

ORDINANCE NO. 5016

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE TITLE 10, SEWERS, INCLUDING CHAPTER 10.01, WASTEWATER TREATMENT SYSTEM--REGULATIONS--FEES REGULATION OF INDUSTRIAL WASTES, AND DECLARING AN EMERGENCY.

THE PEOPLE OF ALBANY DO ORDAIN AS FOLLOWS:

Title 10

SEWERS

Chapters:

- 10.01 Wastewater Treatment System--Regulations--Fees--Regulation of Industrial Wastes
- 10.14 Sewer Connections of Unassessed Properties

Chapter 10.01

WASTEWATER TREATMENT SYSTEM--REGULATIONS--FEES¹
REGULATION OF INDUSTRIAL WASTES

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10.01.010 General provisions. Pursuant to the general laws of the State and the powers granted in the Charter of the City, the City Council does hereby declare its intention to acquire, own, construct, equip, operate and maintain within or without the city limits, a wastewater treatment plant or plants, sanitary sewers, equipment and appurtenances necessary, useful or convenient for a complete sewerage and treatment system.

¹Prior ordinance history: Ord. 1960, 1975, 1998, 2153, 2510, 2524, 2657, 2716, 2739, 2786, 3253, 3330, 3472, 3484, 3491, 3565, 3788, 3800, 3820, 3843, 3857, 3875, 4015, 4102, 4144, 4555, 4616, and 4900.

This chapter provides for the regulation of discharges into the City of Albany wastewater treatment system through the enforcement of administrative regulations.

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

The objectives of this chapter are:

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

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

(3) Compliance with standards. Pollutants shall be accepted into the City wastewater treatment system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the City of Albany for the protection of wastewater facilities and treatment processes, public health and safety, receiving water quality, and avoidance of nuisance. As a minimum, users of the City wastewater treatment system shall comply with the applicable pretreatment standards. Pretreatment standards shall be developed to ensure that at a minimum the City and users comply with Sections 307(b) and 307(c) of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and the regulations promulgated pursuant to these sections of the Act.

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

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

10.01.020 Abbreviations. The following abbreviations shall have the designated meanings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) Domestic user. Any person who contributes, causes, or permits the contribution of wastewater in to the City's POTW that is of a similar volume and/or chemical make up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day, 0.20 pounds of BOD per capita per day, and 0.17 pounds of TSS per capita per day. Generally, there are only trace quantities of other organic or inorganic solids or chemicals.

(19) Domestic water supply. Any water supply system which serves potable water and may include for the purposes of this chapter, wells which supply potable water.

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

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

(22) Grab sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(23) Holding tank waste. Any waste from holding tanks such as chemical toilets, campers, trailers, and septic tanks, including contents of trucks consolidating waste from such sources.

(24) Indirect discharge. The discharge or the introduction of nondomestic pollutants from a source regulated under Section 307(b) or (c) of the Act, into a POTW.

(25) Industrial user. Any person that is a source of a discharge.

(26) Industrial waste. Solid, liquid, or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery, or processing of natural resources.

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

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

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

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

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

(30) 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 sources if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

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

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

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

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

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

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

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

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

(32) Pass through. The occurrence of an indirect discharge which exits the POTW into waters of the United States 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 POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

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

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

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

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

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

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

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

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

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

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

(43) Service lateral. Any pipe between the main sewer lines of the city and the user's plumbing facilities.

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

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

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

(47) Sewer connection permit. A permit issued to connect buildings or structures to a public sewer.

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

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

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

(51) Sewer System Facility Plan. The current version of the facility plan for the development of the wastewater treatment plant and sanitary sewer system as amended or updated.

(52) Sewer use charge. The assessment levied on all users of the public sewer system.

(53) Shall, may. "Shall" is mandatory; "may" is permissive.

(54) Significant industrial user. Except as provided in paragraph (c) of this section, the term significant industrial user shall mean:

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

(b) Any other industrial user that:

(1) Discharges a process wastestream which makes up 5 percent of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(2) Discharges to the POTW a process wastewater flow of 25,000 gallons or more per average work day; or

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

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

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

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

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

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

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

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

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

(g) Failure to accurately report noncompliance.

