect to any
26 and all appeals have expired.

27 Section 12: SEVERABILITY.

28 If any provision, paragraph, word, section or chapter of this ordinance
29 is invalidated by any court of competent jurisdiction, the remaining
30 provisions, paragraphs, words, sections, and chapters shall not be affected
31 and shall continue in full force and effect.
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1 Section 13: CONFLICT/REPEAL.

2 All other ordinances and parts of other ordinances inconsistent or
3 conflicting with any part of this ordinance are hereby repealed to the
4 extent of such inconsistency or conflict. Specifically Ordinance No.
5 1169-85 is repealed.

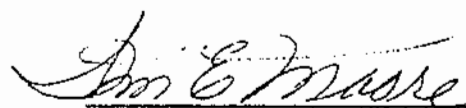
6 Section 14: NON-LIABILITY.

7 It is expressly the purpose of this ordinance to comply with the
8 September 13, 1985 order of the Washington State Department of Ecology
9 requiring the City of Everett to establish an industrial pretreatment
10 program and to provide for and promote the health, safety and welfare of the
11 general public. It is not the intent of this ordinance to create or
12 otherwise establish or designate any particular class or group of persons
13 who will or should be especially protected or benefitted by the terms or
14 requirements of this ordinance.

15 It is the specific intent of this ordinance to place the obligation of
16 complying with these regulations upon the applicant or Discharger and no
17 provision nor any term used in this ordinance is intended to impose any duty
18 whatsoever upon the City or any of its officers, employees or agents, except
19 as provided under the Act or other related statutes of the United States or
20 the State of Washington.

21 Nothing contained in this ordinance is intended to be nor shall be
22 construed to create or form the basis for any tort liability on the part of
23 the City or its officers, employees or agents, for any injury or damage
24 resulting from the failure of an applicant or Discharger to comply with the
25 provisions of this ordinance, or by reason or in consequence of any
26 inspection, notice, order, certificate, permission or approval authorized or
27 issued or done in connection with the implementation or enforcement of this
28 ordinance, or inaction on the part of the City related in any manner to the
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1 implementation or the enforcement of this ordinance by its officers,
2 employees or agents.

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4 
5 WILLIAM E. MOORE, Mayor

6 ATTEST:
7 
8 ELAINE MOSCHILLI, City Clerk

9 Passed: 11-12-86
10 Valid: 11-12-86
11 Published: 11-19-86

12 (0579)

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