

ORDINANCE NO. 5637

AN ORDINANCE ESTABLISHING ALBANY MUNICIPAL CODE TITLE 10.06 TO PROVIDE LANGUAGE REGARDING THE INDUSTRIAL PRETREATMENT PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Albany wants to establish a Municipal Code dedicated to industrial pretreatment regulations; and

WHEREAS, the City of Albany desires industrial wastewater pretreatment regulations found in the Albany Municipal Code to be current and compliant with Federal and State regulations.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Title 10.06 of the Albany Municipal Code is hereby established to incorporate the language herein:

Chapter 10.06

WASTEWATER COLLECTION AND TREATMENT SYSTEM – REGULATION OF INDUSTRIAL WASTES

Sections:

10.06.010	General provisions.
10.06.020	Abbreviations.
10.06.030	Definitions.
10.06.040	Regulations.
10.06.050	Hauled Waste.
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10.06.070	Pretreatment Facilities
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10.06.100	Severability.

10.06.010 General provisions.

This chapter provides for the orderly and efficient functioning of the City of Albany publicly-owned treatment works, through regulation of discharges into the wastewater treatment system by enforcement of administrative regulations.

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

The objectives of this chapter are:

- (a) To protect the health of the City employees working in the City wastewater treatment system;
- (b) To prevent the introduction of pollutants into the City wastewater treatment system that will interfere with the normal operation of the system, or contaminate the resulting sludge;
- (c) To prevent the introduction of pollutants into the City wastewater treatment system that do not receive adequate treatment in the Publicly Owned Treatment Works (POTW) and that will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (d) To improve the opportunity to recycle and reclaim wastewater and sludge from the system; and
- (e) To allow the use of fees and charges to recover the costs of operation, maintenance, and administration of the wastewater treatment system.

(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 service area.

(3) Compliance with Standards. Pollutants shall be accepted into the City wastewater treatment 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 treatment 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.

10.06.020 Abbreviations.

The following abbreviations shall have the designated meanings:

ASPP - Accidental Spill Prevention Plan
ASTM - American Society for Testing and Materials
BOD - Biochemical Oxygen Demand
CFR - Code of Federal Regulations
COD - Chemical Oxygen Demand
CWA - Clean Water Act
DEQ - Oregon Department of Environmental Quality
EPA - U.S. Environmental Protection Agency
L - Liter
mg - Milligrams
mg/L - Milligrams per liter
NDCIU - Non-discharging categorical industrial user
NPDES - National Pollutant Discharge Elimination System
O & M - Operation and Maintenance
POTW - Publicly Owned Treatment Works
SIC - Standard Industrial Classification
SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
TSS - Total Suspended Solids
USC - United States Code.

10.06.030 Definitions.

For the purposes of this section, the following words, phrases, abbreviations, terms and their derivatives shall be construed as specified in this section. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine, and the feminine the masculine:

(1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

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

(3) Applicant. A person who applies for sewer service or a sewer connection.

(4) Approval Authority. The Oregon Department of Environmental Quality (DEQ).

(5) Authorized Representative of Industrial User. An authorized representative of an industrial user shall 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;
or

(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 days at 20 degrees 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 Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1317) that applies to a specific category of industrial users and that appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471, incorporated herein by reference.

(9) City. The City of Albany, a municipal corporation of the State of Oregon.

(10) City Manager. The person designated by the Albany City Council to act as the administrative head of the City government and who is charged with certain duties and responsibilities by this chapter, or the duly authorized representative.

(11) Commercial User. Any person who contributes, causes or permits the contribution of wastewater into the City's POTW that by nature of the services rendered is of a dissimilar volume or chemical makeup than that of a domestic user. Examples of commercial users may include but are not limited to restaurants, grocery stores, and car washes.

(12) Control Authority. The Director of Public Works for the City of Albany.

(13) Cooling Water. The water discharged from any use such as air conditioning, cooling, or refrigeration, to which the only pollutant added is heat.

(14) Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.

(15) Director/Director of Public Works. The person designated by the City Manager to supervise the Public Works Department and who is charged with certain duties and responsibilities by this chapter, or the duly authorized representative.

(16) Discharge. The discharge or introduction of pollutants into the municipal wastewater treatment system from any nondomestic user.

