

ORDINANCE NO. 132**AN ORDINANCE PROVIDING FOR UNIFORM REQUIREMENTS FOR USERS OF THE CITY'S WASTEWATER TREATMENT SYSTEM AND REPEALING ORDINANCE NO. 2633, AS AMENDED BY ORDINANCE NOS. 209, 331, and 403.**

The City of Coos Bay Ordains as follows:

Section 1. Definitions

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°C expressed in terms of weight and concentration (milligrams per liter (mg/l)).

Collection line. That portion of the wastewater treatment system which collects and transmits wastewater from users to the wastewater treatment plant, excluding private laterals and service laterals, or that portion of the wastewater treatment system which collects and transmits stormwater from users to the receiving waters of Coos Bay.

Director. The director of the Department of Community Services of the city or his/her duly authorized representatives.

Discharger. Any non-residential user who discharges an effluent into the wastewater treatment system.

Force Main. An underground pipe designed to transport wastewater under pressure from a pump station to a collection line.

Garbage. Solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of products.

Industrial waste. Any liquid, solid, or gaseous substance, or combination thereof, resulting from any process of industry, manufacturing, commercial food processing, business, agriculture, trade or research, including but not limited to, the development, recovery or processing of natural resources and leachate from landfills or other disposal sites.

Industrial waste discharge permit. A permit to discharge industrial wastes into the city wastewater treatment system issued under the authority of this ordinance and which prescribes certain discharge requirements and limitations.

Interference. The inhibition or disruption of the wastewater treatment system processes or operations which contributes to a violation of any requirement of the city's NPDES permit.

Natural outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

NPDES permit. National Pollution Discharge Elimination System permit issued to the city by United States Environmental Protection Agency setting specific requirements for discharge from the city's treatment plants into the waters of Coos Bay.

Person. Any individual, firm, company, association, society, partnership, corporation, group, or any other legal entity.

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

Private Lateral. An underground pipe, including all connections and appurtenances, owned by a property owner connecting a building to a service lateral or a collection line.

Pump Station. A facility designed to pump wastewater into the wastewater system, where such transport may not be made through gravity.

Sanitary Sewer System. That portion of the wastewater treatment system which disposes of the liquid and water-carried industrial or domestic wastes from dwelling, commercial buildings, industrial facilities and institutions.

Service lateral. A conduit extending from the collection line to a private lateral.

Slugload. Any substance released in a discharge at a rate and/or concentration which causes interference to the city wastewater treatment system.

Storm Sewer System. That portion of the wastewater system which disposes of runoff or other surface water which does not require treatment prior to release into the environment.

Storm water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

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.

User. Any person or governmental entity that discharges wastewater into the City's wastewater treatment system.

Wastewater treatment system. The combined sanitary sewer system and the storm sewer system of the City of Coos Bay, including all appurtenances thereof.

[Amended by Sections 1 and 2, Ordinance No 331, enacted January 7, 2003]

GENERAL DISCHARGE REGULATIONS

Section 2. General Discharge Prohibitions.

(1) **Use of Restricted Sewers.** It is unlawful to discharge, permit the discharge, or permit or allow a connection which will result in the discharge of sanitary sewage, wastewater, or industrial waste into the city's storm sewer system. It is unlawful for any person to discharge or permit the discharge or cause or permit a connection which will result in the discharge of storm water, roof drains and down spouts, ground water, street drainage, subsurface drainage, or yard

drainage or uncontaminated water used for refrigerating or cooling purposes or steam condensation into the city's wastewater treatment system.

(2) **Prohibited Discharges.** It is unlawful to discharge, cause to discharge or allow to discharge directly or indirectly into the city wastewater treatment system any of the following:

(a) Waters or wastes containing substances in such concentrations that they inhibit or interfere with the operation or performance of any wastewater treatment process, are not amenable to treatment or reduction by the wastewater treatment process employed, or are only partially amenable to treatment such that the wastewater treatment plant effluent cannot meet the NPDES permit requirements or that prevents the use or disposal of wastewater treatment plant sludge in accordance with applicable state and federal regulations.

(b) Any liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operation of the wastewater treatment system. Prohibited materials include, but are not limited to, gasoline, kerosene, benzene, naphtha, alcohols, toluene, xylene, ethers, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, fuel oil, mineral oil and any other substance which the city, state or EPA has notified the user is a fire hazard. At no time shall two successive readings on a combustible gas meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%), nor any single reading over ten percent (10%), of the Lower Explosive Limit (LEL) of the meter.

(c) Any solid or viscous substances capable of obstructing wastewater which will or may cause obstruction to the flow of wastewater or other interference with the operation of the wastewater treatment system. These substances include, but are not limited to, ashes, cinders, sand, mud, straw, insoluble shavings, metal, glass, rags, feathers, tar, creosote, plastics, wood, animal paunch contents, offal, blood, bones, meat trimmings and wastes, fish or fowl heads, entrails, trimmings and wasted, lard, tallow, baking dough, chemical residues, paint residues, cannery waste bulk solids, hair and fleshings, or plastic or paper dishes, cups, food or beverage containers, whether whole or ground, or any matter which is not chemically or physically stable for at least five (5) days at twenty degrees (20°) centigrade.

(d) Any noxious or malodorous liquids, gases, solids, or other substance when either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into a manhole or pump station

(e) Any water or waste containing a toxic or poisonous substance in sufficient quantity, either singly or by interaction with other substance, to injure or interfere with any wastewater treatment process; to constitute a hazard to humans or animals; or to create any hazard in, or adversely affect the receiving waters; or exceed the limitations set forth in the National Categorical Pretreatment Standards.

(f) Any wastes, wastewaters or substances having a pH less than 5.0 or more than 10.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the wastewater treatment system. This includes, but is not

limited to, battery or plating acids and wastes, copper sulfate, chromium salts and compounds, or salt brine.

(g) Any substance which may cause the wastewater plant's effluent or any other product of the wastewater plant, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with reclamation processes. In no case, shall a substance discharged to the wastewater plant cause the wastewater plant to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed pursuant to the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state criteria applicable to the sludge management method being used.