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

(56) 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 in Chapter 10.01.040.

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

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

(59) 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.

(60) Treatment plant. That portion of the municipal wastewater treatment system designed to provide treatment to wastewater.

(61) Upset. An exceptional incident in which an industrial user unintentionally and temporarily is in a state of noncompliance with the standards set forth in Chapter 10.01.200(6)(a) herein due to factors beyond the reasonable control of the industrial user, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

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

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

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

(65) Wastewater Discharge Permit. As set forth in Chapter 10.01.190 of this chapter.

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

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

10.01.040 Regulations (1) Discharge prohibitions. No user shall contribute or cause to be discharged, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general prohibitions apply to all users of the POTW 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 wastewater treatment system:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Wastewater discharges are prohibited with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21.

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

(c) Any wastewater having a pH less than six (6.0) or greater than ten (10.0), or wastewater having any corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the City.

(d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment system process, create a toxic effect on the receiving waters of the POTW, constitute a hazard to humans or animals, or to exceed the limitation set forth in categorical pretreatment standards.

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

(f) Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state standards applicable to the sludge management method being used.)

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

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

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference but, in no case, wastewater which causes the temperature at the introduction into the treatment plant to exceed 40° Celsius (104° Fahrenheit). If, in the opinion of the City, lower temperatures of such wastes could harm either the sewers, wastewater treatment processes, or equipment; have an adverse effect on the receiving streams; or otherwise endanger life, health, or property or constitute a nuisance, the City may prohibit such discharges.

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

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

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

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

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

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

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

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

(2) Limitations on wastewater strength.

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

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

(c) Right of revision. The City reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Chapter 10.01.010.

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

(e) Specific pollutant limitations.

(1) No nondomestic user shall discharge wastewater containing restricted substances into the publicly owned treatment works in excess of limitations specified in its Wastewater Discharge Permit or published by the Director. The Director shall publish and revise from time to time standards for specific restricted substances. These standards shall be developed in accordance with 40 CFR 403.5 and shall implement the objectives of this ordinance. Standards published in accordance with this section will be deemed Pretreatment Standards for the purposes of Section 307(d) of the Act.

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

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

(a) Industrial users shall notify the City (wastewater treatment plant) immediately upon the occurrence of an accidental or other discharge which may cause potential problems for the POTW. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any industrial user that discharges prohibited materials shall be liable for any incurred expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal law.

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

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

(4) Special agreements. The City reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the wastewater treatment system. In no case will a special agreement waive compliance with a pretreatment standard. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. Industrial users may also request a variance from the categorical pretreatment standard from 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.

10.01.050 Public policy. It shall be the public policy of the City of Albany that the City Council does not intend to nor will it limit the City to its present boundaries or the wastewater treatment system to its present facilities.

(1) Service limitation. The Council shall not extend or furnish sewer service facilities to any residential, commercial or industrial property when the property is without the city limits and is contiguous to the city limits and eligible for annexation within the city limits.

(2) Users. No use or benefits of the sanitary sewer system or wastewater treatment plant of the City shall be extended to or made available to any property not within the corporate limits of the City, except under a contractual agreement with another municipality, service district, or the owners of said property and only then when such property is not located so as to be eligible for annexation to the City at the time the sewer service is requested.

(3) Contract. Use and benefits of the wastewater treatment system and wastewater treatment plant may be granted to property outside of the City on a contractual basis only. For individual property owners the contract shall require that the property owner shall annex his property to the City at the earliest date that the same becomes eligible for annexation under the laws of the State. The contract may further require for financing of the sewer extension, termination of service of the contract if any conditions are not met and any other requirements which are to be deemed in the best interest of the City.

(4) Design of wastewater improvements. Except for wastewater collection system improvements constructed privately under the provisions of a permit, it shall be the policy of the City of Albany that all facility planning and designs for additions to the wastewater collection system or wastewater treatment plant shall be done by the City's engineering staff or by consultants retained by the City. Privately constructed wastewater collection system improvements may be designed by privately retained professional engineers, subject to approval by the City.

10.01.060 Sewer funds. The "Sewer Fund" is hereby continued.

(1) Sewer use charges. All monies received from sewer users from monthly or quarterly sewer use charges shall be deposited in the Sewer Fund.

