

ORDINANCE 4900

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE CHAPTER 10.08, SEWAGE DISPOSAL PLANT--REGULATIONS--FEES, AND CHAPTER 10.12, REGULATION OF INDUSTRIAL WASTES, PROVIDING FOR ADDITIONAL DEFINITIONS, AMENDING GENERAL DISCHARGE PROHIBITIONS AND PRETREATMENT STANDARDS FOR WASTEWATER DISCHARGED INTO CITY SEWER SYSTEM, PROVIDING FOR PERMITS, PERMIT FEES, REPORTING REQUIREMENTS AND EMERGENCY SUSPENSION OF SERVICE, AMENDING NONCOMPLIANCE NOTIFICATION AND HEARING PROCESSES, AND PROVIDING CIVIL PENALTIES; AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. Albany Municipal Code, Chapter 10.08, Sewage Disposal Plant--Regulations--Fees, is hereby amended to read as follows:

10.08.050 Sewer funds. The "Sewer Service Fund" and the "Sewer Improvement Fund" ~~are~~ is hereby continued.

(1) Sewer use charges. All monies received from sewer users from monthly or quarterly sewer use charges ~~as described below~~ shall be deposited in the Sewer Service Fund. ~~Those funds designated by the City Council to be used for sewer separation shall be transferred into the Sewer Improvement Fund. The Sewer Service Fund money shall be used for operation and maintenance, replacement, and planning of the sewerage system and treatment plant, for sewer separation work, capital improvements including studies or design of such improvements, administrative costs and other costs deemed by the City Council to be necessary in the operation and maintenance of the sewerage system, or treatment plant(s).~~

(2) Sewer connection fees. All monies received from sewer connection fees ~~as described below~~ shall be deposited in the Sewer ~~Improvement~~ Fund. Such funds shall be accounted for separately from those received from sewer use charges. Connection fee revenue shall only be used for the purpose of making major emergency repairs, extending or oversizing sewers, or constructing new additions to the treatment plant. ~~(Ord. 4616 §1, 2-10-1984; Ord. 4555 §5, 12-22-1982).~~

10.08.180 Special agreements. No statement contained in Sections 10.08.010 through 10.08.170 inclusive, shall be construed as prohibiting any special agreement or arrangement between the City and any person whereby an industrial waste of unusual strength or character may be admitted to the wastewater treatment system, either before or after pretreatment, provided that there is not impairment of the functioning of the wastewater treatment system by reason of the admission of such wastes, and no extra costs are incurred by the City without recompense by the person. Compliance must be maintained with any applicable national categorical standards. Categorical standards shall not be waived by special agreements of the parties. ~~(Ord. 4555 §18, 12-22-1982).~~

Section 2. Albany Municipal Code, Chapter 10.12, Regulation of Industrial Wastes, is hereby replaced to read as follows:

Chapter 10.12

REGULATION OF INDUSTRIAL WASTES

Sections:

- 10.12.010 General provisions.
- 10.12.020 Definitions.
- 10.12.030 Regulations.
- 10.12.040 Fees.
- 10.12.050 Administration.
- 10.12.060 Enforcement.
- 10.12.070 Penalties.
- 10.12.080 Severability

This chapter provides for the regulation of discharges into the City of Albany wastewater system through the enforcement of administrative regulations. This chapter does not provide for the recovery of operations, maintenance, or replacement costs of the publicly-owned treatment works (POTW) or the costs associated with the construction of collection and treatment systems used by industrial dischargers, in proportion to their use of the POTW, which are the subject of separate enactments.

10.12.010 General provisions

(1) Purpose and Policy. This chapter sets forth uniform requirements for dischargers into the POTW authority wastewater collection and treatment systems and enables the City of Albany (City), to protect public health in conformity with all applicable state and federal laws relating thereto.

The objectives of this chapter are:

(a) To prevent the introduction of pollutants into the City wastewater system which will interfere with the normal operation of the system or contaminate the resulting sludge;

(b) To prevent the introduction of pollutants into the City wastewater system which do not receive adequate treatment in the POTW and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;

(c) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;

(d) To protect the health of the City employees working in the City sewer collection system and at the wastewater treatment plant.