(h) Any substance which will cause the wastewater treatment system to violate its NPDES permit or the receiving water quality standards.

(i) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(j) Any wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case, wastewater with a temperature at the introduction into the wastewater treatment system which exceeds 65°C (150°F) or with a temperature which exceeds 40°C (104°F) at the treatment works influent.

(k) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and /or pollutant concentration which a user knows or has reason to know will cause interference to the wastewater treatment system. In no case shall a slugload have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(l) Any garbage that has not been properly comminuted to .65 centimeters (1/4) inches) or less in any dimension.

(m) Any unusual concentrations of inert suspended solids which may interfere with the operation of the wastewater treatment system, such as, but not limited to, fuller's earth, lime slurries, or lime residue.

(n) Any unusual concentrations of dissolved solids which may interfere with the operation of or pass through the wastewater treatment system, such as, but not limited to, sodium chloride, calcium chloride, and sodium sulfate.

(o) Any radioactive material, except in compliance with the current "Oregon Regulations for the Control of Radiation."

(p) Toxic pollutants, including, but not limited to:

aldrin	a-BHC-Apha
dieldrin	b-BHC-Beta
chlordane	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
b-endosulfan-Beta	Methoxychlor
endosulfan sulfate	Polychlorinated biphenyls (PCBs)
endrin	
endrin aldehyde	
heptachlor	
heptachlor epoxide	

(3) Use of Wastewater Treatment System Required.

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of the ordinance.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a collection line of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities by private lateral directly with the proper collection line in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said collection line is within one hundred (100) feet of the property line.

Section 3. Limitations on Wastewater Strength.

(1) **Pretreatment.** 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 for the protection of wastewater facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance. As a minimum, discharges shall comply with the applicable pretreatment standards developed under state (OAR 340-45-063) and federal (40 CFR 403) regulations. Pretreatment standards shall be developed to ensure that at a minimum the city and all dischargers comply with Sections 207(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.

(2) **City's Requirements.** The city reserves the right to establish through issuance of industrial waste discharge permits more stringent limitations or requirements on discharges to the wastewater treatment system if deemed necessary to enable the city to meet its NPDES permits.

(3) **Excessive Discharge.** No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the city or State.

(4) **High Strength Wastes.** Any waters or wastes containing higher than 250 mg/1 5-day BOD or 250 mg/1 suspended solids may be required to discharge at a specific release rate or at a specified strength if, in the opinion of the director, the release of such waste in an uncontrolled manner could adversely affect proper handling and treatment in the wastewater treatment system.

(5) **Grease.** Water or wastes shall not contain fats, oils, and greases of animal or vegetable origin of any nature in excess of 100 milligrams per liter. Water or cutting oil, or mineral products of mineral oil origin, whether or not emulsified, in excess of 50 milligrams per liter.

(6) **Septage.** Any material from a cesspool, privy, septic tank, or other on-site disposal system shall not be discharged into the wastewater treatment system except at points and in a manner prescribed by the director.

(7) **Metal Concentrations.** No discharger shall discharge wastewater containing in excess of:

- 1.0 mg/1 arsenic
- 1.2 mg/1 cadmium
- 4.5 mg/1 copper
- 2.0 mg/1 cyanide
- 3.0 mg/1 lead
- 0.1 mg/1 mercury
- 5.0 mg/1 nickel
- 4.0 mg/1 silver
- 9.0 mg/1 total chromium
- 4.0 mg/1 zinc
- 3.0 mg/1 phenol

(8) **Mass Limitations.** The director may impose mass limitations on discharges which are using dilution to meet the pretreatment standards or requirements of this ordinance, or in other cases where the imposition of mass limitations is deemed appropriate by the director.

Section 4. Accidental Discharges.

(1) **Notification.** Any person becoming aware of slugloads, spills or uncontrolled discharges of prohibited or restricted substances directly or indirectly into the wastewater treatment system shall immediately report such discharge by telephone to the director. Within five (5) days following a slugload or an accidental discharge, the user 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 expenses, loss, damage, or other liability which may be incurred as a result of damage to the wastewater treatment system, 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 ordinance or other applicable law.

(2) **Posted Notice.** A notice informing employees of any discharger of the notification requirement and containing a telephone number or individual to contact in the event of such a discharge shall be posted in a conspicuous place, visible to all employees that may reasonably be expected to observe such a discharge.

(3) **Prevention.** Direct or indirect connections or entry points which could allow spills or uncontrolled discharges of prohibited or restricted substances to enter the wastewater treatment system shall be eliminated, labeled, or controlled so as to prevent the entry of wastes in violation of this ordinance. The director may require the discharger to install or modify equipment or make other changes necessary to prevent such discharges as a condition of issuance of an industrial waste discharge permit or as a condition of continued discharge into the wastewater treatment system. A schedule of compliance shall be established by the director which requires completion of the required actions within the shortest reasonable period of time. Violation of the schedule without an extension of time by the director is a violation of this ordinance.

(4) **Control Plans.**

(a) Dischargers that handle, store or use prohibited or restricted substances on their site shall prepare a spill prevention plan within ninety (90) days of the effective date of this ordinance directed at preventing the entrance of those substances, directly or indirectly, into the wastewater treatment system. The plan shall be available for inspection at the facility during normal business hours and shall include, but not be limited to, the following elements:

(i) A description of the potential points of entry into the wastewater treatment system;

(ii) A description of the measures to be taken to prevent entry at the described points before a spill occurs;

(iii) Measures to be taken in the event of a spill of prohibited or restricted materials to contain them;

(iv) description of employee training in the prevention and control of spills. A valid spill prevention and control plan required under the Federal Clean Water Act may be acceptable in lieu of developing a new spill control plan, provided the plan addresses adequately the elements required.

(b) If a discharger has a spill or uncontrolled discharge of prohibited or restricted substances into the wastewater treatment system, the director may require the discharger's spill prevention and control plan to be submitted and may require revisions to be made in the plan.

(c) Review and approval of the control plan shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this ordinance.

(d) The city may adopt by council resolution a fee for reviewing control plans.

[Sections 5 to 6 reserved for expansion]

INDUSTRIAL WASTES

Section 7. Pretreatment Facilities.