(17) Discharger/Industrial Discharger. Any nondomestic user who discharges an effluent into the wastewater treatment system by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliance appurtenant thereto.

(18) Domestic sewage or domestic waste. The liquid and water borne wastes derived from the ordinary living processes, free from industrial wastes, and of such character as to permit satisfactory disposal, without special treatment, into the public sewer or by means of a private sewage disposal system.

(19) Domestic User. Any person who discharges only domestic waste.

(20) Domestic Water Supply. Any water supply system that serves potable water and may include for the purposes of this chapter, wells that supply potable water.

(21) 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.

(22) Garbage. The residue from the preparation and dispensing of food, and from the handling, storage, and sale of food products and produce.

(23) Grab Sample. A sample that 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.

(24) Hauled Waste. Waste including septage, wastewater, or chemical toilet waste that is hauled for discharge into the City wastewater treatment system.

(25) Indirect Discharge. The discharge or the introduction of pollutants from an industrial user into a POTW.

(26) Industrial User. Any person, including a waste hauler that discharges wastewater that is not domestic waste.

(27) 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.

(28) Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources:

(a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes; use or disposal; and

(b) Is a cause of a violation of any requirements of the NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

(29) National Pretreatment Standard. National pretreatment standard is defined in 40 CFR 403.3 (j) as any regulation containing pollutant discharge limits promulgated by EPA under Section 307(b) and (c) of the Clean Water Act applicable to industrial users, including the general and specific prohibitions found in 40 CFR 403.5.

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

(31) New Source.

(a) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act that will be applicable to such sources if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

(iii) The production 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 subdivisions, (a)(ii) or (a)(iii) of this subsection 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:

(i) 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 that is necessary for placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be

terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.

(32) Non-discharging categorical industrial user (NDCIU). Any facility or industry having a connection to the City sewer system and having industrial processes that would otherwise be subject to national categorical pretreatment standards, but having no process wastewater discharge.

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

(34) Pass Through. The occurrence of an indirect discharge that exits the POTW into waters of the United States in quantities or concentrations that, alone 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).

(35) 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.

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

(37) Plumbing Fixture. Approved receptacle or devices intended to receive water, liquids or other permissible wastes, and that discharge the same into the soil pipe, waste pipe or special waste pipe with which they are connected and shall include all floor drains.

(38) Pollutant. Any dredged spoil, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(39) 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.

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

(41) Prohibited Discharges. Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the Director.

(42) Publicly Owned Treatment Works (POTW). Any wastewater treatment works and the sewers, conveyances, and appurtenances discharging thereto, owned and operated by the City.

(43) Septage. Either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Septage does not include liquid or solid material removed from a septic tank, cesspool, or similar holding tank that receives industrial waste and does not include grease removed from a grease trap at a restaurant.

(44) 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.

(45) Service Lateral. Any pipe between the main sewer lines of the City and the user's plumbing facilities.

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

(47) Sewerage. The system of sewers and appurtenances for the collection, transportation, and pumping of wastewater.

(48) Sewer Connection Permit. A permit issued to connect buildings or structures to a public sewer.

(49) Sewer, Public. A sewer provided by or subject to the jurisdiction of the City. It also includes sewers within or outside the City boundaries that serve one or more persons and ultimately discharge into the City sanitary sewer system, even though those sewers may not have been constructed with City funds.

(50) Sewer, Sanitary. A sewer that conveys only wastewater and into which storm, surface, and groundwaters are not intentionally admitted.

(51) Sewer, Storm. A sewer that conveys storm, surface, and ground waters and into which wastewaters are not intentionally admitted.

(52) Sewer System Facility Plan. The current version of the facility plan for the development of the

wastewater treatment plant and sanitary sewer system as amended or updated.

(53) Sewer Use Charge. The assessment levied on all users of the public sewer system.

(54) Shall, May. "Shall" is mandatory; "may" is permissive.

(55) Significant Industrial User. Except as provided in subdivision (c) of this subsection, the term "significant industrial user" shall mean:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR I, Subchapter N; and

(b) Any other industrial user that:

(i) Discharges a process waste stream that makes up five percent of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(ii) Discharges to the POTW a process wastewater flow of 25,000 gallons or more per average work day (excluding sanitary, non-contact cooling, and boiler blowdown wastewater); or

(iii) Is designated as significant by the City on the basis that the industrial user has a reasonable potential for causing pass through or interference.