(2) Policy of assistance. In achieving the objectives of this chapter, it shall be the policy of the City to actively support the community's commerce and industry through accommodation, assistance, and cooperation consistent with the City's responsibility to protect the waters of the state from pollution and to secure the health, safety, and welfare of the residents of the metropolitan area.

(3) Compliance with standards. Pollutants shall be accepted into the City wastewater system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the City of Albany for the protection of wastewater facilities and treatment processes, public health and safety, receiving

water quality, and avoidance of nuisance. As a minimum, users of the City wastewater system shall comply with the applicable pretreatment standards. Pretreatment standards shall be developed to ensure that at a minimum the City and users comply with Sections 307(b) and 307(c) of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and the regulations promulgated pursuant to these sections of the Act.

(4) Permit conditions. Wastewater discharge permit conditions shall be predicated on federal, state, and local regulations and requirements and on the results of analysis of the type, concentration, quantity, and frequency of discharge including the geographical relationship of the point of discharge to the POTW. These permit conditions shall be reevaluated upon expiration of the permit and may be revised from time to time as required to remain consistent with local, state, or federal laws, regulations, and requirements or to meet any emergency. Wastewater discharge permits may include, but shall not be limited to, conditions pertaining to discharge standards, self monitoring requirements, treatment methods, housekeeping practices, inventory storage, manufacturing methods, etc., that are intended to protect the waters of the state.

(5) This chapter shall apply to the City of Albany and to persons outside the City of Albany who are, by contract or agreement with the City of Albany, users of the City of Albany POTW. Except as otherwise provided herein, the Director of Public Works of the City of Albany shall administer, implement, and enforce the provisions of this chapter.

10.12.020 Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) Act: The Federal Water Pollution Control Act, also known as the Clean Water Act (33 USC 1251 et seq.) as amended.

(2) Applicable pretreatment standards: For any specified pollutant, City prohibitive discharge standards, City's specific limitations on discharge, State of Oregon Pretreatment Standards, or National Categorical Pretreatment Standards (when effective) whichever standard is most stringent.

(3) Approval Authority: The Director of the Oregon Department of Environmental Quality.

(4) ASPP: Accidental spill prevention plan.

(5) Authorized representative of industrial user: An authorized representative of an industrial user may be:

a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(6) Biochemical oxygen demand (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).

(7) Building sewer: A sewer conveying wastewater from the premises of a user to the POTW.

(8) Categorical pretreatment standards: National pretreatment standard specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a POTW by specific industrial dischargers.

- (9) City: The City of Albany, Oregon, through the Albany City Council.
- (10) Cooling water: The water discharged from any use, such as air conditioning, heat exchangers, cooling or refrigeration, or to which the only pollutant added is heat.
- (11) Control authority: The Director of Public Works for the City of Albany.
- (12) Direct discharge: The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.
- (13) Director. Director of Public Works: The person designated by the City to supervise the Public Works Department and who is charged with certain duties and responsibilities by this article, or the duly authorized representative.
- (14) Domestic user: Any person who contributes, causes, or permits the contribution of wastewater in to the City's POTW that is of a similar volume and/or chemical make up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day, 0.20 pounds of BOD per capita per day, and 0.17 pounds of TSS per capita per day. Generally, there are only trace quantities of other organic or inorganic solids or chemicals.
- (15) Discharger/industrial discharger: Any nonresidential user who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- (16) Environmental Protection Agency (EPA): The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.
- (17) Grab sample: A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (18) Holding tank waste: Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (19) Indirect discharge: The discharge or the introduction of nondomestic pollutants from a source regulated under Section 307(b) or (c) of the Act, into a POTW.
- (20) Industrial waste: Solid, liquid, or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery, or processing of natural resources.
- (21) Industrial user: Any person who contributes, causes, or permits the contribution of wastewater into the City's POTW which by reason of the manufacture or industrial process involved or nature of services rendered, is of a dissimilar volume or chemical make up than that of a domestic user. A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act. (33 USC 1342).
- (22) Interference: An inhibition or disruption of the POTW, its treatment process or operation, or its sludge process, use, or disposal caused by a discharge which, along or in conjunction with a discharge or discharges from other sources, results in either a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or to the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent 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 state regulations contained in any State Sludge Management Plan prepared pursuant to Subtitle D of SWDA, (the Clean Air Act and the Toxic Substance Control Act).
- (23) New Source:
- (a) The term "new source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction

of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such sources if such standards are thereafter promulgated in accordance with that section, provided that:

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

2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

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

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs a)(2) or a)(3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined herein has commenced if the owner or operator has:

1) Begun, or caused to begin as part of a continuous on-site construction program:

a) Any placement, assembly, or installation of facilities or equipment; or

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

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

(24) NPDES: National pollutant discharge elimination system permit program of the U.S. Environmental Protection Agency (EPA).

(25) O and M: Operation and maintenance.

(26) Other wastes: Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastes.

(27) Pass through: The occurrence of an indirect discharge which exits the POTW into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

(28) Person: Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

(29) pH: The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(30) Pollutant: Any substance discharged into a POTW or its collection system which is prohibited or limited by Chapter 10.12.030(1),(2) herein.

(31) POTW (Publicly-owned treatment works): Any sewage treatment works and the sewers and conveyances appurtenances discharging thereto, owned and operated by the City.

(32) Pretreatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into a POTW.

(33) Pretreatment requirement: Any substantive or procedural requirement, other than a national pretreatment standard, imposed on an industrial user.

(34) Prohibited discharges: National pretreatment standards specifying harmful discharges which are prohibited, as indicated in 40 CFR 403.

(35) Sewage: Water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, storm, or other waters as may be present.

(36) Sewer: Any pipe, conduit, ditch, or other device used to collect and transport sewage from the generating source.

(37) Shall, may: "Shall" is mandatory; "may" is permissive.

(38) Significant industrial discharger: Any industrial user of the City's POTW who:

(a) Is subject to categorical pretreatment standards in Sections 307(b)(c) of the Act; or

(b) Discharges to the POTW industrial waste containing any of the toxic pollutants subject to local limits as set forth in Chapter 10.12.030(2)(e) herein; or

(c) Discharges to the POTW industrial waste containing significant quantities of toxic pollutants as defined pursuant to Section 307 of the Act; or

(d) Discharges to the POTW industrial waste containing a pollutant or having a characteristic which violates or has the potential to violate any of the general discharge prohibitions as set forth in Chapter 10.12.030(1) herein; or

(e) Discharges a waste load, measured as total suspended solids (TSS) of standard five-day (5) biochemical oxygen demand (BOD5), constituting greater than five percent (5%) of the average daily waste load at the treatment facility receiving the waste; or

(f) Discharges a flow of 25,000 gallons or more per average work day; or

(g) Is determined by the City to have a significant impact or potential for significant impact, either singly or in combination with other contributing industries, on the wastewater collection and treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(39) Slugload: Any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

(40) Total suspended solids: The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and which is removable by laboratory filtering.

(41) Toxic pollutants: Pollutants or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under Section 307 of the Act in accordance with Section 502(13) of the Act.

(42) Upset: An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in Chapter 10.12.030(1),(2) herein due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

(43) User: Any person who contributes, causes, or permits the contribution of wastewater into the City's POTW.

(44) Wastewater: Industrial waste or sewage or any other waste, including that which may be combined with any ground water, surface water, or storm water, that may be discharged to the POTW.

(45) Wastewater Discharge Permit: As set forth in Chapter 10.12.050 of this chapter.

10.12.030 Regulations

(1) General discharge prohibitions. No discharger shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater disposal system or otherwise to the facilities of the City:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) per cent nor any single reading over ten (10%) per cent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, and any other substances which the City, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any solid or viscous substances which may cause obstruction to the flow in a sewer or other interferences with the operation of the wastewater treatment facilities, such as, but not limited to: Grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than six (6.0) or greater than nine (9.0), unless the treatment works is specifically designed to accommodate such wastewater, or wastewater having any corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the City.

(d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in categorical pretreatment 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. (In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state standards applicable to the sludge management method being used.)