(2) System development charges. All monies received from sewer system development charges shall be deposited in the Sewer Fund. Such funds shall be accounted for separately from those received from sewer use charges. System development charge revenue shall only be spent on capital improvements associated with the sewer system including expenditures relating to repayment of indebtedness; making major emergency repairs; constructing, extending or oversizing sewers, or sewer system appurtenances; or constructing modifications or additions to new or existing treatment plants.

10.01.070 Sewer rates. There is levied and imposed upon all owners of property just and equitable use charges and rates necessary to acquire, own, construct, equip, operate and maintain within or without the city limits, a wastewater treatment plant or plants, sanitary sewers, equipment and appurtenances necessary, useful or convenient for a complete sewerage and treatment system. Owners of residential property shall be liable for sewer use charges 120 days after the issuance of a building or set-up permit or when occupied, whichever comes first, or in the case of commercial buildings and multi-family units when a temporary or permanent occupancy permit is issued by the Albany Community Development Department.

(1) Setting rates by council resolution. Sewer use charges shall be established by Council Resolution. The City shall not enter into agreements with any parties which are inconsistent with the requirements of Section 204(b)(1)(4) of the Clean Water Act (Public Law 95-217).

(2) Rate adjustment. The Public Works Director shall recommend adjustments in the sewer use charges to the City Council as it becomes necessary. The City Council shall consider such recommendations, and may approve or further adjust the sewer use charges at their discretion.

(3) Method of adjustment. The City Council shall set, by resolution, the method to be used by the Public Works Director to determine the percentage of change in sewer use charges. As a minimum, the method selected shall include the change in labor costs including payroll, overhead and fringe benefits, changes in the cost of materials and services, and changes in debt service requirements. Such adjustments may also include funds to be set aside for future use.

(4) Excess charges and fees. If costs are incurred beyond normal operation through involvement with non-complying users, the City may charge the non-complying user for monitoring, laboratory analysis, inspections, and surveillance as required by federal pretreatment requirements and this Chapter.

10.01.080 Sewer system development charges. To establish appropriate provisions for the construction and expansion of the sewerage system of the City and the treatment plant, to provide for the necessary oversizing of the sanitary sewer system, and to be assured that the cost of such construction and expansion is borne by those who receive the benefits thereof, there is hereby established connection permits for all connections made to the sewer system of the City in accordance with this section.

(1) Refund not permitted. If properties change from one use to a lower use requiring a lower system development charge, no refund for system development charges shall be made.

(2) Payment of fees. Before a building permit may be issued, the applicant shall pay to the City the necessary system development charges and any other fees as may be provided by ordinances or resolutions now in effect or hereinafter adopted.

(3) Sewer System Development Charge to Run With Land. A system development charge paid hereunder shall apply to the particular lot or tract for which it is issued. Any change of use which increases the strength or quantity of wastewater to be discharged or which requires additional connections to the wastewater treatment system shall cause an additional fee to be paid. The owner of the property shall be given credit only for those connections theretofore paid involving the same parcel of property. Where a structure which is served by city sewer is destroyed by fire, flood, wind or act of God, no system development charge shall be charged for a replacement of the structure, provided the use thereof is not intensified.

(4) Base rates. Sewer system development charges shall be established by Council Resolution.

10.01.090 Collection. The City of Albany is hereby directed to collect the fees and charges provided in this chapter from each owner or tenant of property which disposes of wastewater, whether in the city system or otherwise and on the first day of each month each owner shall be charged the rates set forth in Chapter 10.01.070 and 10.01.080. Furthermore, each user of the system shall be notified, at least annually, in conjunction with a regular bill, of the rate and portion of the user charges which are attributable to wastewater treatment services.

(1) Administrative costs. The administrative costs for collection of all fees and charges shall be paid from the Sewer Fund.

(2) Adjustments due to underground leaks. Where a water leak exists underground between the meter and the building during the monitoring period for wastewater flow charges, causing the total consumption to be greater than one-half the average amount which has been previously charged to the premise, and the same is repaired within 30 days after the premise has been notified of such leak, the utility may allow for an adjustment on the wastewater variable charges.