(c) Upon finding that an industrial user meeting the criteria in subdivision (b) of this subsection has no reasonable potential for adversely affecting the municipal wastewater treatment system's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

(56) Significant Noncompliance. An industrial user is determined to be in significant noncompliance if its violation meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken during six-month period exceeded (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceeded the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-termed average) that the City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation or group of violations that the City determines will adversely affect the operation or implementation of the City's pretreatment program.

(57) Slug Load. Any pollutant (including BOD) released in a nonroutine, episodic, or noncustomary batch discharge at a flow rate or concentration that has the potential to cause a violation of the specific discharge prohibitions in AMC 10.06.040.

(58) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(59) Total Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(60) Toxic Pollutant. One of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of Section 307 (33 U.S.C. 1317) of the Act.

(61) Treatment Plant. That portion of the municipal wastewater treatment system designed to provide treatment to wastewater.

(62) Upset. An exceptional incident in which an industrial user unintentionally and temporarily is in a state of noncompliance with the standards set forth in AMC 10.06.080(6) (a) herein due to factors beyond the reasonable control of the industrial user, 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.

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

(64) Utility. The City of Albany, a municipal corporation of the State of Oregon.

(65) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, that is contributed into or permitted to enter the POTW.

(66) Wastewater Discharge Permit. As set forth in AMC 10.06.06.

(67) Wastewater Treatment System. Any wastewater treatment works and the sewers, conveyances, and appurtenances discharging thereto, owned and operated by the City. Same as publicly owned treatment works (POTW).

(68) Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the State, or any portion thereof.

10.06.040 Regulations.

(1) Discharge Prohibitions. No user shall contribute or cause to be discharged, directly or indirectly, any pollutant or wastewater that will cause interference or pass through. These general prohibitions apply to all users of the publicly owned treatment works (POTW) whether or not the use is subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Furthermore, no user may contribute the following substances to the wastewater treatment system:

(a) Any liquids, solids, or gases that 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. Wastewater discharges are prohibited with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21.

(b) Any solid or viscous substances that may cause obstruction to the flow in a sewer or other interferences with the operation of the wastewater treatment system facilities, such as, but not limited to: grease, garbage with particles greater than one-half 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 ten (10.0), except under conditions of continuous pH monitoring as specified in the City's Enforcement Response Plan. In no case shall a user be permitted to discharge wastewater less than 5.0, 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 system process, create a toxic effect on the receiving waters of the POTW, constitute a hazard to humans or animals, or to exceed the limitation set forth in categorical pretreatment standards.

(e) Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health or safety problems.

(f) Any substance that 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 that 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 that will inhibit biological activity in the POTW treatment plant resulting in interference but, in no case, wastewater that causes the temperature at the introduction into the treatment plant to exceed 40 degrees Celsius (104 degrees Fahrenheit). If, in the opinion of the City, lower temperatures of such wastes could harm either the sewers, wastewater 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 unpolluted water including, but not limited to, storm water, surface water, groundwater, roof runoff, parking lot and subsurface drainage, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Public Works Director.

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

(l) Any wastewater containing pollutants in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to pass through or interfere with the POTW, any wastewater treatment or sludge process, or constitute a hazard to humans or animals.

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

(n) Fats, wax, grease, or oils whether emulsified or not, containing substances that may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit (zero degrees Celsius and 65 degrees Celsius).

(o) Any sludges, screenings, or other residues from the pretreatment of industrial waste.

(p) Any hauled waste or septage, except at discharge points designated by the City and authorized in writing by the Director.

(q) Any wastewater causing the treatment plant effluent to demonstrate toxicity to test species during a biomonitoring evaluation.

(r) Any wastewater, residual solvents, or solvent-contaminated waste from dry cleaning machines, as well as solvent-contaminated wastewater from any auxiliary operation at dry cleaning facilities.

(2) Limitations on Wastewater Strength.

(a) Federal Categorical Pretreatment Standards. Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(b) State Requirements. State requirements and limitations on users of the POTW shall be met by all users that 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 AMC 10.06.010 .

(d) Dilution. No user 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 users that are using dilutions to meet the applicable pretreatment standards or requirements of the chapter.

(e) Specific Pollutant Limitations.