(g) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.

(h) Any substance with objectionable 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 POTW which exceeds 40° Celsius (104° Fahrenheit) unless the POTW treatment plant is designed to accommodate such temperature. If, in the opinion of the City, lower temperatures of such wastes could harm either the sewers, sewage treatment processes, or equipment; have an adverse effect on the receiving streams; or otherwise endanger life, health, or property or constitute a nuisance, the City may prohibit such discharges.

(j) Any slugload, which shall mean any pollutant, including oxygen-demanding pollutants (BOD, etc), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW. In no case shall a slugload contain concentrations or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration, quantities, or flow during normal operation.

(k) Any unpolluted water including, but not limited to, non-contact cooling water.

(l) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(m) Any wastewater which, in the opinion of the superintendent, can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless permitted under special agreement by the director, (except that no special waiver shall be given from categorical pretreatment standards).

(n) Wastewater containing substances not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(o) Fats, wax, grease, or oils whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32° Fahrenheit and 150° Fahrenheit (0° Celsius and 65° Celsius).

(2) Limitations on wastewater strength.

(a) National categorical pretreatment standards. National categorical pretreatment standards, as promulgated by the EPA pursuant to the Act and as adopted, shall be enforceable by this chapter and shall be met by all dischargers of the regulated industrial categories. An application for modification of the national categorical pretreatment standards may be considered for submittal to the regional administrator by the City, when the City's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR, Section 403.7.

(b) State requirements. State requirements and limitations on dischargers to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable ordinance.

(c) Right of revision. The City reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Chapter 10.12.010.

(d) Dilution. No discharger shall increase the use of potable or process water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the applicable standards set forth in this chapter. The City may impose mass limitations on dischargers which are using dilutions to meet the applicable pretreatment standards or requirements of

the chapter, or in other cases where the imposition of mass limitations is deemed appropriate by the City.

(e) Local limits. In addition to categorical pretreatment standards referenced in Chapter 10.12.030(2)(a), no discharger shall discharge wastewater containing concentrations (and/or mass limitations) of substances exceeding the following local limits:

Maximum Daily

<u>Parameter</u>	<u>Concentration (mg/L)</u>
<u>Arsenic</u>	<u>0.5</u>
<u>Cadmium</u>	<u>0.9</u>
<u>Chromium (Total)</u>	<u>7.1</u>
<u>Copper</u>	<u>3.8</u>
<u>Cyanide</u>	<u>1.6</u>
<u>Lead</u>	<u>3.0</u>
<u>Mercury</u>	<u>0.1</u>
<u>Nickel</u>	<u>4.9</u>
<u>Silver</u>	<u>4.0</u>
<u>Zinc</u>	<u>3.7</u>
<u>Phenol</u>	<u>3.0</u>

Wherever a discharger is subject to both a categorical pretreatment standard and a local limit for a given pollutant, the more stringent shall apply.

(3) Accidental discharges. As appropriate, dischargers shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where deemed necessary by the City, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. An accidental spill prevention plan (ASPP) showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which discharger is required to develop an ASPP and require said discharger to submit the ASPP within sixty (60) days after notification by the City. Each discharger shall implement its ASPP as submitted after such ASPP has been reviewed and approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

(a) Dischargers shall notify the City (wastewater treatment plant) immediately upon the occurrence of a "slug" or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any discharger who discharges slugs of prohibited materials shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal law.

(b) Written notice. Within five (5) days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

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

10.12.040 Fees

(1) Purpose. It is the purpose of this chapter to provide for the payment of fees from dischargers to the City's wastewater disposal system, to compensate the City for the cost of administration of the pretreatment program established herein. The applicable charges or fees shall be set forth in the City's schedule of charges and fees.

(2) Charges and fees. If costs are incurred beyond operation through involvement with non-complying dischargers, the City will charge the non-complying discharger for monitoring, laboratory analysis inspections, and surveillance as required by federal pretreatment requirements and this chapter.