The variable charges will be adjusted back to past winter water consumption records for the property. Where past water consumption records are not available, the variable charges will be adjusted back to the residential average.

Adjustments shall not be permitted due to leaking plumbing fixtures or the apparent continued waste of water due to a negligent failure to repair.

(3) Delinquency. Such sewer use charges or sewer system development charges levied in accordance with this chapter shall be a debt due to the city and shall be a lien upon the property. If this debt is not paid within thirty days after it is due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the city against the property owner, the person or both. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating the debt due.

(4) Means of Collection--Interest. Should the city find it necessary to collect any delinquent fees or charges for sewer connection or sewer use, it shall be entitled to use any means provided by the laws of the State or permitted by the Charter and ordinances of the city; or any delinquencies in payment of either sewer system development charges or sewer use charges may be certified to the Tax Assessor of Linn County for collection in the manner and as provided by ORS 454.225. Fees and charges which are delinquent shall draw interest in accordance with city council policy. If not paid after becoming due and payable, the interest charge is effective. Any interest charge due hereunder which is not paid when due may be recovered in an action at law by the City.

(5) Penalty for Certification. In the event it becomes necessary to certify the service charges established because of the nonpayment therefore, there shall be added to the charges a penalty in the amount of ten percent thereof and the same shall bear, when certified, interest at the rate set by City Council policy from the date of such certificate.

(6) Hearing Rights. Customers shall have the opportunity, if they do not agree with the billing, to have a hearing on their account. The hearing shall be held by a hearings officer appointed by the Finance Director. The hearings officer's decision shall be binding. Notice to the utility by the customer of his/her request for a hearing must be given in writing with an explanation of why the customer feels that the bill is incorrect. If a hearing is held and the hearings officer finds in favor of the customer, any or all appropriate charges may be returned to the customer or customer's account based upon his/her findings.

10.01.100 Public sewers required. (1) **Connection Requirements.** All property with buildings or structures normally used or inhabited by people and such property is located within three hundred (300) feet of a sanitary sewer shall be required to have or make a connection to such sewer.

(2) **Malfunctioning or failing septic systems.** All property with structures or buildings normally used or inhabited by people that is served by septic tanks, cesspools, or similar private sewage disposal facilities that are found to be failing and/or causing contamination of soil surface, surface water, or ground water shall connect to any public sanitary sewer system ordered and constructed to alleviate such contamination. When a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, or similar private sewage disposal facilities shall be abandoned and filled with suitable materials. No repairs, expansions, or modifications to septic tanks, cesspools, or similar private sewage disposal systems shall be allowed when the property being served by said systems is within three hundred (300) feet of sewer system.

(3) **Declared health hazard.** All property with structures or buildings normally used or inhabited by people that is located within territory declared by the Oregon State Health Division or the Linn or Benton County Health Department to contain conditions causing a danger to public health shall connect to any public sanitary sewer system ordered and constructed to alleviate such health hazard. When a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, or similar private sewage disposal facilities shall be abandoned and filled with suitable materials.

(4) **Polluted discharges.** It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any sanitary sewage, industrial waste, or other polluted water, except where suitable treatment has been provided in accordance with State and Federal laws and any provisions of this Chapter.

(5) **New service connections.** The Utility may furnish and install a service of such size and at such location as the applicant requests provided:

(a) The location is such that the Utility has in place a sewer main of sufficient size to provide service without detriment to existing customers. In all cases, the final location of the proposed service shall be subject to approval by the Utility.

(b) That such a sewer main is adjacent to and extends along the full length of the property frontage along the right-of-way.

(c) Where a parcel has more than 300 feet of frontage along the right-of-way and the parcel is being developed in phases and the sewer main is not immediately needed for the full length of the parcel to facilitate service to other properties or to meet other utility system needs, the requirement of Section 10.01.100(5)(b) of this Code may be reduced, when approved, by delaying the requirement for a sewer main adjacent to that portion of the parcel that remains as an undeveloped portion of a future phase. Such delay, if authorized, is contingent upon the owners of the parcel signing of a waiver of remonstrance agreement that commits the parcel to participate in a future local improvement district for the extension of sewer main(s).