(i) No non-domestic user shall discharge wastewater containing restricted substances into the publicly owned treatment works in excess of limitations specified in its wastewater discharge permit or published by the Director. The Director shall publish and revise from time to time standards for specific

restricted substances. These standards shall be developed in accordance with 40 CFR 403.5 and shall implement the objectives of this chapter. Standards published in accordance with this section will be deemed pretreatment standards for the purposes of Section 307(d) of the Act.

(ii) The Director may impose mass limitations in addition to or in place of the concentration limits referenced above.

(3) **Accidental Discharges.** As appropriate, industrial users 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 industrial user'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 industrial users are required to develop an ASPP and require said industrial users to submit the ASPP within 60 days after notification by the City. Each industrial user 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 industrial user from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

(a) Any user required to develop and implement an accidental spill prevention plan shall submit a plan that addresses, at a minimum, the following:

(i) Description of discharge practices, including non-routine batch discharges;

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge that would violate any of the standards in AMC 10.06.040(1).

(iv) If necessary and applicable, procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic chemicals (including solvents), and/or measures and equipment for emergency response.

(b) Industrial users shall notify the City (wastewater treatment plant) immediately upon the occurrence of an accidental or other discharge that may cause potential problems for the POTW. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any industrial user that discharges prohibited materials shall be liable for any incurred 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.

(c) **Written Notice.** Within five 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 that 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 that may be imposed by this chapter or other applicable law.

(d) Signs shall be permanently posted in conspicuous places on industrial user's premises, advising employees who to call in the event of a discharge described in subdivision (a) of this subsection. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedure.

(4) **Special Agreements.** The City reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the wastewater treatment system. In no case will a special agreement waive compliance with a pretreatment standard. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. Industrial users may also request a variance from the categorical pretreatment standard from U.S. EPA. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by U.S. EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

10.06.50 Hauled Waste.

All hauled waste including septage must be discharged at the City of Albany wastewater treatment plant. All discharges at any other point within the wastewater treatment system, including sanitary sewer manholes, are hereby prohibited. Administration and enforcement of hauled waste permits shall be the same as industrial permits, AMC 10.06.060 and 10.06.080.

(1) Permit Required. Any waste hauler must apply for and be issued a hauled waste discharge permit prior to discharge and/or use of treatment plant services.

(2) In addition to the following administration and enforcement requirements, hauled waste dischargers must have the following to obtain a permit:

(a) A valid Oregon Department of Environmental Quality septage hauling permit if applicable; and
(b) Proof of liability insurance with coverage limits as required by the City of Albany Finance Director; and

(c) Indemnity bond, deposit or other payment guarantee sufficient to guarantee payment of treatment fees as determined by the Finance Director.

(3) Permit fees and treatment rates for hauled waste shall be established by Council resolution.

10.06.060 Administration.

(1) Wastewater Discharges. It shall be unlawful to discharge industrial wastes 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 industrial user.

(2) General Disclosure. All industrial users 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 30 days after the effective date of this chapter.

(3) Wastewater discharge permit requirement. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set forth in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with other requirements of Federal, State, and local law.

The Director may require other users, including liquid waste haulers and non-discharging categorical industrial users (NDCIUs) to obtain wastewater discharge permits (as necessary) to carry out the purposes of this chapter.

(4) Disclosure Forms. Significant industrial users 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 users shall file a disclosure form within 60 days after the notification by the City and any proposed industrial user that is a new source shall file a disclosure form a minimum of 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 industrial user shall be made on written forms provided by the City and shall include the following information:

(a) Name, address, and location of the industrial user.

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

(c) Wastewater constituents and characteristics including but not limited to those mentioned in this chapter, including standards contained in AMC 10.06.040(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) Time and duration of discharges.

(e) 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) 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) Activities, facilities, and plant processes on the premises, including all materials that 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 industrial user to comply with this chapter.

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

(i) 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 industrial user 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.

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

(iii) Not later than 14 days following each milestone date in the schedule and the final date for compliance, the industrial user 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 industrial user to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the City.

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

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

(l) A statement signed by an authorized representative of the user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operations and maintenance (O&M) and/or additional pretreatment is required in order to meet the pretreatment standards and requirements.