10.12.050 Administration

(1) Wastewater dischargers. It shall be unlawful to discharge sewage, industrial wastes, or other wastes to any sewer outlet within the jurisdiction of the City and/or to the POTW without having first complied with the terms of this chapter, or without having first obtained the City's approval of a compliance schedule submitted by the discharger.

(2) General disclosure. All industrial dischargers proposing to connect to or to discharge sewage, industrial wastes, and other wastes to the POTW shall comply with all terms of this chapter within thirty (30) days after the effective date of this chapter.

(3) Disclosure forms. Significant industrial dischargers shall complete and file with the City a data disclosure declaration in the form prescribed by the City, and accompanied by the appropriate fee. Existing significant industrial dischargers shall file a disclosure form within sixty (60) days after the notification by the City and proposed new source dischargers shall file a disclosure form a minimum of ninety (90) days prior to connecting to the POTW. This data disclosure form satisfies the requirements of the Baseline Monitoring Report as described in 40 CFR 403.12(b). The disclosure to be made by the discharger shall be made on written forms provided by the City and shall cover:

(a) Disclosure of name, address, and location of the discharger.

(b) Disclosure of standard industrial classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

(c) Disclosure of wastewater constituents and characteristics including but not limited to those mentioned in this chapter, including standards contained in Chapter 10.12.030(1),(2) as appropriate, as determined by bona fide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the EPA and contained in 40 CFR, Part 136, as amended.

(d) Disclosure of time and duration of discharges.

(e) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly, and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the City due to cost or non-feasibility.

(f) Disclosure of site plans, floor plans, plumbing plans, and details to show all sewers, sewer connections, inspection manholes, sampling chambers, and appurtenances by size and location.

(g) Description of activities, facilities, and plant processes on the premises, including all materials which are or may be discharged to the sewers or works of the City, and a brief description of the nature, average rate of production, and standard industrial classification of the operation.

(h) A statement regarding whether or not compliance is being achieved with this chapter 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 chapter.

(i) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the discharger shall provide a compliance schedule consisting of a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.

1) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this chapter including, but not limited to, dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter.

2) Under no circumstance shall the City permit a time increment for any single step directed toward compliance which exceeds nine (9) months.

3) Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the City, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the City.

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

(k) Disclosure of the type and amount of raw materials utilized including chemicals used in process which may be discharged to the sanitary sewer system, (average and maximum per day).

(l) All disclosure forms shall be signed by a principal executive officer of the discharger, and when required by the City, a qualified engineer.

(m) Any pertinent special agreements between the discharger and the City concerning treatment of discharges, special user charges or rates, or any other information deemed necessary by the superintendent.

(n) List of environmental control permits held by or for the facility.

(4) Evaluation of disclosure. The City will evaluate the complete disclosure form and data furnished by the discharger and may require additional information. The City may require inspection and sampling manholes and/or flow measuring or recording and sampling equipment to assure compliance with this chapter. Within thirty (30) days after full evaluation and acceptance of the data furnished, the City shall notify the discharger of the City's acceptance thereof through issuance of a wastewater discharge permit.

(5) Standards modification. The City reserves the right to amend this chapter and the terms and conditions hereof in order to assure compliance by the City with applicable laws and regulations. All national categorical pretreatment standards adopted by the EPA after the promulgation of this chapter shall be enforceable by the City through this chapter. Where a discharger, subject to a categorical pretreatment

standard, has not previously submitted a data disclosure form as required by Chapter 10.12.050(3), the discharger shall file a disclosure form with the City within 180 days after the promulgation of the applicable categorical pretreatment standard by the EPA. In addition, any discharger operating on the basis of a previous filing of a data disclosure form shall submit to the City within 180 days after the promulgation of an applicable categorical pretreatment standard the additional information required by subparagraphs (h) and (i) of Chapter 10.12.050(3). If deemed necessary by the City, where categorical pretreatment standards are more stringent, the wastewater discharge permit will be modified. The discharger shall be informed of any proposed changes in the chapter at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the chapter shall include a reasonable time schedule for compliance.