(1) **General Requirements.** If, as determined by the director, treatment facilities, operation changes or process modifications at a discharger's facility are needed to comply with any requirements under this ordinance or are necessary to meet any applicable state or federal requirements, the director may require that such facilities be constructed or modifications or changes be made within the shortest reasonable time, taking into consideration construction time, impact of the untreated wastewater on the wastewater treatment system, economic impact on the facility, impact of sludge, and any other appropriate factor.

(2) **Condition of Permit.** Any requirement in subsection 7(1) may be incorporated as part of an industrial wastewater discharge permit issued under Section 8 and made of the acceptance of the wastewater from such facility.

(3) **Plans Specifications, and Construction.** Plans, Specifications and other information relating to the construction or installation of pretreatment facilities required by the director under this ordinance shall be submitted to the director. No construction or installation thereof shall commence until written approval of plans and specifications by the director is obtained. No person, by virtue of such approval, shall be relieved of compliance with other laws of the city, county, or state relating to construction and to permits. Every facility for the pretreatment or handling of industrial wastes shall be constructed in accordance with the approved plans and specifications and shall be installed and maintained at the expense of the occupant of the property discharging the industrial wastes.

(4) **Sampling and Monitoring Facility.** Any person constructing a pretreatment facility, as required by the director, shall also install and maintain at his own expense a sampling manhole or other suitable monitoring access for checking and investigating the discharge from the pretreatment facility to the collection line. The sampling manhole or monitoring access shall be placed in a location designated by the director and in accordance with specifications approved by the director.

Section 8. Industrial Waste Discharge Permits.

(1) **Requirements for a Permit.** All users discharging or proposing to discharge industrial wastes into the wastewater treatment system shall obtain an industrial waste discharge permit from the city if:

- (a) The discharge is subject to promulgated national categorical pretreatment standards; or
- (b) The discharge, as determined by the director, contains pollutants in concentrations or quantities that interfere or have the potential to interfere with the operation of the wastewater treatment system; has a significant impact or potential for a significant impact on the wastewater treatment system, either singly or in combination with other

contributing industries; or increases the cost of operation of the wastewater treatment system; or

(c) The discharge requires pretreatment in order to comply with the discharge limitations set forth in Section 3 of this ordinance; or

(d) The discharge contains suspended solids or BOD in excess of 350 mg/l, or in excess of thirty (30) pounds in any one day; or

(e) The discharge contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the wastewater treatment plant; or

(f) The discharge contains wastes requiring unusual quantities of chlorine (more than 20 mg/l) for treatment at the treatment plant; or

(g) The discharge exceeds a total flow of 25,000 gallons in any one day.

(2) **Permit Exemptions.** Upon finding that an industrial user meeting the criteria in subsections (b) through (g) above has no reasonable potential for adversely affecting the wastewater treatment plant's operation or for violating any pretreatment standard of requirement, the director may at any time, on his own initiative or in response to a petition received from the industrial user, and in accordance with 40 CFR 403.8 (f) (6), determine that such industrial user is not a significant industrial user and exempt from the industrial waste discharge permit requirements.

(3) **Permit Applications.** All existing dischargers required to have a permit shall apply within ninety (90) days of enactment of this ordinance. Applications for an industrial waste discharge permit shall be made to the director on forms provided by the city. The application shall not be considered as complete until all information identified on the form is provided, unless specific exemptions are granted by the director. Completed applications shall be made within thirty (30) days or, for new dischargers, at least ninety (90) days prior to the date that discharge to the wastewater treatment system is to begin. Any discharger with a valid permit who proposes to make a change in its existing discharge which will significantly change the volume of flow or characteristics of the discharge or establish a new point of discharge shall reapply at least sixty (60) days before making the change.

(4) **Industrial Waste Inspection.** After the submitted discharge permit application has been received and reviewed, the director may schedule with the applicant an industrial waste inspection. The industrial waste inspection will consist of an interview with applicant personnel and plant tour. At the interview, the applicant's application, waste generating process, water consumption, wastewater composition and quantities of wastewater flow may be discussed. An industrial waste sampling point will be identified. The sampling location, if appropriate and acceptable to the director, will be used for both self-monitoring and for water quality and quantity monitoring and permit enforcement by the city.

(5) **Issuance of Permit.** After full evaluation and acceptance of the data furnished by director, the director shall issue an industrial waste discharge permit subject to the terms and conditions provided herein, and upon payment of the application fee. Dischargers shall pay the renewal fee as each renewal date is obtained. Fees shall be set by resolution of the city council.

(6) **Permit Conditions.** Industrial waste discharge permits shall specify, where applicable, the following:

- (a) Fees and charges to be paid upon initial permit issuance;
- (b) Limits on the average and maximum wastewater constituents and characteristics;
- (c) Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;
- (d) Requirements for installation and maintenance of inspection and sampling facilities compatible with facilities of the city;
- (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 the same differ from those prescribed by this ordinance;
- (h) An effective date and expiration date of the permit;
- (i) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the director, and affording city access thereto;
- (j) Requirements for notification to the director of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (k) Requirements for notification of slugload discharges;
- (l) Other conditions as deemed appropriate by the director to ensure compliance with this ordinance.

(7) **Permit Modifications.** The director reserves the right to amend any industrial waste discharge permit issued hereunder in order to assure compliance by the city with applicable laws and regulations. Within nine (9) months of the promulgation of the National Categorical Pretreatment Standard, the industrial waste discharge permit of each discharger subject to such standards shall be revised to require compliance with such standards if more stringent within the time frame prescribed by such standards. All National Categorical Pretreatment Standards adopted after the promulgation of this ordinance shall be enforced by the city as part of this ordinance. Where a discharger subject to a National Categorical Pretreatment Standard has not previously submitted an application for a waste discharge permit as required herein, the discharger shall apply for a waste discharge permit from the director within one hundred and eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard by the EPA. The discharger shall be informed of any proposed changes in his permit as least thirty (30) days prior to the effective date of change.

(8) **Permit Duration / No Property Interest Acquired.** All industrial waste discharge permits shall be issued for a specified time period, not to exceed five (5) years, as determined by the director and subject to amendment, revocation, suspension or termination as provided in this ordinance. No discharger acquires any property interest by virtue of permit approval and continued approval is expressly contingent upon compliance with all applicable federal, state, and local requirements.