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

(5) Evaluation of Disclosure. The City will evaluate the complete disclosure form and data furnished by the industrial user and may require additional information. Within 60 days of receipt of a complete permit application, the Director will determine whether or not to issue a wastewater permit. If no determination is made within this time period, the application will be deemed denied. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in AMC 10.06.040, and that in the judgment of the Director may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may take any of the following actions:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of AMC 10.01.070.

(6) 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 categorical pretreatment standards adopted by the EPA after the promulgation of this chapter shall be enforceable by the City through this chapter. Where an industrial user, subject to a categorical pretreatment standard, has not previously submitted a data disclosure form as required by AMC 10.06.060(4), the industrial user 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 industrial user 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 AMC 10.06.060(4)(h) and (i). If deemed necessary by the City, where categorical pretreatment standards are more stringent, the wastewater discharge

permit will be modified. The industrial user shall be informed of any proposed changes in the chapter at least 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.

(7) Wastewater Discharge Permit. Wastewater permits shall include such conditions as are reasonably deemed necessary by the Director to prevent pass through or interference and to implement the objectives of this code.

(a) Wastewater permits must contain the following conditions:

(i) A statement that indicates permit duration, which in no event shall exceed 5 years.

(ii) A statement that the permit is nontransferable without prior notification to and approval from the City and provisions for furnishing the new owner or operator with a copy of the existing permit.

(iii) Effluent limits applicable to the user based on applicable standards in federal, state, and local law.

(iv) Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(v) Statement of applicable penalties for violation of pretreatment standards and requirements, and compliance schedules.

(b) Permits may contain, but need not be limited to, the following:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(ii) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

(iii) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.

(iv) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental or unanticipated discharges.

(v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.

(vi) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the wastewater treatment system.

(vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(viii) Specifications for monitoring programs that may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(ix) Requirements for immediate reporting of any instance of noncompliance and for automatic re-sampling and reporting within 30 days where self-monitoring indicates a violation(s).

(x) Compliance schedules for meeting pretreatment standards and requirements.

(xi) Requirements for submission of periodic self-monitoring or special notification reports.

(xii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in AMC 10.06.060(14) and affording the Director, or his representatives, access thereto.

(xiii) Requirements for prior notification and approval by the Director of any new introduction of wastewater pollutants or of any change in the volume or character of the wastewater prior to introduction in the system.

(xiv) Requirements for the prior notification and approval by the Director of any change in the manufacturing and/or pretreatment process used by the permittee.

(xv) Requirements for the immediate notification of excessive, accidental, or slug loads, or any discharge that could cause any problems to the wastewater treatment system.

(xvi) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those that become effective during the term of the permit.

(xvii) Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and state and federal laws, rules, and regulations; the term of the permit.

(8) Wastewater Permit Modifications. The Director may modify the permit for good cause including, but not limited to, the following:

- (a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.
- (b) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of permit issuance.
- (c) A change in the municipal wastewater treatment system that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (d) Information indicating that the permitted discharge poses a threat to the City's municipal wastewater treatment system, City personnel, or the receiving waters.
- (e) Violation of any terms or conditions of the wastewater permit.
- (f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.
- (g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.
- (h) To correct typographical or other errors in the permit.
- (i) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a permit modification does not stay any permit condition.

(9) Permit Reissue. Industrial users issued permits are required to reapply to the City a minimum of 90 days prior to the expiration date of their existing permit. Reapplication shall be made on a form provided by the City.

(10) Reporting Requirements for Industrial Users.

(a) Final Compliance Report. Within 90 days following the date for final compliance by the industrial user with applicable categorical pretreatment standards and requirements set forth in this chapter or a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source, any industrial user 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 include a statement, signed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operations and maintenance (O&M) and/or additional pretreatment is required in order to meet the pretreatment standards and requirements.

(b) Periodic Compliance Reports.

(i) Any significant industrial users subject to a pretreatment standard shall, at a frequency determined by the Director but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge that are limited to such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with AMC 10.06.060(19).

(ii) Reports of industrial users 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 industrial user shall be as prescribed within the wastewater discharge permit. If an industrial user monitors any pollutant more frequently than required by the wastewater discharge permit, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.

(11) Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 or, if 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA administrator.

(12) Notification and Re-sampling. In the event an industrial user's monitoring results indicate a violation has occurred, the industrial user must immediately (within 24 hours of becoming aware of the violation) notify the City and resample its discharge. The industrial user must report the results of the repeated sampling within 30 days of discovering the first violation.

