

ORDINANCE NO. 405

AN ORDINANCE SETTING FORTH THE REQUIRED USE OF PUBLIC SEWERS; THE REGULATION OF THE BUILDING AND CONNECTION TO PUBLIC SEWER FACILITIES; REQUIREMENTS FOR DIRECT AND INDIRECT DISCHARGES OF POLLUTANTS FROM NON-DOMESTIC SOURCES INTO THE WASTEWATER COLLECTION AND TREATMENT SYSTEM FOR THE CITY OF WILSONVILLE; REPEALING SECTIONS 8.100 TO 8.171 OF THE WILSONVILLE CODE; AND DECLARING AN EMERGENCY.

WHEREAS, the City finds to more effectively and efficiently provide for uniform requirements for use of its public sewers, for the building of and connecting to public sewers, and for direct and indirect discharges of pollutants from nondomestic sources into the wastewater collection and treatment system for the City of Wilsonville it is necessary to reorganize and amend the Wilsonville Code, Section 8.100 to 8.171; and

WHEREAS, the aforementioned reorganization and amendments will enable the City to comply with all applicable State and Federal laws including the Clean Water Act (Act 33 U.S.C. 1251 et seq), the General Pretreatment Regulations (40 CFR Part 403) and Oregon Administrative Rules (OAR) Chapter 340.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

SECTION 1. Wilsonville Code, Section 8.100 to 8.171 as currently set forth, is hereby repealed.

SECTION 2. Wilsonville Code, Chapter 8 shall be amended by adding the following sections:

"8.100 Wastewater Collection and Treatment - General Provision

(1) Purpose. Sections 8.100 - 8.148 provides for the required use of public sewer facilities except as otherwise set forth, for the regulation of the building of and connection to public sewer facilities and for the uniform regulation of direct and indirect discharge to the municipal wastewater collection system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for other users, authorizes monitoring and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Application to City and Outside Users. Sections 8.100 - 8.148 shall apply to the City and to persons outside the City who, by contract or agreement with the City, are included as users of the municipal wastewater system.

(3) Objectives. The objectives of Section 8.100 - 8.148 are:

(a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system;

(b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(c) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its beneficial use;

(d) To protect both municipal personnel who may come into contact with sewage, sludge and effluent in the course of their employment as well as protecting the general public;

(e) To preserve the hydraulic capacity of the municipal wastewater system;

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

(g) To provide for equitable distribution of the cost of operation, maintenance and improvements of the municipal wastewater system; and

(h) To ensure the City complies with its NPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws which the municipal wastewater system is subject to.

(i) To provide a municipal wastewater system which protects the public's health, welfare and safety.

8.102 Administration. Except as otherwise provided herein, the Public Works Director shall administer, implement and enforce the provisions of this Chapter. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City personnel.

8.104 Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in Sections 8.100 to 8.152 shall have the meanings hereinafter designated;

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

(3) Authorized Representative of the Industrial User.

(a) If the industrial user is a corporation, authorized representative shall mean:

1) The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2) The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the industrial user is a partnership, association, or sole proprietorship, an authorized representative shall mean a general partner or the proprietor.

(c) If the individual user is representing Federal, State or local governments, or an agent thereof, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

(d) The individuals described in paragraphs (3)(a)-(c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the authorization is submitted to the City.

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

(5) Building Drain shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the buildings and which conveys it to the building sewer, which begins two (2) feet (.6 meters) outside of the building wall.

(6) Building Sewer. Shall mean that part of the horizontal piping conveying wastewater and/or other wastes from the end of the building drain to the POTW, municipal storm drain system, private sewer or storm drainage, or individual sewage disposal system or storm drainage system.

(7) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the USEPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter I, Subchapter N, Parts 405-471, incorporated herein by reference.

(8) Chemical Oxygen Demand (COD): A measure of the oxygen -consuming capacity of inorganic and organic matter present in wastewater. COD is expressed as the amount of oxygen consumed from a chemical oxidant in mg/l during a specific test.

(9) City. The City of Wilsonville or the City Council of Wilsonville.

(10) Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

(11) Combined Sewer shall mean a sewer receiving both surface runoff and sewage.

(12) Commercial shall mean for the purposes of Sections 8.108 and 8.112, all buildings or structures or which are not defined for the purposes of these sections as residential or industrial in keeping with the City's zoning and building code provisions. Commercial when used in the context of this chapter's pretreatment standards shall mean industrial.

(13) Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on either an increment of flow or time.

(14) Contractor shall mean person or persons, corporation, partnership or other entity who is a party to an agreement with the City.

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

(16) Control Authority. The term "Control Authority" shall refer to the Director once the City has a pretreatment program approved by Oregon DEQ according to the provisions of 40 CFR 403.11.

(17) Customer shall mean any individual, firm, company, association, society, corporation, group or owner, who receives utility services from the City such as water, sewer, and street lights.

(18) Department of Environmental Quality or DEQ. The Oregon Department of Environmental Quality or where appropriate, the term may also be used as a designation for the Director of the Department or other duly authorized official of the Department.

(19) Discharge. The discharge or the introduction of pollutants into the municipal wastewater system from any nondomestic source regulated under Section 307(b), (c) or (d), of the Act.

(20) Environmental Protection Agency or U.S. EPA. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.

(21) Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards under Section 307(b) and (c) (33 U.S.C. 1317) of the Act which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(22) Garbage shall mean all refuse and solid wastes, including ashes, rubbish, in cans, debris generally, dead animals, street cleanings and industrial wastes and things ordinarily and customarily dumped, solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce, but not including sewage and body waste.

(23) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

(24) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(25) Industrial shall mean in the context of Section 8.112, building sewer permits and connections, all buildings or structures in which a product is manufactured, stored, or distributed, or any combination of the above in keeping with the City's zoning and building code provisions. It shall otherwise mean in the context of this Chapter for pretreatment standards, non-domestic.

(26) Industrial User. Any person which is a source of discharge.

(27) Industrial Wastewater. Any nondomestic wastewater originating from a nonresidential source.

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

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

(b) Therefore 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 Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection research and

Sanctuaries Act.

(29) Major Sewer Line Extension shall mean the extension of a sanitary mainline that is or will be located within public rights-of-way or dedicated easements.

(30) Medical Waste. Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(31) Municipal Wastewater System or System. A "treatment works" as defined in Section 212 of the Act, (33 U.S.C. 1292) which is owned by the State or municipality. The City's wastewater system is a publicly owned treatment works (POTW). This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having responsibility for the operation and maintenance of the system.

(32) 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 prohibition found in 40 CFR 403.5.