(9) **Limitations on Permit Transfer.** Industrial waste discharge permits are issued to a specific discharger for a specific operation and are not assignable to another discharger or transferable to any other location without the prior written approval of the director.

[As amended by Ordinance No. 209, Section 1, enacted August 16, 1994]

Section 9. Reporting Requirements.

(1) **Initial Compliance Report for Current Dischargers.** Within one-hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard issued by the Environmental Protection Agency (EPA) or within ninety (90) days after receiving notification from the city that such a standard has been issued, whichever is sooner, existing dischargers subject to such standards shall submit to the dischargers subject to such standard shall submit to the director a baseline monitoring report, as required by the EPA pretreatment regulations, which includes the following:

(a) The name and address of the facility and the name of the owner and operator;

(b) A list of any environmental control permits on the facility;

(c) A description of the operation(s);

(d) The average and maximum daily flow;

(e) The levels of the particular pollutants that are regulated in the standard;

(f) A statement as to whether the applicable standards are being consistently met and, if not, what additional measures are necessary to meet them; and

(g) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the needed pretreatment and/or operation and maintenance can be provided. The report shall be reviewed and signed by an authorized representative of the discharger and certified by a qualified professional engineer.

(2) **Compliance Reports for New Dischargers.** New dischargers subject to categorical pretreatment standards issued by the EPA shall submit to the director, following the commencement of their discharge into the wastewater treatment system, a report which contains the information listed in items (a) through (g) above.

(3) **Reports in General.** These reports shall be completed in compliance with the specific requirements of Section 403.12 of the General Pretreatment Regulations for Existing and New

Sources (40 CFR Part 403) promulgated by the EPA on January 28, 1981, or any subsequent revision thereto. If the information required by these reports has already been provided to the city and that information is still accurate, the discharger may reference this information instead of submitting it again.

(4) **Report on Compliance.** Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of the new discharger, following commencement of the introduction of wastewater into the wastewater treatment system, any discharger subject to pretreatment standards and requirements shall submit to the director a report indicating the nature and concentration of all pollutants in the wastestream from the regulated process and the average and maximum daily flow for these process units. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance 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 and certified by a qualified professional engineer.

(5) **Schedule for Compliance.** If the discharger is required to install additional pretreatment or provide additional operation and maintenance, a schedule will be required to be submitted. The schedule shall contain increment of progress in the form of dates for commencement and completion of major events leading to the construction and operation of additional pretreatment or operation and maintenance. No increment of progress shall exceed nine (9) months. The discharger shall submit a progress report to the director including, at a minimum, whether or not it is complied with the increment of progress to be met on such a 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 schedule established. This progress report shall be submitted no later than fourteen (14) days following each date in the schedule and the final date of compliance. In no event shall more than nine (9) months elapse between such progress reports to the director.

(6) **Periodic Compliance Reports.**

(a) Any discharger that is required to have an Industrial Wastewater Discharge Permit pursuant to this ordinance shall submit to the director during the months of June and December, unless required on other dates and/or more frequently by the director, a report indicating the nature of its effluent over the previous six-month period. The report shall include, but is not limited to, a record of the concentrations (and mass if limited in the permit) of the limited pollutants that were measured and a record of all flow measurements that were taken.

(b) The frequency of the monitoring shall be determined by the director and specified in the industrial wastewater discharge permit. If there is an applicable effective Federal Categorical Pretreatment Standard, the frequency shall be not less than that prescribed in the standard.

(c) Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the director may accept reports of average and maximum flows estimated by verifiable techniques.

(d) The director may require reporting by dischargers that are not required to have an industrial wastewater discharge permit if information and/or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the wastewater treatment system.

(e) The director may require self-monitoring by the discharger, or if requested by the discharger, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report. If the director agrees to perform such periodic compliance monitoring, the city will charge the discharger for the monitoring based upon the costs incurred by the city for the sampling and analysis. However, the director is under no obligation to perform the periodic compliance monitoring for a discharger. Periodic compliance monitoring is that monitoring which is necessary to provide the information on discharge quantity and quality required for the periodic compliance reports.

Section 10. Inspection and Sampling.

(1) **Inspection.** Authorized city representative may inspect the monitoring facilities of any discharger to determine compliance with the requirements of the ordinance. The discharger shall allow the director or its authorized representatives to enter upon the premises of the discharger at all reasonable hours, for the purpose of inspection sampling, or records examination. The director shall also have the right to set up on the discharger's property such monitoring and/or metering operations. The right of entry includes, but is not limited to, access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling wastes, and storing records, reports or documents relating to the pretreatment, sampling, or discharge of the wastes.

The following conditions for entry shall apply:

- (a) The authorized city representative shall present appropriate credentials at the time of entry;
- (b) The purpose of the entry shall be for inspection, observation, measurement, sampling,
- (c) The entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the director; and
- (d) All regular safety and sanitary requirements of the facility to be inspected shall be complied with by the city representative(s) entering the premises.

(2) **Sampling.** Samples of wastewater being discharged into the wastewater treatment system shall be representative of the discharge and shall be taken after treatment, if any, and before dilution by other water. The sampling method shall be one approved by the director. All sample analysis shall be performed in accordance with the procedures set forth in 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publications "Sampling and Analysis Pollutants," April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the United States Environmental Protection Agency (EPA).

(3) Monitoring Facilities.

(a) When Required. Any person discharging industrial waste into the wastewater treatment system which requires an industrial wastewater discharge permit, shall, at their own expense, construct and maintain an approved control manhole, together with such flow measurement, flow sampling and sample storage facilities as may be required by the director. The facilities required shall be such as are reasonable necessary to provide adequate information to the director to monitor the discharge and/or to determine the proper user charge.

(b) Location. Such monitoring facilities shall be located on the discharger's premises except when, under circumstances approved by the director, it must be located in a public street or right-of-way. In no event shall the monitoring facilities be obstructed by landscaping or parked vehicles.

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

(d) Construction. Whether constructed on private or public property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the director.