(13) Inspection and Sampling. The City may inspect the monitoring facilities, and all parts of the premises of any industrial user to determine compliance with the requirements of this chapter. The industrial user shall allow the City or its representatives to enter upon the premises of the industrial user 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 industrial user's property such devices as are necessary to conduct sampling, inspection compliance, monitoring, and/or metering operations.

(14) Record Keeping. Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under 40 CFR 403.12(o). These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning compliance with the Albany Municipal Code, or where the industrial user has been specifically notified of a longer retention period by the Director.

(15) Report of Changed Conditions. Each industrial user is required to notify the City of any planned significant changes to the industrial user's operations or pretreatment systems that might alter the nature, quality, or volume of its wastewater.

(a) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater permit application under AMC 10.06.060(4), if necessary.

(b) The City may issue a wastewater permit under AMC 10.06.060(7) or modify an existing wastewater permit under AMC 10.06.060(8).

(c) No industrial user shall implement the planned changed condition(s) until and unless the Director has responded to the industrial user's notice.

(d) For purposes of this requirement, flow increases or loading increases of 20 percent or greater and/or the discharge of any previously unreported pollutant shall be deemed significant.

(16) Notification of Significant Production Change. An industry operating under a wastewater discharge permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the City within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the City of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

(17) Confidential Information. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from City inspection and sampling activities shall be available to the public without restriction unless the industrial user 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 under applicable state laws.

(a) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(b) When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the Albany Municipal Code, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report.

(18) Notification by Industrial Users Discharging Hazardous Waste. In compliance with 40 CFR 403.12 (p), industrial users shall notify the director, EPA, and DEQ in writing of any discharge into the municipal wastewater system of a substance that, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. The City may request additional information on the nature and concentration of the discharge, and may prohibit such discharge of wastewater containing hazardous waste.

(19) Signatory Requirements. All applications, reports, or information to the City shall be signed and certified in accordance with 40 CFR 403.12(l).

10.06.070 Pretreatment Facilities

(1) Pretreatment Plans Required. Industrial users 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 industrial user'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 industrial user 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 industrial user shall furnish its operations and maintenance procedures for the City to review.

(2) Monitoring Facilities. Each industrial user required to do so by the City shall provide and operate at the industrial user'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 industrial user's premises, except where such a location would be impractical or cause undue hardship on the industrial user, 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 industrial user.

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 the industrial user.

(3) Grease Interceptor Requirements.

(a) The owner of every newly constructed, remodeled, or converted commercial or industrial facility with one or more grease generating activities, including food service facilities with new or remodeled kitchens, shall install or cause to be installed a grease interceptor for each grease-generating activity. Grease interceptors shall be sized, designed, constructed, and installed in accordance with the Uniform Plumbing Code (UPC) standards, and any other requirements set by the Director through the City plan review and permit process.

(b) The owner of every commercial or industrial facility with one or more grease-generating activities including food service facilities, serviced by a sewer connection line found to have a grease blockage, a history of grease blockage, or accelerated line maintenance resulting from grease disposal shall install or cause to be installed, upon notification by the Director, an approved grease interceptor.

(c) Grease interceptors shall be located outside the building in order to facilitate cleaning, inspection, and maintenance. Installation of smaller grease traps or grease interceptors located inside any building will be allowed only under circumstances where exterior installation is not effective or not practicable, and shall be approved only on a case-by-case basis.

(d) The owner of any facility with a grease interceptor installation shall maintain the grease interceptor at all times in a manner that shall prevent fat waste, oil, or grease from being carried into the sewer system. Authorized City employees shall be allowed access to grease interceptors for the purpose of inspection and/or to verify compliance with this chapter. Fat waste, oil, or grease removed from such a facility shall not be disposed of in the sanitary sewer or the storm drain system, and recovered grease shall be stored in a manner to prevent spillage or runoff to the sanitary sewer or storm drain system. A record of disposal shall be maintained for review upon request by the City.