(6) Wastewater discharge permit. The superintendent shall issue each significant user a wastewater discharge permit, which will be based on information in the data disclosure form and include:

- (a) Any fees and charges to be paid upon initial issuance.
- (b) Limits on the average and maximum wastewater characteristics pollutant concentrations, loadings, or characteristics.
- (c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- (d) Requirements for installation and maintenance of inspection and sampling facilities.
- (e) Special conditions as the City may reasonably require under particular circumstances of a given discharge.
- (f) Compliance schedules.
- (g) Requirements for submission of special technical reports or discharge reports where same differs from those prescribed by this chapter.
- (h) Any special agreements the superintendent chooses to continue or develop between the City and a discharger.
- (i) When appropriate, self-monitoring requirements including flow monitoring frequency and method, sampling frequencies, numbers, types, and standards for tests.
- (j) Authorized points of discharge and regulated processes.
- (k) Requirement for immediate notification to the City where self-monitoring results indicate noncompliance.
- (l) Requirement to report a by-pass or upset of a pretreatment facility.
- (m) Requirement for the significant industrial user who reports noncompliance to repeat the sampling and analysis and submit analysis to the City within thirty (30) days after becoming aware of the violation.

(7) Wastewater discharge permit duration. All wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years, subject to amendment or revocation as provided in this chapter.

(8) Limitations on 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 City or transferrable to any other location.

(9) Permit reissue. Dischargers issued permits are required to reapply to the City within ninety (90) days of the expiration date of their permit. Reapplication shall be made on a form provided by the City.

(10) Reporting requirements for discharger.

(a) Final compliance report. Within ninety (90) days following the date for final compliance by the discharger with applicable pretreatment standards and requirements set forth in this chapter or a wastewater discharge permit, or within thirty (30) days following commencement of the introduction of wastewater into the

POTW by a new source discharger, any discharger subject to this chapter shall submit to the City 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 as defined in 40 CFR 403.12(1).

(b) Periodic compliance reports.

1) Any discharger subject to a pretreatment standard set forth in this chapter, after the compliance date of such pretreatment standard, or in the case of a new source discharger after commencement of the discharge to the City, shall submit to the City during the months of June and December, unless required more frequently by the City in the discharger's wastewater discharge permit, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the applicable pretreatment standards hereto. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the City may accept reports of average and maximum flows estimated by verifiable techniques. The City, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission of said reports on months other than those specified above.

2) Reports of dischargers shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the City. The frequency of monitoring by the discharger shall be as prescribed within the wastewater discharge permit. All analyses shall be performed in accordance with 40 CFR, Part 136, or with any other tests procedures approved by the administrator of the EPA. (Comment: Where the 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, or where the administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the City or other parties, approved by the administrator.)

(11) Monitoring facilities. Each discharger shall provide and operate at the discharger's own expense a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge to the City. Each monitoring facility shall be situated on the discharger's premises, except where such a location would be impractical or cause undue hardship on the discharger, the City may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles.

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

All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within 120 days of receipt of wastewater discharge permit by discharger.

(12) Inspection and sampling. The City may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this chapter. The discharger shall allow the City or its representatives to enter upon the premises of the discharger at all reasonable hours for the purposes of inspection, sampling, or records examination or copying. The City shall have the right to set up on the discharger's property such devices as are necessary to conduct sampling, inspection compliance, monitoring, and/or metering operations.

(13) Pretreatment. Dischargers shall provide necessary wastewater pretreatment as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards within the time limitations as specified by appropriate statutes, regulation, and ordinance. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, properly operated, and maintained at the discharger's expense. Detailed plans showing the pretreatment facilities shall be submitted to the City for review and must be acceptable to the City before construction of the facility. The review of such plans shall in no way relieve the discharger from the responsibility of modifying its facility or operations as necessary to produce an effluent acceptable to the City under the provisions of this chapter. Within a reasonable time after the completion of the wastewater pretreatment facility, the discharger shall furnish its operations and maintenance procedures for the City to review. Any subsequent significant changes in the pretreatment facilities or method of operation shall be reported to and be accepted by the City prior to the discharger's initiation of the changes.

(14) Confidential information. Information and data furnished to the City with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets or proprietary information of the discharger.