(33) Natural Outlet shall mean any outlet into a water course, pond, ditch, lake, or other abode of surface or ground water.

(34) 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 which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- 1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- 2) The building, structure, facility or installation completely replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- 3) The production or 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 the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (a) (1), (2) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

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

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

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

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

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

(35) Nondomestic Pollutants. Any substances other than human excrement and household gray water (shower, dishwashing operations, etc.). Nondomestic pollutants include the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

(36) Official shall be the Building Official for the City of Wilsonville.

(37) Owner shall mean the person(s) who may hold title to or lease the property for which water service has or will be provided.

(38) Pass Through. A discharge which exits the treatment plant effluent into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES (including an increase in the magnitude or duration of a violation).

(39) 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. This definition includes all Federal, state, or local governmental entities.

(40) pH. The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter of solution.

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

(42) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the municipal wastewater system. This reduction or alteration may be obtained by physical, chemical or biological processes, by process changes or by other means.

(43) Pretreatment Requirement. Any substantive or procedural requirements related to pretreatment, other than national pretreatment standards, imposed on an industrial user.

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

(45) Properly Shredded Garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half (1/2) inch (1.27 centimeters) in any dimension.

(46) Public Sewer shall mean a sewer, either sanitary or storm, in which all owners of abutting property have equal rights, and which is controlled by public authority.

(47) Public Works Director . The person designated by the City to supervise the operation of the municipal wastewater system and who is charged with certain duties and responsibilities by this article or his duly authorized representative.

(48) Residential shall mean for the purposes of Section 8.108 and 8.112, building sewers and connections, buildings or structures which are built to be occupied for living purposes in keeping with the City's zoning and building code provisions.

(49) Residential Users. Persons only contributing sewage wastewater to the municipal wastewater system.

(50) Receiving Stream or Water 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, which are contained within, flow through, or border upon the State of Oregon or any portion thereof.

(51) Sanitary Sewer shall mean a City sewer which carries sewage and to which which storm, surface and groundwater are not intentionally admitted.

(52) Service Connection shall, in the case of water mean the installation which connects the water service line with the building water service, which includes but shall not be limited to, the following: meter, meter box, meter vault, check valves, fittings, seals or other materials to make such connection as deemed necessary by the Director. In the case of sewer, it shall mean the installation which connects the public sewer service line with the building sewer service lines.

(53) Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.)

(54) Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewage and industrial waste by the City.

(55) Sewer shall mean a pipe or conduit for carrying sewage.

(56) Significant Industrial User.

(a) Except as provided in paragraph 2 below, the term significant industrial user shall mean: 1) industrial users subject to categorical pretreatment standards, and 2) any other industrial user that: i) discharges an average of 25,000 gpd or more of process wastewater, ii) contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant 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.

(b) Upon a finding that an industrial user meeting the criteria in paragraph 2)ii) of this section has no reasonable potential for adversely affecting the municipal wastewater system's operation or for violating any pretreatment standard or requirement, the Control Authority 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.

(57) Slug Load. Any pollutant (including BOD) released in a non-routine, episodic, or non-customary batch discharge at a flow rate or concentration which has the potential to cause a violation of the specific discharge prohibitions of this Chapter.

(58) State . State of Oregon .

(59) Storm Drain ("Sometimes termed storm sewer") shall mean a sewer which

carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling waters.

(60) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom, including snow melt.

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

(62) 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.

(63) Treatment Plant. That portion of the municipal wastewater system designed to provide treatment of sewage and industrial waste.

(64) Treatment Plant Effluent. Any discharge of pollutants from the municipal wastewater system into waters of the state.

(65) User. Any person who contributes, or causes or allows the contribution of sewage or industrial wastewater into the municipal wastewater system, including persons who contribute such wastes from mobile sources.

(66) Wastewater. The liquid and water-carried industrial wastes, or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the municipal wastewater system.

(67) Water Course shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Sections 8.100 - 8.152 are gender neutral and the masculine gender shall include the feminine and vice versa. Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

8.106 Abbreviations The following abbreviations shall have the designated meanings:

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| (1) | <u>BOD</u> | Biochemical Oxygen Demand |
| (2) | <u>CFR</u> | Code of Federal Regulations |
| (3) | <u>COD</u> | Chemical Oxygen Demand |
| (4) | <u>DEQ</u> | Oregon Department of Environmental Quality |
| (5) | <u>EPA</u> | U.S. Environmental Protection Agency |
| (6) | <u>gpd</u> | Gallons Per Day |

- (7) LC50 Lethal Concentration for Fifty Percent (50%) of the Test Organisms
- (8) l Liter
- (9) mg Milligrams
- (10) mg/l Milligrams per liter
- (11) NPDES National Pollutant Discharge Elimination System
- (12) O & M Operation and Maintenance
- (13) POTW Publicly Owned Treatment Works
- (14) RCRA Resource Conservation and Recovery Act
- (15) SIC Standard Industrial Classification
- (16) SWDA Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
- (17) TSS Total Suspended Solids
- (18) USC United States Code

8.108 Use of Public Sewer Required. Except as herein provided in this chapter:

(1) It shall be unlawful for any person to place, deposit or permit to be deposited in any manner as described herein on public or private property within the City of Wilsonville, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

(2) It shall be unlawful to discharge in or into any natural outlet within the City of Wilsonville, or in any area under the jurisdiction of said City, any sewage or other polluted water.

(3) 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.

(4) The owner of any house, building, or property 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 public sanitary or combined sewer of the City, is hereby required, at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this section of the Code, within ninety (90) days after the date of official notice to do so, provided that said public sewer for the residential use is within three hundred (300) feet of the property. Commercial and industrial buildings or structures shall connect no matter what the distance is from the public sewer to the property to be served.

(5) The owner shall pay a monthly user fee as determined by adopted Resolution of the Council, for each and all sewer connections to the public sewer.

8.110 Private Sewage Disposal.

(1) Where a public sanitary or combined sewer is not available under the provisions of Section 8.108(4), the building sewer shall be connected to a private sewage disposal system.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Director. The application for such permit shall be made on a form furnished by the City, and shall be supplemented by any plans, specifications and other information as are deemed necessary by the Director. The appropriate Type B Construction Permit and plan check fee shall be paid to the City at the time the application is filed.

(3) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Director. He shall be allowed to inspect the work in any stage of construction and, in any event, the applicant for the permit shall notify the Director when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Director.

(4) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Oregon State Board of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than ten thousand (10,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 8.120(4), a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools and similar private sewage disposal facilities not utilized in an approved pumping facility shall be abandoned. Septic tanks shall be pumped free of sewage. Septic tanks not constructed of concrete shall be removed or opened and filled with sand or gravel. Cesspools and similar private disposal facilities shall be filled with sand or gravel.