(d) Where the property abuts more than one street or right-of-way, sewer mains shall be extended for the full length of the property frontages along the rights-of-way for all frontages, unless it is determined that the extensions on the frontages from which service is not being taken is not currently needed to facilitate service to other properties, and that said sewer mains may be completed at a future time. Such delay, if authorized, is contingent upon the owners of the parcel signing of a waiver of remonstrance agreement that commits the parcel to participate in a future local improvement district for the extension of sewer main(s).

(e) The Utility shall have sole authority in determining any and all conditions necessary for the provision of service to a property.

10.01.110 Main extensions. (1) A main extension and/or special facilities shall be required to service all property which cannot obtain service as outlined in Section 10.01.100(5) of this Code.

(2) The following rules shall apply to all extensions:

(a) The minimum size of the sewer main to be installed shall be 8 inches in diameter where a larger size is not needed to provide an adequate system, conform with the size of existing mains, meet future needs, or conform to the size specified by the Utility's Sewer System Facility Plan.

(b) All sewer mains shall be public, installed in public right-of-ways or public utility easements. The normal routing for the sewer main extension shall be in a dedicated street right-of-way.

(c) In areas of service below the main system service elevation, special facilities (e.g., pump station) will normally be required in addition to main extensions to provide service.

(d) Financing of Extensions. There are two basic means of financing main extensions, as outlined below.

(1) Total Project Cost. Under this method, the developer is required to pay the total cost of the project. An estimate covering approximate total costs related to the project may be supplied by the Utility. If developers install the project themselves or through their own contractor and supply materials, a cash advance sufficient to cover the estimated cost for the utility services needed on the project may be required prior to starting the project. Upon completion of the project, actual costs will be computed and an adjustment made to the contractor or to the Utility, as appropriate. In the case of complex projects (projects involving disruption of or cutting into existing roadways, utilities, or pedestrian ways, or other projects where partial completion of the project could result in expense to the Utility), the developer may be required to supply a bond to cover the estimated cost of engineering and construction.

(2) Local Improvement Districts. Local improvement districts may be formed and bonds sold to fund main extensions and special facility projects.

(e) Installers of any and all sewer lines or appurtenances must meet minimum standards. These standards shall include, but are not limited to, insurance requirements, bonding requirements, and experience in the field of sewer line installation. The sewer lines must be installed in accordance with the Utility's specifications which are available upon request. Unless the work is being performed under a City contract, all main extensions shall require a "permit to construct public facilities" and the payment of the associated permit fee. The permit fee shall be 2.5 percent of the total construction cost unless otherwise set by Council resolution.

(f) If developers install and purchase the material themselves, they must guarantee the project for a period of one year from the date of acceptance of the project by the Utility.

(g) A contract agreement between the developer and the Utility outlining the above criteria must be signed before the start of the project.

10.01.120 Service lateral construction. In order to regulate connections to the public sewers, to insure the proper installation of connections to the public sewers, and to insure the proper construction of private service laterals, the following regulations shall apply:

(1) Encroachment permit required. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining an encroachment permit.

(2) Application & fee. The owner of the service lateral or his agent shall make application for an encroachment permit to the Building Department. The permit application shall be supplemented by any drawings, specifications, or other information considered pertinent. A permit and inspection fee shall be paid to the City at the time the application is filed.

(3) Installation costs. All costs and expense incident to the installation of the service lateral shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation.

(4) Conformation to state codes. All service lateral construction shall, at a minimum, meet the requirements of the Plumbing Code and the Occupational Safety and Health Code of the State of Oregon. The City may establish more stringent requirements when it is in the best interest of the City to do so.

(5) Size and slope. The size and slope of the service lateral shall be subject to the approval of the Public Works Director, but in no event shall the diameter be less than four inches and the slope less than one-eighth inch per foot.

(6) Inspection. All excavations for service laterals in the public right-of-way shall be open trench unless approved by the Public Works Director; and no backfill shall be placed until the work has been inspected. The owner of the service lateral shall notify the City when the sewer is ready for inspection. The connection to the public sewer shall be made only under the supervision of the Public Works Director or his representatives.