When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit, and/or the pretreatment programs, provided however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the City as confidential shall not be transmitted to any governmental agency or to the general public by the City until and unless a 30-day notification is given to the discharger.

10.12.060 Enforcement.

(1) Emergency suspension of service and wastewater discharge permit. The City may, after informal notice to the discharger (in writing, in person, or by telephone), order the suspension of the wastewater treatment service and revoke the wastewater discharge permit to a discharger when it appears to the City that an actual or threatened discharge:

(a) Presents or threatens an imminent or substantial danger to the health or welfare of persons or substantial danger to the environment; or

(b) Threatens to interfere with the operation of the POTW, or to violate any pretreatment limits imposed by the chapter.

Any discharger notified of the City's suspension order shall immediately cease all discharges. In the event of failure of the discharger to comply with the

suspension order, the City may immediately take all necessary steps to halt or prevent any further discharge by such discharger into the POTW. The City shall have authority to physically cap, block, or seal the discharger's sewer line (whether on public or private property) in order to terminate service under this section. The City shall have the right to enter upon the discharger's property to accomplish the capping, blocking, or sealing of the discharger's sewer line. The City may also commence judicial proceedings immediately thereafter to compel the discharger's specific compliance with such order and/or to recover civil penalties. The City shall reinstate the wastewater discharge permit and/or wastewater treatment service upon clear and convincing proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat as set forth above.

(2) Discharger prohibited conduct. A discharger shall not:

(a) Fail to accurately report the wastewater constituents and characteristics of its discharge;

(b) Fail to report significant changes in wastewater constituents or characteristics;

(c) Refuse reasonable access to the discharger's premises by representatives of the City for the purpose of inspection or monitoring; or

(d) Violate the provisions of the wastewater discharge permit or the provisions of this chapter, or any other of the City with respect thereto.

The City may seek any and all of the remedies or penalties provided in this chapter (including termination of wastewater services and/or revocation of wastewater discharge permit) against any discharger who violates any of the foregoing prohibitions.

(3) Notification of violation; administrative adjustment. Whenever the City finds that any discharger has violated the prohibitions in Chapter 10.12.060(2) hereof, the City shall cause to be served upon such discharger a written notice (either personally or by certified or registered mail, return receipt requested) stating the nature of the alleged violation or violations. The notice may also state what fine, penalty, or other remedy the City will seek against the discharger for such alleged violation(s) in accordance with Chapter 10.12.070(1), (2), or (3). Within seven (7) days of the date of receipt of the notice, the discharger shall respond personally or in writing or by certified or registered mail, return receipt requested, to the City, advising of its position with respect to the allegations. Thereafter, the discharger shall be given the opportunity to meet with representatives of the City to ascertain the veracity of the allegations, to establish a plan for the satisfactory correction of the violations and preclusion of a recurrence thereof, and to pay the fine or otherwise comply with the penalty or remedy being sought by the City for the violation(s).

(4) Show cause hearing. Where the violation of Chapter 10.12.060(2) hereof is not corrected by timely compliance through the administrative adjustment procedures set forth in Chapter 10.12.060(3), the City may order any discharger which suffers or permits a violation of Chapter 10.12.060(2) hereof to show cause before the City or its duly authorized representative why the proposed enforcement action which may include service termination should not be taken. A written notice shall be served on the discharger by personal service, certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the City or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the discharger to show cause before the City or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten (10) days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The information and evidence presented at the hearing shall be

considered by the City or its designate, which shall then enter appropriate findings of fact, conclusions of law, and orders with respect to the alleged violations of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or state law within twenty (20) days to the City Council which may grant a hearing to take additional evidence or render its decision based upon the record of the show cause hearing proceedings.

(5) Judicial proceedings. Following the entry of any final order by the City with respect to the violation by a discharger of Chapter 10.12.060(2) hereof under this chapter, the City may commence an action for appropriate legal and/or equitable relief in the appropriate local court to enforce the penalty or remedy imposed by the City hereunder.