(6) Where existing buildings are too low to be served by gravity by an available sewer, the existing septic tank facilities shall be maintained in use and, when so ordered by the City under Section 8.108(4), approved pumping facilities shall be installed to pump the septic tank effluent to the available sanitary sewer system.

(7) The owner shall operate and maintain private sewage disposal or pumping facilities in a sanitary manner at all times, at no expense to the City.

(8) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by State health officials.

(9) If it is determined by the Director that a health hazard would be created or that the soil is unable to transfer the sewage runoff through the soil as an effective means of treatment of sewage disposal, the Director shall reject the septic or private sewage disposal system, and require, at the owner's expense, construction of an adequately sized sanitary sewer line as approved by the Director to connect to an existing public sanitary sewer system. The owner shall construct the sewer by those requirements of the Public Works Department of the City of Wilsonville.

8.112 Building Sewers and Connections.

(1) No unauthorized person shall uncover, make any connections to or opening into, use, alter or disturb any service connection or appurtenance thereof without first obtaining a written permit from the Building Official. In each case, the owner or his agent, shall make application on a special form furnished by the City. The permit applications shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Official.

(2) There shall be three (3) classes of building sewer service connection permits:

- (a) Residential, Single, and Multifamily,
- (b) Commercial, and
- (c) Industrial Service.

(3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage to the City that may directly or indirectly be occasioned by the installation of the building sewer.

(4) A separate and independent building sewer shall be provided for every building; except, however, when one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, then the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination or through tests, by the Official, to meet all requirements of this Code Chapter.

(6) The size, slope, alignment, construction materials of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Uniform Building Code and the State of Oregon Plumbing Speciality Code and other applicable rules and regulations of the City.

(7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the Uniform Building Code in effect at the time and the State of Oregon Plumbing Speciality Code in effect at the time, and other applicable rules and regulations of the City. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the Official before installation.

(10) The applicant for the building sewer permit shall notify the Official when the building sewer is ready for inspection. The connection shall be made under the supervision of the Official or designated representative. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored at the applicant's or owner's expense in a manner satisfactory to the City.

(11) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

8.114 Use of Public Sewers.

(1) No unauthorized person shall uncover, make any connections with or openings into, use, alter, or disturb, any public sewer or appurtenance thereof without first obtaining a written permit from the Director.

(2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Director, to a storm sewer, combined sewer, or natural outlet if such discharge otherwise meets the requirements set forth in the Section 8.100 to 8.148.

(3) When required by the Director, the owner of any property serviced by a building sewer carrying industrial wastes or large quantities of discharge shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved

by the Director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

(4) All measurements, tests and analysis of the characteristics of water wastes to which reference is made in this chapter of the Code shall be determined in accordance with the current edition of the "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon testing of suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. When customary measurement for BOD characteristic is impractical due to time constraints and the necessity to have immediate measurement results, mg/l of BOD may be based on forty-two percent (42%) of measured C.O.D.

(5) Prohibited Discharge Standards

(a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general prohibitions apply to all users of the municipal wastewater system whether or not the user 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 system:

1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the municipal wastewater system. Included in this prohibition are wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods prescribed in 40 CFR 261.21.

2) Solid or viscous substances in amounts which will cause interference with the flow in the municipal wastewater system.

3) Any fat, oils or greases, including but not limited to petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

4) Any wastewater having a pH less than 5.5 or more than 10.0, or which may otherwise cause corrosive structural damage to the municipal wastewater system City

personnel or equipment.

5) 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 municipal wastewater system, any wastewater treatment or sludge process, or constitute a hazard to humans or animals.

6) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

7) Any substance which may cause the treatment plant effluent or any other 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 system cause the City to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other State requirements applicable to the sludge use and disposal practices being used by the City.

8) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life.

9) Any wastewater having a temperature greater than 150°F (55°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).

10) Any wastewater containing any radioactive waste or isotopes except as specifically approved by the Director in compliance with applicable State Federal regulations.

11) Any pollutants which result in the presence of toxic gases, vapor or fumes within the system in a quantity that may cause worker health and safety problems.

12) Any trucked or hauled pollutants, except at discharge points designated by the City in accordance with Section 8.116(6).

13) Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water

and unpolluted industrial wastewater, unless specifically authorized by the Director.

14) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.

15) Any medical wastes, except as specifically authorized by the Director in a wastewater permit.

16) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

17) Any material identified as hazardous waste according to 40 CFR Part 261 except as specifically authorized by the Director.

18) Any wastewater causing the treatment plant effluent to demonstrate toxicity to test species during a bio-monitoring evaluation.

19) Recognizable portions of the human or animal anatomy.

20) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

(b) Wastes prohibited by this section shall not be processed or stored in such a manner that these wastes could be discharged to the municipal wastewater system.

(6) 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 .

(7) State Requirements. Users are required to comply with applicable State pretreatment standards and requirements set out in OAR Chapter 340. These standards and requirements are incorporated herein.

(8) Specific Pollutant Limitations

(a) No nonresidential user shall discharge wastewater containing restricted substances into the municipal wastewater system 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 Section 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.

(b) At his discretion, the Director may impose mass limitations in addition to or in place of the concentration based limitations referenced above.

(9) City's Right to Revision. The City reserves the right to establish, by ordinance or

in wastewater permit, more stringent limitations or requirements or discharges to the municipal wastewater system if deemed necessary to comply with the objectives presented in Section 8.100(3) or the general and specific prohibitions in Section 8.116(5).

(10) Special Agreement. 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 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 US 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 US 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.

(11) Dilution. 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 a discharge limitation unless expressly authorized by an applicable pretreatment standard, or any other pollutant-specific limitation developed by the City.

8.116 Pretreatment Of Wastewater

(1) Pretreatment Facilities

(a) Industrial users shall provide necessary wastewater treatment as required to comply with this Chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 8.114(5) above, within the time limitations specified by the Director. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility.

(b) The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of Sections 8.100 to 8.148.

(2) Additional Pretreatment Measures

(a) Whenever deemed necessary, the Director may require industrial users to restrict the industrial user's discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary

to protect the municipal wastewater system and determine the industrial user's compliance with the requirements of this Chapter.

(b) Each person discharging into the municipal wastewater system greater than 100,000 gallons per day or greater than five percent (5%) of the average daily flow in the system, whichever is lesser may be required by the Director to install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow over a twenty four (24) hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Director. A wastewater permit may be issued solely for flow equalization. (This section not adopted by Council at 8/17/92 meeting. Continued for further study.)