10.06.080 Enforcement.

(1) Emergency Suspension of Service and Wastewater Discharge Permit. The City may, after informal notice to the industrial user (in writing, in person, or by telephone), order the suspension of the wastewater treatment service and revoke the wastewater discharge permit to an industrial user 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 industrial user notified of the City's suspension order shall immediately cease all discharges. In the event of failure of the industrial user to comply with the suspension order, the City may immediately take all necessary steps to halt or prevent any further discharge by such industrial user into the POTW. The City shall have authority to physically cap, block, or seal the industrial user'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 industrial user's property to accomplish the capping, blocking, or sealing of the industrial user's sewer line. The City may also commence judicial proceedings immediately thereafter to compel the industrial user'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 industrial user of the elimination of the non-complying discharge or conditions creating the threat as set forth above.

(2) Industrial User Prohibited Conduct. An industrial user 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 industrial user'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.

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 industrial user who violates any of the foregoing prohibitions.

(3) Procedure. The procedures set forth below apply in those situations where emergency suspension of service pursuant to subsection (1) of this section is not needed. Ordinarily, the enforcement procedure outlined below will be followed in the order hereinafter set forth. Notwithstanding the foregoing, the City reserves the right and discretion to impose any of the sanctions listed below for any violation should the City deem such action appropriate or necessary in the individual circumstances.

(a) Notification of Violation. Whenever the City determines that any industrial user has violated or is violating the provisions of Section 10.06.080(2) hereof, the City may serve upon such industrial user a written notice stating the nature of the violation(s). Where directed to do so by the notice, a plan for the satisfactory correction of the violation(s) will be submitted to the City by the industrial user, within a time frame as specified in the notice.

(b) Administrative Order. Whenever the City determines that any industrial user has violated or is violating any provision of this Chapter of the Albany Municipal Code or an industrial wastewater discharge permit issued and approved hereunder, or has violated any directives or orders issued and approved hereunder, the City may serve upon such industrial user a written administrative order stating the nature of the violation(s) and imposing sanctions. This notice shall be served upon the industrial user either by personal service to any owner, operator, authorized agent, or any employee of the industrial user at any office maintained by the industrial user either within or outside of the City of Albany. Service of the notice may also be accomplished by mailing the notice, via registered or certified mail, return receipt requested, to the industrial user at any office maintained by the industrial user either within or outside of the City of Albany.

These sanctions may include:

- (i) An order requiring corrective action.
- (ii) An order setting civil penalties in the event corrective action is not undertaken as ordered in (i) above.
- (iii) An order imposing civil penalties in lieu of, or in addition to, an order of corrective action.
- (iv) An order requiring payment of City costs incurred as a result of a violation.
- (v) An order requiring a compliance schedule containing milestones and applicable reporting requirements, or requiring an industrial user to submit a compliance schedule for approval by the City.
- (vi) Revocation of the industrial user's wastewater discharge permit.
- (vii) Disconnection from the wastewater discharge system pursuant to the rights and procedures set forth concerning emergency suspension of service in subsection (1) of this section.

(c) Appeal of Administrative Order. An industrial user served by an administrative order may within seven days of the receipt of the order request in writing that the Director review the enforcement action. The request (letter of appeal) will state all points of disagreement and objection to the order. Upon receipt of the letter of appeal, the City shall cause a hearing to be held before the Public Works Director of the City of Albany, or his authorized representative. The Public Works Director, or his authorized representative, shall conduct the hearing with the advice and counsel of the City Attorney and shall establish such rules and procedures as may be determined by the City in order to meet due process minimums. Following the close of the hearing, the Public Works Director, or his authorized representative, shall enter appropriate findings of fact,

conclusions of law, and an administrative order with respect to the alleged violations and under the terms of the order, may impose any or all of these sanctions referred to in subsection (3)(b) of this section. Said sanction may exceed those originally purposed in the notice of proposed administrative order. The findings, conclusions, and order shall be served upon the industrial user in the manner provided above for the service of the notification of an administrative order.