(e) Access. Dischargers shall allow the authorized representatives access to monitoring facilities on their premises at all times. The city shall have the right to set up such supplementary monitoring equipment as it may require.

(f) Charge Based on Water Flow. The director may, in lieu of requiring measurement sampling and may, in lieu of requiring measurement sampling and monitoring facilities, procure and test, at the user's expense sufficient composite samples on which to base and compute the user charge. In the event that measurement sampling and monitoring facilities are not required, the user charge shall be computed using the metered water flow to the premises as a basis for waste flow and the laboratory analysis of samples procured as the basis for computing BOD and suspended solids content. Metered water flow shall include all solids content. Metered water flow shall include all water delivered to or used on the premises. In the event that private water supplies are used, they shall be metered at the user's expense. Cooling waters or other waters not discharged into the wastewater treatment system may be separately metered at the user's expense in a manner approved by the director, and all or portions of these waters deducted from the total metered water flow to the premises subject to director approval.

Section 11. Change in Permitted Discharge. It shall be the responsibility of every discharger with an industrial wastewater discharge permit to report to the director any changes (permanent or temporary) to the discharger's premises or operations that change the quality or quantity of the wastewater discharge. Changes in the discharge involving the introduction of a wastestream(s) not included in or covered by the discharger's industrial wastewater discharge permit itself shall be considered a new discharge, requiring the completion of an application as described under Section 6. Any such reporting shall not be deemed to exonerate the discharger from liability for violations of this ordinance.

Section 12. Records. All dischargers subject to this ordinance shall retain and preserve for not less than three (3) years all records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analysis made by or on behalf of the discharger in connection with its discharge. All such records shall be subject to review by the city. All records which pertain to matters subject to appeals or other proceedings before the director or the council, or any other enforcement or litigation activities brought by the city shall be retained and preserved until such time as all enforcement or other activities have concluded and all periods of limitation with respect to any and appeals have expired.

Section 13. Confidential Information.

(1) **Public Inspection.** Information and data furnished to the director regarding frequency and nature of discharges to the director regarding frequency and nature of discharges into the wastewater treatment system shall be available to the public or other governmental agencies without restriction unless the discharger claims when submitting data, and satisfies the director of the validity of the claim, that release of the information would divulge information, processes or methods of production entitled to protection as trade secrets under federal laws or ORS 192.500(1) (b), or proprietary information of the discharger. Such portions of proprietary information of the discharger. Such portions of a discharger's report which qualify as trade secrets shall not be made public.

(2) **Disclosure in Public Interest.** Nothing in subsection (1) above shall prevent disclosure of any information submitted by a discharger when the public interest in that case requires disclosure. Disclosure to other governmental agencies for uses related to this ordinance is in the public interest.

(3) **Notice to Discharger.** No information accepted by the director as confidential shall be transmitted unless and until notice is given to the discharger who supplied it.

[Sections 14 to 16 reserved for expansion]

USER CHARGES AND FEES

Section 17. User Fees.

(1) **Fees.** Each user of the wastewater system shall pay a monthly fee sufficient to provide for the costs of operation and maintenance, debt service, costs of capital improvement and replacement, and administrative costs.

(2) **User Classification.** The City Council shall designate "user classifications," which shall be based on types of activities conducted by users of the wastewater system and the typical characteristics of wastewater produced by such types of activities, including, but not limited to, flow, suspended solids and BOD. The City shall assign to each user the "user classification" which most closely conforms to the user's type of activity and typical wastewater characteristics.

(3) **Fee Determination.** The City Council shall establish by resolution a schedule of fees for each user classification. The fees shall be based on the costs of operation and maintenance,

debt service, costs of capital improvement and replacement, and administrative costs, and shall be structured so as to ensure equitable allocation among all user classifications for such costs.

(4) **Annual Review of Fees.** The City Council shall review the fee schedule annually and revise the schedule as necessary to ensure adequate revenues are generated to pay the costs of operation and maintenance, debt service, costs of capital improvement and replacement, and administrative costs.

Section 18. Water Usage; Metering.

(1) **Calculation of Fees on Total Volume of Water Consumed.** User fees shall be calculated upon the total amount of water consumed from all sources, public and private. Total amount of water consumed shall be determined by meters upon all public and private sources furnishing water to the user.

(2) **Partial Exemption from Fees.**

(a) A user may apply to the city manager for a partial exemption from the user fee. Any user seeking a partial exemption must submit a written application for an exemption, along with proof that the total amount discharged into the wastewater system by the user is materially less than the total amount of water consumed by the user. As used in this section, the volume of water discharged into the system is "materially less" if the average monthly amount of water discharged is less than sixty percent of the average monthly amount water consumed.

(b) Any user granted a partial exemption shall pay user fees for only that volume of water actually discharged into the wastewater system.

(c) Any user granted a partial exemption shall install and maintain, at the user's sole expense, a meter to measure the volume of water diverted to other uses. The director shall approve the type and location of the meter. At any time when deemed necessary by the director, the meter shall be tested by an approved testing contractor for accuracy, at the user's sole expense. The user shall obtain readings from the meter on a monthly basis and provide them to the City on or before a date specified by the director. The user shall be solely responsible for the expense of all meter reading services. The supplier of such meter reading services shall be approved by the director.

(d) In order to defray the administrative costs incurred by the City in calculating a partial exemption of fees, as provided for in subparagraphs "A" through "C" above, the City shall assess an administrative fee of ten percent (10%) of the partial exemption, that will be deducted from the fee returned to the user.

(3) **Users Not on Water System.** If a user's property is not connected to the municipal water supply system and the director determines it is unnecessary to install a wastewater meter, for the purpose of determining the user fee the volume of water discharged may be estimated by the director. The estimate shall be based on the activity conducted on the premises, number of fixtures producing wastewater, number of residents or persons contributing to the production of wastewater, and such other factors deemed necessary by the director to estimate the volume of water discharged.

(4) **Excessive Treatment Charge.** If the director determines a user is discharging or has discharged wastewater on a sustained, periodic, or accidental basis, in a volume or with characteristics which cause the City to incur additional costs above normal costs associated with treating wastewater, the user shall be billed for any additional costs resulting from that user's discharge.