(c) Grease, oil and sand interceptors shall be provided, when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at his expense.

(d) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental Discharge/Slug Control Plan

(a) Industrial users shall provide protection from accidental discharge of materials which may interfere with the municipal wastewater system by developing an accidental discharge/slug control plan. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Accidental discharge/slug control plans, including the facilities and the operating procedures shall be approved by the City before implementation of the plan. For the purposes of this section, an accidental discharge shall not include any spillage discharge by an industrial user of its product or wastewater in the normal course of operations, which is within the limits of its wastewater permit and no accidental discharge plan need be prepared for this type of discharge.

(b) Industrial users that store hazardous substances shall not contribute to the municipal wastewater system after the effective date of this Chapter unless a accidental discharge/slug control plan has been approved by the City. Approval of such plans shall not

relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

(4) Tenant Responsibility. Any person who shall occupy the industrial user's premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of Sections 8.100 to 8.148 in the same manner as the Owner.

(5) Separation of Domestic and Industrial Wastestreams. All new and domestic wastewaters from restrooms, showers, drinking fountains, etc., unless specifically included as part of a categorical pretreatment standard, shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a required pretreatment system and the industrial user's monitoring facility. When directed to do so by the Director, industrial users must separate existing domestic wastestreams.

(6) Hauled Wastewater. Septic tank waste (septage) shall not be accepted into the municipal wastewater system.

(a) All waste haulers of septage, regardless of the origin of the hauled septage, shall be considered "industrial users" for the purposes of this Chapter.

(b) The discharge of industrial wastes as "industrial septage" requires prior approval and a wastewater permit from the City. The Director shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation.

(c) Fees for the discharge of septage will be established as part of the user fee system as authorized in Section 8.132.

(7) Vandalism. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the municipal wastewater system. Any person found in violation of this requirement shall be subject to the sanctions set out in section 11, below.

8.118 Wastewater Permit Eligibility

(1) Wastewater Survey. When requested by the Director, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge or to continuing their discharge, as the case may be, after the effective date of this ordinance. The Director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of the Ordinance.

(2) Wastewater Permit Requirement

(a) It shall be unlawful for significant industrial users to discharge industrial wastewater into the City's sanitary sewer system without first obtaining a wastewater permit from the Director. Any violation of the terms and conditions of wastewater permit shall be deemed a violation of this Chapter and subjects the industrial user to the sanctions set out in Sections 8.130 - 8.134. Obtaining a wastewater permit does not relieve a permittee of its obligation to obtain other permits required by Federal, State or local law.

(b) The Director may require other industrial users, including liquid waste haulers, to obtain wastewater permits as necessary to carry out the purposes of this chapter.

(3) Permitting Existing Connections. Any significant industrial user which discharges industrial waste into the municipal wastewater system prior to the effective date of this Chapter and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the City for a wastewater permit in accordance with Section 8.118(6) below, and shall not cause or allow discharges to the system to continue after one hundred eighty (180) days of the effective date of this Chapter except in accordance with a permit issued by the Director.

(4) Permitting New Connections. Any significant industrial user proposing to begin or recommence discharging industrial wastes into the municipal wastewater system must obtain a wastewater permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least ninety (90) days prior to the anticipated start up date.

(5) Permitting Extra-jurisdictional Industrial Users. Any existing significant industrial user located beyond the City limits shall submit a permit application, in accordance with Section 8.116 below, within ninety (90) days of the effective date of the Ordinance enacting Sections 8.100 - 8.148. New significant industrial users located beyond the City limits shall submit such applications to the Director ninety (90) days prior to any proposed discharge into the municipal system. Upon review of such application, the Director may enter into a contract with the industrial user which requires the industrial user to subject itself to and abide by this Chapter, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. Alternately, the Director may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said user.

(6) Wastewater Permit Application Contents. In order to be considered for a wastewater permit, all users required to have a permit must submit the following information on an

application form approved by the Director:

- (a) Name, mailing address, and location (if different from the mailing address);
- (b) Environmental control permits held by or for the facility;
- (c) Standard Industrial Classification (SIC) codes for pretreatment the industry as a whole and any processes for which categorical pretreatment standards have been promulgated;
- (d) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the municipal system;
- (e) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment system;
- (f) Each product by type, amount, process or processes and rate of production;
- (g) Type and amount of raw materials processed (average and maximum per day);
- (h) The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge;
- (i) Time and duration of the discharge;
- (j) Measured average daily and maximum daily flow, in gallons per day, to the municipal system from regulated process streams and other streams as necessary to use the combined waste stream formula in 40 CFR 403.6(e);
- (k) Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly, and seasonable variations, if any;
- (l) Wastewater constituents and characteristics, including any pollutants in the discharge which are limited by Federal, State, or local standards, pretreatment standards applicable to each regulated process; and nature and concentration (or mass if pretreatment standard requires) of regulated pollutant in each regulated process (daily maximum and average concentration or mass when required by a pretreatment standard). Sampling and analysis will be undertaken in accordance with 40 CFR Part 136;
- (m) A statement reviewed by an authorized representative of the user and certified to by a qualified professional indicating whether or not the pretreatment standards are being met on a consistent basis, and if not, what additional pretreatment is necessary;
- (n) If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish

installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to in (1) above shall exceed nine (9) months nor shall the total compliance period exceed thirty-six (36) months.

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

(o) Any other information as may be deemed by the Director to be necessary to evaluate the permit application;

(p) Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

(7) Application Signatories and Certification. All permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(8) Wastewater Permit Decisions

(a) The Director will evaluate the data furnished by the industrial user and may require additional information. Within sixty (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.

(b) 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 Section 8.114, and which in the judgement of the Director, may have a deleterious effect upon the municipal treatment system, 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:

- 1) Reject the wastes;
- 2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- 3) Require control over the quantities and rates of discharge; and/or
- 4) 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 Section 8.140 of this article.

8.120 Wastewater Permit Issuance Process

(1) Wastewater Permit Duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years, at the discretion of the Director. Each permit will indicate a specific date upon which it will expire.

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

(a) Wastewater Permits must contain the following conditions:

- 1) A statement that indicates permit duration, which in no event shall exceed five (5) years;
- 2) 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;
- 3) Effluent limits applicable to the user based on applicable standards in Federal, State and local law;
- 4) 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;
- 5) 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:

- 1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- 2) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
- 3) 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 treatment works;
- 4) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
- 5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system;
- 6) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system;
- 7) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- 8) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;
- 9) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s);
- 10) Compliance schedules for meeting pretreatment standards and requirements;
- 11) Requirements for submission of periodic self-monitoring or special notification reports;
- 12) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in Section 8.124 and affording the Director, or his representatives, access thereto;
- 13) 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;

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

15) Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system;

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

17) 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.