(d) Within seven days of its receipt of the determination as outlined above, the industrial user may appeal the findings, conclusions, and order of the Public Works Director or his authorized representative, by serving a written notice of such appeal in the same manner as provided above for the service of the initial appeal. Thereafter, a hearing on the appeal shall be scheduled before the City Council of the City of Albany, or such Appeal Hearings Officer as the City may appoint for such purpose. The City Manager of the City of Albany shall have the authority and discretion to appoint an Appeal Hearings Officer or direct the appeal to the City Council. Thereafter, the City Council or the Appeal Hearings Officer may render its decision based upon the record of the hearing on the administrative order, grant an additional hearing to take additional evidence, or conduct a de novo hearing. The City Council, or Appeal Hearings Officer, in consultation with the City Attorney, shall establish rules and procedures for the conduct of the appeal in order to accord the industrial user minimum due process. The City Council or Appeal Hearings Officer shall affirm, reverse, or modify the findings, conclusions, and administrative order and shall serve its decision, in writing, upon the industrial user in the manner provided for the service of the original administrative order. The decision of the City Council or Appeal Hearings Officer shall be final.

(4) Judicial Proceedings. Following the entry of any final administrative order by the City with respect to the violation by an industrial user of AMC 10.06.080(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.

(5) Enforcement Actions – Annual Publication. A list of all industrial users in significant noncompliance during the 12 previous months shall be annually published by the City in the largest daily newspaper circulated in the area of the municipality, summarizing the violations and enforcement action undertaken by the City. For purpose of this subsection, an industrial user is in significant noncompliance if its violation meets one or more of the criteria stated under the definition of significant noncompliance in AMC 10.06.030(55).

(6) Affirmative Defense – Upset.

(a) For the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards and requirements because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of paragraph (c) of this section are met.

(c) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the industrial user can identify the cause of the upset;

(ii) The facility was at the time of the upset being operated in a prudent and workmanlike manner and was in compliance with applicable operation and maintenance procedures; and

(iii) The industrial user has submitted the following information to the City within twenty four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(1) A description of the discharge and cause of noncompliance;

(2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with applicable pretreatment standards.

(f) Industrial users shall control production of all discharges to the extent necessary to maintain

compliance with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(7) General/Specific Prohibitions. An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in AMC 10.06.040 if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to and during the pass through or interference, or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the industrial user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, in compliance with applicable sludge use or disposal requirements.

(8) Affirmative Defense – Bypass. The intentional diversion of waste streams from any portion of an individual user's treatment facility shall be an affirmative defense to an enforcement action brought against the industrial user if the user can demonstrate that such a bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. In order to be eligible for the affirmative defense, the industrial user must demonstrate that there was no feasible alternative to the bypass and submit notice of the bypass as required by 40 CFR 403.17.

10.06.090 Penalties.

(1) Civil Penalties. Any industrial user who violates an administrative 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 \$2,500 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 AMC 10.06.080(4). In addition, the City may issue an administrative order terminating the industrial user's wastewater service if a civil penalty is not paid when due.

(2) Administrative Fines. When the Director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or pretreatment requirement, the Director may fine such user. The amount of such administrative fine shall be not less than \$250.00 per violation nor more than \$2,500 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation.

(3) Recovery of Cost Incurred by the City. Any user 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 treatment system shall be liable to the City for any expense, loss, or damage caused by such violation or discharge. The City may require the user to pay 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 user, including reasonable administrative costs, fees for testing, attorney fees, court cost, and all expenses of litigation. Refusal to pay the ordered costs shall constitute a violation of this chapter, enforceable under the provisions of AMC 10.06.080. The user shall also reimburse the City for any and all fines or penalties levied against the City as a result of a discharge by the user.

(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 AMC 10.06.060, shall (in addition to civil and/or criminal penalties provided by state law) be subject to general criminal penalties under AMC 10.06.090(6).

(5) Fraud and False Statements. Any reports required in this code and any other documents required to be submitted by the City or maintained by the industrial user shall be subject to enforcement provision of the Albany Municipal Code, municipal, state, and federal law relating to fraud and false statements. In addition the industrial user shall be subject to general criminal penalties under AMC 10.06.090(6).

(6) General Criminal Penalties. Any user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a crime and subject to penalties under a misdemeanor or felony as determined by the court.

10.06.100 Severability.

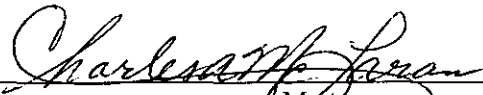
If any provision, paragraph, word, section, or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, safety, and health of the citizens 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 its passage by the Council and approval by the Mayor.

Passed by the Council: January 25, 2006

Approved by the Mayor: January 25, 2006

Effective Date: January 25, 2006



Mayor

ATTEST:



City Clerk