(5) **Adjustment to User's Fee.**

(a) If a water line serving the user's premises is broken, and subsequently the water does not enter the sanitary sewer system, resulting in a user fee which is materially greater than the user's average monthly user fee, the user may apply to the director for an adjustment to the user fee charged for the month or months during which the break occurred. Any such application shall be made within three months of the date of repair of the break.

(b) The user shall present evidence to the director of the break, repair of the break, and the user's average monthly user fee. Upon satisfaction that a break has occurred, been repaired and that the user fee was materially greater than the user's average monthly user fee, the director shall rebate an amount to the user equal to the difference between the user fee actually charged and the average monthly user fee for a period not to exceed twelve (12) months. As used in this subsection, a user fee is "materially greater" if the user fee is one hundred and thirty percent of the average monthly user fee.

Section 19. Collection Procedures.

(1) **Collection of User Fees.** The City may use the Coos Bay/North Bend Water Board to bill users and collect user fees from users who are customers of the municipal water system; all other users will be billed and user fees collected by the City. All payments shall be deposited into the City of Coos Bay wastewater fund.

(2) **Review of Fees.** Any user who believes his or her user fee is based on inaccurate measurements or has grounds to contest the director's estimate of volume of wastewater discharged may file a written request for review of his or her user fee with the city manager. The request for review shall state the basis for the user's objection and shall include a statement of the user's measurement or estimated volume of discharge and shall state the method whereby the user's measurements or estimates were made. If the user demonstrates inaccurate measurements or estimates, the user fee shall be adjusted upwards or downwards, as the case may be, and the new fees shall be charged commencing with the following month's billing.

(3) **Failure to Pay.**

(a) All user fees charged are debts due the city. Payments more than fifteen (15) days delinquent may be recovered by civil action against the property owner.

(b) In addition, failure to pay shall subject the user to discontinuance of water service, and the Coos Bay/North Bend Water Board is hereby authorized to enforce these provisions as to any and all delinquent users.

- (4) **Perpetual Lien.** Until paid, all charges imposed by Sections 18 and 19 shall constitute a perpetual lien on and against the property connected to the wastewater treatment system

[Sections 20 to 24 reserved for expansion]

CONNECTIONS AND PRIVATE WASTEWATER DISPOSAL

Section 25. Initiation of Connection to the Wastewater System.

- (1) A connection to the wastewater system may be initiated as follows:
- (a) Any person may request a connection to the wastewater system to serve property owned by that person;
 - (b) The City Council may initiate a connection to the wastewater system to serve property owned by any person, upon finding that connection is necessary to protect public health and safety.
- (2) A request to connect to the wastewater system shall be in writing and shall contain a map of the property to be served by connection to the system, identifying the property by address and tax map and lot number and any other relevant information required by the director.

Section 26. New Connections to Wastewater System.

- (1) **Permits.** Any person who intends to connect a private lateral, service lateral or new collection to an existing collection line shall apply to the director for a connection permit. The application shall include plans, specifications, or other information deemed necessary by the director to determine compliance with all ordinances, regulations, or rules relating to the wastewater system.
- (2) **Construction.** The size, slope, alignment, and materials for private laterals and service laterals, and the methods to be used for excavating, placing pipes, jointing, testing, and backfilling trenches, shall conform to all applicable rules and regulations.
- (3) **Excavations.** A permit shall be obtained from the director for any work performed within a public right of way. All excavation for installation or repair of private laterals, service laterals, force mains, collection lines or other connections or appurtenances shall be adequately guarded with barricades and lights and shall meet all applicable safety standards. Streets, sidewalks, parkways, and other public property disturbed in the course of installation or repair shall be restored in a manner satisfactory to the director.
- (4) **Commencement of Construction.** Construction of a building or facility to be served by the wastewater system shall be commenced within one hundred eighty (180) days from the date of the issuance of the connection permit and shall be completed without suspending or abandoning the construction. Failure to commence construction within one hundred and eighty days will result in cancellation of the permit and forfeiture of all fees paid.

(5) **Inspection.** The permittee shall notify the director when the private lateral, service lateral, force main, or new collection line is ready for connection to the existing collection line. The City shall inspect the connection but shall not be liable for any deficiency or defect in the private lateral, service lateral or force main which is not discovered during inspection. The owner or developer of the property connected to the collection line shall correct any deficiency or defect upon discovery and shall be liable for any damage resulting from deficiency or defect, known or unknown.

(6) **Existing Lines.** Existing unused private laterals or service laterals may be used to connect new buildings to the wastewater system only when the private lateral or service lateral is found upon inspection and testing by the director to meet all requirements of this section.

(7) **Facilities Unable to Utilize Gravity Flow.** In any buildings where a building drain is of insufficient elevation to allow discharge of wastewater into the service lateral or collection line by gravity flow, the wastewater discharged by such drain shall be pumped and discharged into the collection line. The means whereby the wastewater is so pumped shall be approved by the director.

(8) **Connection to Wastewater System by Gravity Lines.** If a pump station and force main is required to serve a development, the wastewater system for that development shall be designed, where possible, so as to permit eventual connection into the wastewater system by gravity lines. If necessary, the developer shall provide easements for eventual connection by gravity lines into the wastewater system. The City may require a deposit from the developer to pay for the eventual connection to the wastewater system by gravity lines.

(9) **Costs of Construction.** Except as otherwise provided by this Ordinance, a property owner or developer shall pay all costs for construction, maintenance, and repair, of all components of the wastewater system located on or within the owner's or developer's property, or development, and for the cost of any force main connecting a private pump station with the wastewater system.

Section 27. Separate Private Laterals Required; Exceptions.

(1) **Separate Laterals Required.** Except as otherwise provided in this section, a separate private lateral shall be provided to connect each building to a collection line.

(2) **Multiple Building Exception.**

(a) Multiple buildings located on a single lot, parcel, or unit of land may be connected to a single service lateral as provided by applicable codes, ordinances, and other regulations.

(b) **Subdivision of Lot or Change to Separate Ownership.** If the lot, parcel or unit of land upon which the multiple buildings are located is subdivided or the buildings come under separate ownership, separate private laterals shall be provided for each building and connected to a collection line.