(3) Wastewater Permit Appeals. Any person including the industrial user may petition to the City to reconsider the terms of the permit within ten (10) days of the issuance of the final permit.

(a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(b) In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative conditions, if any, it seeks to place in the permit.

(c) The effectiveness of the permit shall not be stayed pending the appeal.

(d) If the City fails to regularly meet after the filing of the petition for reconsideration and set a hearing date for the next following regular meeting, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a permit, not to issue a permit, or not to modify a permit shall be considered final administrative action for purposes of judicial review.

(e) Aggrieved parties seeking judicial review of administrative permit decision must do so by complaint with the Circuit Court for Clackamas County, State of Oregon, within thirty (30) days of the final administrative decision.

(4) Wastewater Permit Modifications

(a) The Director may modify the permit for good cause including, but not limited to, the following:

1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

2) To address significant alternations or additions to the industrial

user's operation, processes, or wastewater volume or character since the time of permit issuance;

3) A change in the municipal wastewater system that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4) Information indicating that the permitted discharge poses a threat to the City's municipal wastewater system, City personnel, or the receiving waters;

5) Violation of any terms or conditions of the wastewater permit;

6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;

7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

8) To correct typographical or other errors in the permit;

9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

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

(5) Wastewater Permit Transfer

(a) Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the Director if the permittee gives at least thirty (30) days advance notice to the Director. The notice must include a written certification by the new owner which:

1) States that the new owner has no immediate intent to change the facility's operations and processes;

2) Identifies the specific date on which the transfer is to occur;

3) Acknowledges full responsibility for complying with the existing permit.

(b) Failure to provide advance notice of a transfer renders the wastewater permit voidable on the date of facility transfer.

(6) Wastewater Permit Revocation.

(a) Wastewater permits may be revoked for the following reasons:

1) Failure to notify the City of significant changes to the wastewater prior to the changed discharge;

2) Falsifying self-monitoring reports;

3) Tampering with monitoring equipment;

- records;
- 4) Refusing to allow the City timely access to the facility premises and
 - 5) Failure to meet effluent limitations;
 - 6) Failure to pay fines;
 - 7) Failure to pay sewer charges;
 - 8) Failure to meet compliance schedules;
 - 9) Failure to complete a wastewater survey;
 - 10) Failure to provide advance notice of the transfer of a permitted facility;
 - 11) Violation of any pretreatment standard or requirement or any terms of the permit or the ordinance.

(b) Permits shall be voidable upon non-use, cessation of operations or transfer of business ownership. Each existing wastewater permit which is replaced by the issuance of a new wastewater permit shall be void.

(7) Wastewater Permit Reissuance. A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with Section 8.118(6) a minimum of ninety (90) days prior to the expiration of the user's existing permit.

8.122 Reporting Requirements

(1) Baseline Monitoring Reports. Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the municipal system shall be required to submit to the City a report which contains the information listed in paragraph (1)(a), below. At least ninety (90) days prior to commencement of their discharge, new sources, including existing users which have changed their operation or processes so as to become new sources, shall be required to submit to the City a report which contains the information listed in paragraph (1). A new source shall also be required to report the method it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(a) The information required by this section includes:

- 1) Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners;
- 2) Permits. The user shall submit a list of any environmental control

permits held by or for the facility;

3) Description of Operation. The user shall submit a brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the system from the regulated processes;

4) Flow Measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the system from regulated process streams and other streams as necessary to allow use of the combined wastestream formula set out in 40 CFR 403.6(e);

5) Measurement of Pollutant.

a) The industrial user shall identify the categorical pretreatment standards applicable to each regulated process;

b) In addition, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standards or City) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be performed in accordance with procedures set out in 40 CFR Part 136.

c) A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. All other pollutants will be measured by composite samples obtained through flow proportional sampling technique. If flow proportional composite sampling is infeasible, samples may be obtained through time proportional sampling techniques or through four (4) grab samples if the user proves such samples will be representative of the discharge.

6) Special Certification. A statement, reviewed by an authorized representative of the industrial user and certified to 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;

7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule not be later than the compliance date established for the applicable pretreatment standard. A compliance

schedule pursuant to this Section must meet the requirements set out in Section 4.6(n) of this Chapter; and

8) All baseline monitoring reports must be signed and certified in accordance with Section 8.118(7).

(2) Compliance Deadline Reports. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the municipal wastewater system, any industrial user subject to such pretreatment standards and requirements shall submit to the City a report containing the information described in Section 8.122(1)(a) 3), 5) and 6). For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 8.118(7).

(3) Periodic Compliance Reports. 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 which 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 Section 8.118(7).

(a) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(b) 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 Director and resample its discharge. The industrial user must report the results of the repeated sampling within thirty (30) days of discovering the first violation.

(4) Report of Changed Conditions. Each industrial user is required to notify the Director of any planned significant changes to the industrial user's operations or pretreatment systems which 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 Section 8.118(6), if necessary.

(b) The Director may issue a wastewater permit under Section 8.118(8) or modify an existing wastewater permit under Section 8.120(4).

(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 of twenty percent (20%) or greater and the discharge of any previously unreported pollutant shall be deemed significant.

(5) Reports of Potential Problems. Each industrial user shall provide protection from accidental or intentional discharges of prohibited materials or other substances regulated by this Chapter. Facilities to prevent the discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this Chapter.

(a) No industrial user which commences contribution to the system after the effective date of this Chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City.

(b) In the case of an accidental or other discharge which may cause potential problems for the municipal wastewater system, it is the responsibility of the user to immediately telephone and notify the City of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(c) Within five (5) days following an accidental discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the system, natural resources, 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 Chapter.

(d) Failure to notify the City of potential problem discharges shall be deemed a separate violation of this Chapter.

(f) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (2), above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(6) Reports from Non-categorical Users. All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater permit shall provide appropriate reports to the City as the Director may require.

(7) Sample Collection.

(a) Except as indicated in (b), below, wastewater samples collected for purposes of determining industrial user compliance with pretreatment standards and requirements must be obtained using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling.

(b) Except as otherwise specified by Director, samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(8) Analytical Requirements. All pollutant analysis, 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 Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA, DEQ and the City.

(9) Monitoring Charges. The Director may recover the City's expenses incurred in collecting and analyzing samples of the industrial user's discharge by adding the costs to the industrial user's sewer charges.

(10) Timing. Written reports will be deemed to have been transmitted at the time of deposit, postage prepaid, into a mail facility service by the United States Postal Service.