(6) Enforcement actions; annual publication. A list of all significant dischargers which were the subject of enforcement proceedings pursuant to this chapter during the twelve (12) previous months shall be annually published by the City in a newspaper of general circulation published in the City, summarizing the enforcement actions taken against the dischargers during the same twelve (12) months whose violations remained uncorrected forty-five (45) or more days after notification of noncompliance; or which have exhibited a pattern of noncompliance over that twelve-month period; or which involve failure to accurately report noncompliance.

(7) Right of appeal. Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the City on any matter covered by this chapter and shall be entitled to a prompt written reply. In the event that such inquiry is by a discharger and deals with matters of performance or compliance with this chapter for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall not stay enforcement proceedings pending. An appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and state law.

(8) Operating upsets. Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter shall inform the City thereof within twenty-four (24) hours of the first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger with the City within five (5) days. The report shall specify:

(a) Description of the upset, the cause thereof, and the upset's impact on the discharger's compliance status.

(b) Duration of noncompliance, including exact dates and times of noncompliance; and, if the noncompliance continues, the time by which compliance is reasonably expected to occur.

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

A documented and verified bona fide operating upset shall be an affirmative defense to any enforcement action brought by the City against the discharger for any noncompliance with the chapter which arises out of violations alleged to have occurred during the period of the upset.

10.12.070 Penalties

(1) Civil penalties. Any discharger who violates an order of the City, or who fails to comply with:

(a) Any provision of this chapter, or

(b) Any regulation, rule, or permit of the City, issued pursuant to this chapter, shall be liable to the City for a civil penalty. The amount of such civil penalty shall be not less than \$250.00 per violation nor more than \$1,000.00 per violation. Each day upon which a violation occurs or continues shall constitute a

separate violation. Such penalties may be collected by judicial actions commenced by the City as provided in Chapter 10.12.060(5). In addition, the City may commence an action to terminate the discharger's wastewater treatment service.

(2) Recovery of cost incurred by the City. Any discharger violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the City's wastewater disposal system shall be liable to the City for any expense, loss, or damage caused by such violation or discharge. The City shall, by order, bill the discharger for the cost incurred by the City for any cleaning, repair, or replacement work caused by the violation or discharge and for cost incurred by the City in investigating the violation and in enforcing the ordinance against the discharger, including reasonable administrative costs, fees for testing, attorney fees, court cost, and all expenses of litigation. Refusal to pay the assessed costs shall constitute a violation of this chapter, enforceable under the provisions of Chapter 10.12.050 and 10.12.060.

(3) Violations and civil penalties. In the event a user shall fail to correct a violation of the prohibitions in Chapter 10.12.060(2) hereof within the time specified by the City, the City may initiate monetary penalties. The penalties may be initiated with or without the initiation of judicial proceedings. When in the opinion of the City, it is necessary to initiate monetary penalties, the following shall apply:

1) For the first, second, third, and fourth calendar months a violation continues beyond the time limit provided for correction thereof, the user shall be assessed the graduated penalties listed below. Any violation occurrence within the calendar month is considered a continuing violation.

2) The first calendar month beyond the time limit for correction shall be \$300 per violation.

3) The second calendar month beyond the time limit for correction shall be \$600 per violation.

4) The third calendar month beyond the time limit for correction shall be \$1,200 per violation.

5) The fourth calendar month beyond the time limit for correction shall be \$2,400 per violation.

(4) Falsifying information. Any person who knowingly makes any false statement, representation, or certification in any application, record, report and plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall (in addition to civil and/or criminal penalties provided by state law) be guilty of a gross misdemeanor and shall be prosecuted and punished accordingly.

(5) General criminal penalties. Any user who knowingly violates any provision of this chapter shall be guilty of a gross misdemeanor and shall be punished accordingly.

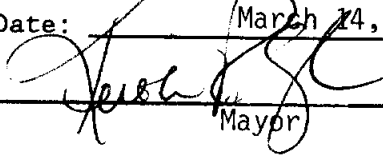
10.12.080 Severability. If any provision, paragraph, word, section, or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

SECTION 3: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the City of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon passage by the Council and approval by the Mayor.

Passed by the Council: March 14, 1990

Approved by the Mayor: March 15, 1990

Effective Date: March 14, 1990


Mayor

ATTEST:


City Recorder