(3) **Service Lines for Multiple Buildings Not on a Single Lot, Parcel, or Unit of Land.** A service lateral for multiple buildings not on a single lot, parcel, or unit of land may be approved

by the director, if the property owner or owners demonstrate they have established an entity responsible for the maintenance and repair of the service lateral, and the service line meets all applicable codes, ordinances, and other regulations. Should the entity so established cease to exist or to maintain the service lateral, the owners of the property so served shall immediately notify the director of this fact, at which time separate private laterals shall be provided.

Section 28. Owner Responsibility for Maintenance and Repair of Laterals.

(1) **Private Laterals.** The owner of a building connected to the wastewater system is responsible for the maintenance and repair of the private lateral and any appurtenances, including the connection to the collection line. The owner shall keep the private lateral in good condition and repair and shall replace, at the owner's expense, any portions which, in the opinion of the director, have become unfit for further use because of damage to or disintegration of the private line.

(2) **Service Laterals.**

(a) If more than one building is connected to a service lateral, then the owners of the each building shall be jointly and severally responsible for the maintenance and repair of the service lateral as provided in subsection (1) of this section.

(b) The director may impose additional requirements upon any owners of property connected to a service lateral to assure proper maintenance and repair and to allow the monitoring of wastewater quantity or quality.

(3) **Permits and Inspections.**

(a) Prior to repair or alteration of a private lateral or service lateral, the owner or owners must obtain all required permits from the City. Issuance of a permit shall be conditional upon compliance with all ordinances and regulations applying to the wastewater system.

(b) The City shall inspect the construction, but shall not be liable for any deficiency in the repair or alteration. After inspection, the owner shall return public rights of way to a condition acceptable to the director. The City shall not be liable for any claims for damage resulting from any deficiency or defect in the repair or alteration not reasonably discoverable at time of inspection and shall not be responsible for correction of any deficiency or defect in the repair or alteration.

(c) The City may enter upon any private property to test or inspect private laterals or service laterals. Any such entry shall be made only after a 48-hour notice of inspection has been posted on a conspicuous place on the property or properties. If leaks or unauthorized connections are located, notice will be sent to the property owners directing appropriate repairs or other corrective action be made within a specified time.

Section 29. Disconnection from the Wastewater System. If a user wishes to disconnect his or her building from the wastewater system, the user shall, at his or her sole expense, cap the private lateral at the property line. No new private lateral to replace an existing private lateral to be abandoned shall be approved until the abandoned private lateral is removed and properly capped. Caps shall be sufficiently

tight to prevent the escape of wastewater or the infiltration of ground water or stormwater into the wastewater system.

Section 30. Collection Lines in New Developments.

(1) **Plat Approval Required.** No collection lines, private laterals, service laterals, force mains, pump stations or other appurtenances to the wastewater system shall be constructed in any addition or subdivision in the City until the tentative plat therefore has been approved as provided in the City's Land Development Ordinance.

(2) **Extension of System.** Collection lines from and throughout areas of new development shall be extended at the owner and/or developer's sole expense. Private laterals and service laterals shall be extended by the owner and/or developer from the collection line to the property line of the lot or parcel to be serviced thereby. All collection lines and private laterals and service laterals shall be extended in compliance with all applicable codes, ordinances, and other regulations.

Section 31. Private Wastewater Disposal.

(1) Where no collection line is located within three hundred feet from any boundary of a property, the owner shall construct and connect to a private sewage disposal system complying with the provisions of this section. The owner shall operate and maintain the private sewage disposal system at all times in a sanitary manner and at the owner's sole expense.

(2) The owner shall obtain a written permit from the Oregon State Department of Environmental Quality before commencement of construction of a private sewage disposal system. Nothing in this section shall be construed to interfere with any requirement which may be imposed by the Oregon State Department of Environmental Quality as a condition of construction or operation of a private sewage disposal system.

(3) When a collection line or service lateral becomes available within three hundred feet of a property served by a private sewage disposal system, the user shall construct a private lateral to connect the property to the wastewater system, and any septic tanks, cesspools, or other private sewage disposal system shall, at the owner's sole expense, be abandoned in accordance with state law.

Section 32. Unauthorized Connections.

(1) **Collection System.** No person shall make any connection to, openings into, use, uncover, alter, or disturb any collection line, private lateral, service lateral or other appurtenance to the wastewater system, without first obtaining all required permits.

(2) **Payment of fees, charges, liens; permits.** No person may connect to the wastewater system unless inspections required by permits have been conducted, all charges and fees have been paid, or any security required by the City has been applied for and approved.

(3) **Discharge into Manholes.** No person shall discharge any substance into a manhole or other opening into the wastewater system except through an inspected and approved private lateral, service lateral or collection line unless approved by the director.

- (4) **Downspouts and Other Surface Runoff to Private Lateral.** No person shall directly or indirectly make or maintain a connection for roof downspouts, exterior foundation drains or any other source of surface runoff or groundwater to the sanitary sewer system.

PERMITS, LINE CHARGES, AND RECOVERY AGREEMENTS

Section 33. Permits Fees. The City Council shall, by resolution, establish a schedule of permit fees for construction, maintenance, or repair of private laterals, service laterals, and collection lines, which shall be paid prior to issuance of a required permit.

Section 34. Line Charges.

- (1) The City Council may, by resolution, establish a line charge to reimburse the City for each new connection to the wastewater system constructed by the City. The line charge shall be based on the actual costs of construction and shall be revised annually to reflect changes to the actual costs incurred by the City in constructing connections. The line charge shall be in addition to any other applicable permit fees and charges required for connection.
- (2) The director shall maintain records, documenting payment of the line charge, which shall include the name of the owner and the location of the parcel connected to the wastewater system. No connection permit shall be issued until the line charge has been paid in full or until provision for installment payments or other acceptable security has been made and approved.

Section 35. Financing Options. The provision of advance financing of public improvements has been established by the enactment of Oregon No. 397, codified as Chapter 2.9 of the municipal city code. Advance financing is described as a method of recapturing costs by a developer, where such developer installs public improvements, and where such public improvements may be utilized by intervening or future properties.