(11) 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 (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this Chapter, or where the industrial user has been specifically notified of a longer retention period by the Director.

(12) Reporting of Additional Monitoring. If an industrial user subject to the reporting requirements of 40 CFR 403.12(e), which requires submission of periodic compliance reports,

monitors any pollutant more frequently than required by the City, using the procedures prescribed in 40 CFR Part 136, the results of this monitoring shall be included in the report, as required by 40 CFR 403.12(g)(5).

(13) Notification of Significant Production Change. An industrial user operating under a waste discharge permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the City within two (2) 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.

8.124 Compliance

(1) Inspection and Sampling. The City shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this Chapter is being met and all requirements are being complied with. Industrial users shall allow the Director or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into their premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City, State, and US EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(b) The City, State, and US EPA shall have the right to set up or require installation of, on the industrial user's property, such devices as are necessary to conduct sampling, and/or metering of the user's operations.

(c) The City may require the industrial user to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at the industrial user's expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.

(e) Unreasonable delays in allowing City personnel access to the industrial user's premises shall be a violation of this Chapter.

(2) Search Warrants. If the Director has been refused access to a building, structure or property or any part thereof, and if the Director has probable cause to believe that there may be a violation to this Chapter, or that there is a need to inspect as part of a routine inspection program of the City designed to protect the overall public health, safety and welfare of the community, then upon application by the City Attorney, the Municipal Court Judge of the City shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director in the company of a uniformed police officer of the City.

8.126 Confidential Information

(1) Confidential Information. Information and data on an industrial user obtained from reports, questionnaires, permit application, 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 which 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 this Chapter, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report.

8.128 Publication Of Users In Significant Noncompliance

(1) Publication. The City shall annually publish, in the largest daily newspaper circulated in the area where the municipal wastewater system is located, a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant non compliance shall mean:

(a) Sixty six percent (66%) or more of wastewater measurements taken during

a six (6) month period exceed the discharge limit for the same pollutant by any amount;

(b) Thirty three percent (33%) or more of wastewater measurements taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interferences or pass throughs (including endangering the health of City personnel or the general public);

(d) Any discharge of pollutants that has caused imminent endangerment to the public 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 ninety (90) days of the scheduled date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, ninety (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(s) which the City has reason to believe is significant.

8.130 Administrative Enforcement Remedies

(1) Notification of Violation. Whenever the Director finds that any industrial user has violated or is violating this Chapter, a wastewater permit or order issued hereunder, or any other pretreatment requirement, the Director or his agent may serve upon said user a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City to take emergency action without first issuing a Notice of Violation.

(2) Consent Orders. The Director is hereby empowered to enter into Consent Orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the

order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to Section 8.130(4) or 8.130(5) below and shall be judicially enforceable.

(3) Show Cause Hearing. The Director may order any industrial user which causes or contributes to violation(s) of this Chapter, wastewater permits or orders issued hereunder, or any other pretreatment requirement to appear before the Director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. Whether or not the industrial user appears as notified, immediate enforcement action may be pursued following the hearing date.

(4) Compliance Orders. When the Director finds that an industrial user has violated or continues to violate any provision of Sections 8.100 - 8.148, permits or orders issued hereunder, or any other pretreatment requirement, he may issue an order to the industrial user responsible for the discharge directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. Furthermore, the Director may continue to require such additional self monitoring for at least ninety (90) days after consistent compliance has been achieved, after which time the self monitoring conditions in the discharge permit shall control.

(5) Cease and Desist Orders. When the Director finds that an industrial user has violated or continued to violate any provision of this Chapter, permits or order issued hereunder, or any other pretreatment requirement, the Director may issue an order to the industrial user directing it to cease and desist all such violations and directing the user to:

- (a) Immediately comply with all requirements;
- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(6) Administrative Fines. Notwithstanding any other section of this Chapter, any user which is found to have violated any provision of this Chapter, permits and orders issued

hereunder, or any other pretreatment requirement, shall be fined in an amount set forth below. *in* Such fines shall be assessed on a per violation, per day basis. The fine schedule shall be as follows:

(a) For a violation occurring for thirty (30) days or less, up to \$300 per violation per day.

(b) For a violation occurring for more than thirty (30) days, but for sixty (60) days or less, up to \$600 per violation per day.

(c) For a violation occurring for more than sixty (60) days but for ninety (90) days or less, up to \$1,200 per violation per day.

(d) For a violation occurring for more than one hundred twenty days (120), up to \$2,400 per violation per day.

(e) For a violation which recurs periodically after notice to correct, the Director may impose a fine as follows: first recurrence after thirty (30) days from the time to correct, \$300; the second recurrence after sixty (60) days from time to correct, \$600; the third recurrence after ninety (90) days from time to correct, \$1200; the fourth recurrence after one hundred twenty days (120) from time to correct, \$2400. (This section not adopted by Council at 8/17/92 meeting. Continued for further study)

(f) Assessments may be added to the user's next scheduled sewer service charge and the Director shall have such other collection remedies as may be available for other service charges and fees.

(g) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of twenty percent (20%) of the unpaid balance and interest shall accrue thereafter at a rate of seven percent (7%) per month. Furthermore, these unpaid charges, fines and penalties, together with interest therefrom shall constitute a lien against the individual user's property.

(h) Industrial users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where the Director believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user. In the event the user's appeal is successful the payment together with any interest accruing thereto, shall be returned to the industrial user. The City may add the costs of preparing administrative enforcement actions, such as notices and orders to the fine.

(7) Emergency Suspensions. The Director may suspend the wastewater permit of an industrial user, for a period not to exceed thirty (30) days, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, interferes with the operation of the municipal wastewater system, or which present or may present an endangerment to the environment.

(a) Any industrial user notified of a suspension of its wastewater permit shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or endangerment to any individuals. The Director shall allow the industrial user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings set forth in Section 8.130(8) are initiated against the user.

(b) An industrial user which is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director prior to the date of any show cause or termination hearing under Section 8.130(3) or 8.130(8).

(8) Termination of Permit. In addition to those provisions in Section 8.120(6) above, any industrial user which violates the following conditions of this Chapter, wastewater permits, or orders issued hereunder is subject to permit termination:

- (a) Violation of permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling;
- (e) Non-compliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under Section 8.130(3) above why the proposed action should not be taken.

(9) Appeals. Any enforcement action by the Director may be appealed to the City

Council by filing a petition to reconsider in accordance with the procedure set forth in Section 8.120(3) above.