[This section was amended by Ordinance No. 403, enacted 2/19/08]

[Sections 36 and 40 are reserved for expansion]

VIOLATIONS

Section 41. Enforcement Procedures.

- (1) **Public Nuisance.** Any violation of this ordinance or any act or omission by a user which causes the violation of the conditions of an industrial waste discharge permit or NPDES permit is a public nuisance and may be abated or enjoined as provided by law.
- (2) **Emergency Suspension of Service.**
- (a) The city manager may issue a suspension order to discontinue wastewater treatment when the city manager has good cause to believe suspension is necessary to halt actual or prevent threatened discharges which present imminent or substantial danger to health or welfare of the community or the environment, or which causes interference to the wastewater system or a violation of any condition of the city's NPDES permit. A

suspension order shall contain specific findings that an emergency exists and direct the user to immediately cease discharge into the wastewater system and that disconnection may occur if the user does not cease such discharge.

(b) Notice of suspension and a copy of the suspension order shall be served upon the user, which shall inform the user of a right to a hearing under subsection (C) of this section. Upon receipt of the notice and order, the user shall immediately cease all discharge into the wastewater system. If the user fails to comply voluntarily with the suspension order, the city manager shall take all steps deemed necessary to prevent or minimize danger or damage, up to and including disconnection to the wastewater system.

(c) If the city initiates disconnection to the wastewater system, a hearing shall be scheduled before the city manager as soon as practicable, but in no event later than ten days after the notice and order of suspension has been served upon the user. The user shall have the opportunity to present evidence to rebut the city manager's finding of emergency.

(d) The city manager shall order reinstatement of wastewater service, upon proof the actual or threatened discharge has been abated. A detailed written statement shall be submitted by the user within fifteen days of the date of occurrence, describing with particularity the causes of the discharge or threatened discharge and the remedial measures undertaken to correct the condition and prevent future occurrences. If the user fails to submit such report, the City may seek a temporary or permanent injunction to prevent future occurrences, and failure to submit such report shall be prima facie evidence that the user does not intend to undertake remedial measures.

(3) **Violations.**

(a) **Notice of violation.** Whenever the director finds a user has violated or is violating any provision of this ordinance, the director shall provide the user with a written notice of violation stating the nature of the violation and providing a reasonable time, not to exceed thirty days, for satisfactory correction thereof.

(b) **Show Cause Hearing.** If the violation has not been corrected within the time period specified in the notice of violation, the director shall order the user to show cause before the city manager why the specified enforcement action should not be taken.

(4) **Appeals of Notices of Violation**

(a) Any user who has received notice of violation from the director and who denies the alleged violation may request a hearing before the city manager. The request shall be in writing and shall be filed not more than twenty days after the notice of violation has been served. Failure to file a request shall be jurisdictional and shall operate as a conclusive admission of all facts on which the suspension or notice of violation is based.

(b) The city manager shall set a date for hearing at the earliest practical time. Notice of the date for hearing shall be served personally or by certified mail on the user at least ten (10) days before the hearing.

(c) After hearing and upon review of the evidence presented, the city manager may:

- (1) Issue an order stating that no violation has occurred;
- (2) Issue an order stating a violation has occurred and directing that the wastewater service be discontinued until the violation is corrected;
- (3) Issue such other or further orders and directives as are necessary and appropriate.

(d) **Reconsideration.** Any person aggrieved by any decision of the city manager may file a written request with the city manager for reconsideration within ten (10) days of the issuance of the order. The request for reconsideration shall set forth in reasonable detail the decision or action and the facts and arguments supporting the person's request for reconsideration. The city manager shall render a final written determination within ten (10) days of the receipt of the request for reconsideration. The filing of a request for reconsideration shall be a condition precedent to the right to appeal to the City Council pursuant to this Section.

(5) Appeals to the City Council.

(a) A person may appeal the decision of the city manager to the City Council by filing a written notice of intent to appeal with the city recorder, within ten (10) days after user has been provided with a final written decision.

(b) The notice of intent to appeal shall be on a form provided by the City and shall set forth in reasonable detail the decision or action appealed from, and the facts and arguments supporting the appellant's request for reversal or modification of the city manager's determination.

(c) A hearing shall be conducted by the Council on the appeal according to procedures established by the City. The Council shall affirm, reverse, or modify the order of the city manager.

Section 42. Damages, Penalties and Costs.

(1) **Damages.** Any person who violates this ordinance shall be liable to the City for all costs resulting from such violation, and any penalties, including grant money withheld, assessed against the City for violation of state or federal permits. As used in this section, costs shall include reasonable attorney's fees included in defending an action brought by a regulatory agency against the City for violation of a wastewater discharge permit or environmental law.

(2) Civil Penalties.

(a) **Violations.** Any user who is found to have violated an order of the City or to have willfully or negligently failed to comply with any provision of this ordinance, or orders, rules, regulations, and permits issued hereunder, shall, upon conviction, be fined not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(b) **Falsifying Information.** Any person who knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished by a fine of not less than one thousand dollars (\$1,000) and nor more than five thousand dollars (\$5,000).

(3) **Lien.** Any judgment or order assessing damages, civil penalties, or fines shall be a lien on the real property served by the wastewater system which is the subject of the assessment, and shall be docketed on the City's lien docket.

[Section 43 and 47 reserved for expansion]

Section 48. Severability. The sections and subsection of this ordinance are severable. the invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

Section 49. Conflict. In the event that any provision of this ordinance conflicts or is otherwise inconsistent with the latest edition of the Uniform Plumbing Code the provisions of this ordinance shall prevail.

Section 50. Repeal. Ordinance No. 2633, passed April 14, 1975, as amended by Ordinance No. 2659, passed January 12, 1976, and as amended by Ordinance No. 24, passed May 14, 1984, is hereby repealed.

[Sections 17 – 34 were repealed and new sections 17-47 were added, by Section 3, Ordinance No. 331, enacted January 7, 2003. Sections 35 – 37 were renumbered to 48 – 50 by Section 4, Ordinance No. 331, enacted January 7, 2003.] Passed by the council and approved by the mayor January 24, 1989.