8.132 Judicial Enforcement Remedies

(1) Injunctive Relief. Whenever an industrial user has violated or continues to violate the provisions of this Chapter, permits or orders issued hereunder, or any other pretreatment requirements, the Director through the City's attorney, may petition the Circuit Court of Clackamas County for the issuance of a temporary or permanent injunction, as may be appropriate, which restrains or compels the specific performance of the wastewater permit, order, or other requirement imposed by this Chapter on activities of the industrial user. Such other action as may be appropriate for legal and/or equitable relief may also be sought by the City. The Court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.

(2) Civil Penalties. Any industrial user which has violated or continues to violate the provisions of this Chapter, any order or permit hereunder, or any other pretreatment requirement shall be liable to the Director for a maximum civil penalty of \$10,000.00 per violation per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each business day during the period of this violation.

(a) The Director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(b) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factors as justice requires.

(c) Where appropriate, the Director may accept mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service to the City and the industrial user's expense in undertaking the project is at least one hundred and fifty percent (150%) of the civil penalty.

(3) Criminal Prosecution

(a) Any industrial user who willfully or negligently violates any provisions of this Chapter, any orders or permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year or both.

(b) Any industrial user who knowingly makes any false statement, representations, or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this Chapter, or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be punished by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year or both.

(c) In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000 per violation per day or imprisonment for not more than three years or both.

8.134 Supplemental Enforcement Action

(1) Performance Bonds The Director may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Chapter, any orders, or a previous permit issued hereunder unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

(2) Liability Insurance The Director may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Chapter, any orders, or a previous permit issued hereunder, unless the industrial user first submits proof that it has obtained financial assurance sufficient to restore or repair damage to the municipal wastewater system caused by its discharge.

(3) Water Supply Severance . Whenever an industrial user has violated or continues to violate the provisions of this Chapter, orders, or permits issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(4) Public Nuisance Any violation of the prohibitions or effluent limitations of this Chapter, permits, or orders issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the Director or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 7 of the Wilsonville City Codes governing such nuisance, including reimbursing the City for any costs incurred in removing, abating or remedying said nuisance .

(5) Informant Rewards The Director is authorized to pay up to five hundred dollars (\$500) for information leading to the discovery of noncompliance by an industrial user. In the event that the information provided results in an administrative fine or civil penalty levied against the industrial user, the Director is authorized to disperse up to ten (10) percent of the collected fine

or penalty to the informant. However, a single reward payment may not exceed ten thousand dollars (\$10,000).

(6) Contractor Listing Industrial users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contract for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by an industrial user found to be in significant violation with pretreatment standards may be terminated at the discretion of the City.

8.136 Affirmative Defense To Discharge Violations

(1) Upset. An upset shall be an affirmative defense to an enforcement action brought against a user for violating a pretreatment standard and requirement if the following conditions are met:

(a) The user can identify the cause of the upset.

(b) The facility was operating in a prudent and workmanlike manner at the time of the upset and was in compliance with applicable O&M procedures.

(c) The user submits, within twenty-four (24) hours of becoming aware of the upset, a description of the discharge and its causes, the period of noncompliance (if not corrected, then time noncompliance is anticipated to end), and the steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.

(d) If this report is given orally, the user must also submit a written report containing such information within five (5) days unless waived by the Director.

(e) Upset shall mean 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. Noncompliance cause by operational error, improperly designed pretreatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation does not constitute an upset.

(2) 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 Section 8.114(5) of this Chapter if it can prove that it did not know or have reason to know that its discharge would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the 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 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.

(3) Bypass. The intentional diversion of wastestreams 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.

8.138 Surcharge Costs

[Reserved]

8.140 Miscellaneous Provisions

(1) Pretreatment Charges and Fees. The City may adopt, from time to time, by Resolution, reasonable charges and fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include:

- (a) Fees for permit applications including the cost of processing such applications;
- (b) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by industrial users;
- (c) Fees for reviewing and responding to accidental discharge procedures and construction;
- (d) Fees for filing appeals;
- (e) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Chapter and are separate from all other fees, fines and penalties chargeable by the City.

(2) Non-exclusivity. The requirements and remedies provided for in Section 8.100 - 8.140 are not exclusive and may be required and/or sought by the City individually or in any combination thereof.

8.142 Public Sewers - Construction

(1) No person shall construct, extend or connect to any public sewer without first obtaining a written permit from the City and paying all fees and connection charges and furnishing bonds as required herein and by the Public Works Standards for the City of Wilsonville. The provisions of this section requiring permits shall not be construed to apply to contractors constructing sewers and appurtenances under contracts awarded and entered into by the City.

(2) The application for a permit for public sewer construction shall be accompanied by complete plans, profiles and specifications, complying with all applicable sections of this Code, rules and regulations of the City prepared by a registered civil engineer in the State of Oregon showing all details of the proposed work based on an accurate survey of the ground. The application, together with the plans, profiles and specifications shall be examined by the Director or an authorized representative of the Director who shall within twenty (20) days, approve them as filed or require them to be modified as he may deem necessary.

(3) All sewer work plans, specifications and construction procedure shall conform to Public Works Standards for the City of Wilsonville.

(4) Prior to issuance of a permit for public sewer construction, the applicant shall furnish to the City a performance bond, or cash deposit, in the amount of the total estimated cost of the work. Such performance bond, or cash deposit, shall be conditioned upon the performance of the terms and conditions of the permit and shall guarantee the correction of faulty workmanship and replacement of defective materials for a period of one (1) year from and after the date of acceptance of the work by the City.

(5) Except as provided, the extension of the public sewage facilities to serve any parcel or tract of land shall be done by and at the expense of the owner. The size of all sewer mains and other sewerage facilities shall be as required by the Director to lay sewer pipe larger than that required for his own purposes, to accommodate other users, and will be reimbursed under the provisions of Section 3.116 of the Wilsonville Code for the difference in cost between the size of the line installed and that which would be required for his own use.

(6) Where special conditions exist, in the opinion of the Director, relating to any reimbursement agreement pursuant to the provisions of this section, the City may, either in addition to, or in lieu of any of the provisions of this section, authorize a special reimbursement contract between the City and the person or persons constructing public sewerage facilities. Said special reimbursement agreement shall be made and entered into prior to the issuance of a permit for the work by the City.

8.144 Public Sewers - Property Damage Prohibited.

(1) No unauthorized person shall with intent to cause substantial inconvenience or with intent to cause damage, break, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewage works which is a municipal public utility.. Any person violating this provision and as a result thereof damages any part of the sewage works, shall be subject to arrest and prosecution under the laws of the State of Oregon as

set forth in ORS 164.345 and through 164.365.

8.146 Powers And Authorities Of Inspectors.

(1) In addition to the authority set forth in Section 8.124, the Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing, in connection with the provisions and regulations of City sewage collection and treatment system as provided for in this Chapter.

(2) While performing the necessary work on private properties referred to in Section 8.124(1) and 8.146(1) above, the owner of the premises or representative shall notify the Director or duly authorized employees of the City, shall observe all safety rules applicable to the premises established by the owner. The premises shall be maintained in a safe condition and the owner or representative shall have a duty to notify the Director and any duly authorized representative of the City of any unsafe conditions.

(3) The Director and other duly authorized employees of the City bearing proper credentials and identification, shall be permitted to enter all private properties through which the City holds a duly negotiated easement, or for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works which is connected to or lying within an easement. All entry and subsequent work, if any, on said easement or any connection thereto, on the sanitary system shall be done according to those regulations as stipulated in the Code of the City of Wilsonville.

8.148 Garbage - General Regulations.

(1) The regulation of the disposal and hauling of garbage in the City under the provisions of this Code shall be under the supervision of the City Council or an agent or employee of the City, duly designated by the City Council and the powers and duties of said Council or as delegated shall include, though not exclusively, authority to conduct periodic inspections to insure full compliance with the terms and provisions of these sections and to arbitrate or provide for arbitration of any and all disputes arising between the Garbage Contractor or Garbage Franchisee of the City and the citizens of the City.

(2) It shall be unlawful for any person in possession, charge or in control of any dwelling, apartment, trailer camp, restaurant, camp, place of business or manufacturing establishment where garbage is created or accumulated, to fail at all times to keep portable cans or containers of standard type and construction and to deposit said garbage therein, provided however, that stiff paper products and wooden or metal waste matter may remain outside of cans

or containers, if neatly and orderly stored. Said cans or containers for garbage shall be strong, watertight, rodent proof, insect proof and be of a capacity approved by the City and shall have tightly fitting lids. Said cans or containers shall be kept tightly closed at all times except when being emptied or filled and shall be kept and maintained at a place or places reasonably accessible to garbage haulers at first floor or ground level. Recyclable materials containers may be open if the materials are not likely to attract animals.

(3) It shall be unlawful to burn, dump, collect, remove or in any other manner accumulate or dispose of garbage upon any street, alley, public place or private property, within the City, otherwise than as herein provided. Waste paper, rubbish and debris, brush, grass, wood and cuttings from trees, but excepting paper, cardboard or wood containers in commercial quantities, may be burned in furnaces, outside fireplaces or incinerators on private property in keeping with State and County laws, or upon special permit from the fire chief of the City, they may be burned in open fires. It shall always be unlawful to burn, within the City limits, any wet garbage or other substance which creates foul or obnoxious odors. Any unauthorized accumulation of garbage on any premises is hereby declared to be nuisance and is prohibited. Failure to remove any existing accumulation of garbage within thirty (30) after the effective date of this Code shall be deemed a violation of this Section.

(4) It shall be unlawful for any person to haul garbage upon the streets and public thoroughfares of the City, except as otherwise provided herein.

(5) All persons in the City are hereby required to dispose of all perishable garbage before the same shall become offensive and to dispose of all non-perishable garbage promptly and not permit the same to accumulate on or about the premises and to dispose of the same by burning, burying or such manner as shall not create a nuisance and as permitted by these sections.

(6) Any person may transport garbage produced by himself or itself upon the streets of the City provided that such garbage must be hauled in such manner as to prevent leakage or litter upon the streets and must be deposited upon designated dumping grounds or disposed of in a manner not inconsistent with these sections.

(7) Except as provided herein, it shall be unlawful for any person, firm or corporation other than a person, firm or corporation under contract with the City as provided in Section 8.150 of this Code to collect, gather and haul garbage over the streets of the City.

8.150 Garbage - Contract Garbage Hauler.

(1) The Mayor of the City is hereby authorized and directed to enter into a contract with a person, firm or corporation for a period of five (5) successive years from and after the

effective date of this Code granting to the said person, firm or corporation the exclusive right to collect, convey and dispose of all garbage as herein defined and which accumulates in the City. The terms and conditions of such contract to be first approved by the City Council. Upon the expiration of said contract by the lapse of time or otherwise the Mayor of the City is hereby authorized to enter into a renewal contract or other contracts with other persons, firms or corporations as may be required for the collection, conveyance, removal and disposal of garbage within the City.

(2) For the right to collect and haul garbage over the streets of the City, the Contractor shall pay to the City as a license and inspection fee, annually and in advance, an amount equal to three percent (3%) of the gross revenue collected by the Contractor for garbage collection services; said fee to be based upon the prior year's gross revenue.

(3) The rates and compensation for the service rendered by the contract garbage hauler shall be reasonable and uniform and shall not be in excess of a schedule of charges and compensation to be fixed by the contract. Provided that such rates and charges may be changed from time to time after negotiations with the Contractor.

8.152 Garbage - Violation.

(1) Any person violating any of the terms of Sections 8.148 to 8.150 shall upon a first conviction thereof, be punished for a violation pursuant to Section 1.012 of the Wilsonville Code and upon a subsequent conviction thereof, be punished for a Class C Misdemeanor pursuant to Section 1.011 of the Wilsonville Code. In addition, upon a conviction, a person shall be liable for the costs of prosecution.”

SECTION 3. Severability. If any provision(s) of this Ordinance is (are) invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. Upon codification; it shall be unnecessary to insert this section as Section 1.025 Severability of Parts of the Code shall apply.

SECTION 4. Conflicts. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of the inconsistency or conflict.

SECTION 5. Emergency

The City is mandated to conform its regulations of sewage collection and treatment to Federal and State laws in the interest of public, health and safety by August 16, 1992, and time is of the essence. Therefore, an emergency is declared and this Ordinance shall take full force and effect immediately following its enactment.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof the 3rd day of August, 1992, commencing at the hour of 7:00 p.m. at the Community Development Hearings Room at which time it was continued for public hearing and second reading until August 17, 1992, commencing at the hour of 7:00 p.m. at the Community Development Hearings Room.

Vera A. Rojas
VERA A. ROJAS, CMC/A&E, City Recorder

ENACTED by the City Council on the 17th day of August, 1992 by the following votes: YEAS: 5 NAYS: 0

Vera A. Rojas
VERA A. ROJAS, CMC/A&E, City Recorder

DATED and signed by the Mayor this 19th day of August, 1992.

Gerald A. Krummel
GERALD A. KRUMMEL, Mayor

SUMMARY of Votes:

- Mayor Krummel AYE
- Councilor Chandler AYE
- Councilor Carter AYE
- Councilor Lehan AYE
- Councilor Van Eck AYE