(7) Connection to public sewer. The sewer connection shall be made at the "Y" branch. If the "Y" branch is not used or is not available, the owner shall, at his expense, install a "Y" branch in the public sewer or with prior approval of the Public Works Director, a neat hole may be cut into the public sewer and a "sewer boot" connection may be made. Under no circumstances shall the connection pipe extend past the inner surface of the public sewer. All connections shall be made secure and watertight. If necessary in the opinion

of the Utility, the property owner may be required to connect to a manhole or may be required to install a manhole on the sewer main as a condition of providing service to the property.

(8) Adequate protection. All excavations for sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

10.01.130 Maintenance responsibility. Each user shall be responsible for the maintenance of his service lateral from the structure or facility served to the connection with the City public sewer. This shall include service laterals located in public rights-of-way. Maintenance may include, but is not limited to, removal of any blockages, disconnection of abandoned services from the public sewer, and prevention of any unpolluted water from entering the service lateral.

10.01.140 Protection from damage. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the City of Albany's wastewater treatment system.

10.01.150 Nuisance. (1) Any property with buildings and structures normally used or inhabited by people and which buildings or structures are not connected to a public sewer system and such property is located within three hundred (300) feet of a public sanitary sewer and for which a Nonconnection Permit has not been issued is declared a nuisance and may be abated as hereinafter set forth.

(2) The abatement procedures set forth herein are not exclusive but are in addition to abatement procedures provided by other ordinances, statutes, and common law. Nor are these abatement procedures a penalty for violating this code. Rather, these procedures are a supplement to all existing penalties.

10.01.160 Notice to Abate. (1) If the Director or his designate determines that a nuisance exists pursuant to Chapter 10.01.150(1) above, and, in the exercise of his discretion, that the nuisance should be abated, he shall cause a notice to be posted on said property directing the property owner to abate said nuisance.

(2) At the time of posting, the Director or his designate shall cause a copy of the aforesaid notice to be forwarded by registered or certified mail, postage prepaid, to the record owner or owners of said property, or their agent at the address designated on the Linn County real property tax assessment roles.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, upon which the nuisance exists.

(b) A direction to abate the nuisance by a specified time which may be set by the Director or his designate. Said time shall be at least 30 days and at most 180 days.

(c) A description of the nuisance.

(d) A statement that unless the nuisance is corrected, the City may abate the nuisance and the cost of abatement, including but not limited to, the costs of all permits, system development charges, construction fees and material costs shall be assessed against the real property.

(4) Upon completion of the posting and mailing, the persons doing said posting and mailing shall execute and file certificates stating the date and place of mailing and posting respectively.

(5) An error in the name or address of the property owner/owners/agent shall not make the notice void and in such case the notice shall still be sufficient.

10.01.170 Abatement Procedures. (1) In the event that the property in question has not been lawfully connected to a public sanitary sewer nor obtained a nonconnection permit within the time specified in the notice of abatement, the Director or his designate may cause said property to be connected to the public sewer.

(2) The aforesaid connection may be completed by the City or by private contractors hired by the City for the completion of said work.

(3) The City, or the aforesaid private contractor and all authorized employees and agents thereof, shall have the right at reasonable times to enter into or upon the property in question as necessary to complete said connection.

(4) Notwithstanding the foregoing, if the Director or his designate finds that the property has not been connected to the public sewer within the time specified in the notice but finds that the property

owner/owners are making a good faith effort to complete said connection, the Director or his designate may grant one or more 30-day extensions upon the written request from the property owner/owners in question.

10.01.180 Assessment of Costs. (1) Upon completion of the connection pursuant to the foregoing abatement procedures, the Director or his designate shall prepare a recap of all costs incurred in construction of the sewer connection in question. Said costs shall include the costs of all permits and system development charges customarily charged by the City at the time of said connection. To this sum shall be added 15 percent to help defer the City's engineering, legal and administrative expenses incurred in the aforesaid connection.

(2) A summary of costs shall be mailed by registered or certified mail to the same person or persons to whom the notice of abatement was sent as per Chapter 10.01.160(2) above, or their successors in title, and shall advise of the City's intent to assess said costs against the real property and shall further advise the owner/owners of their right to a hearing before the City Council prior to assessment upon receipt by the Director, within 30 days of the date of mailing, of a written request for hearing.

(3) If the costs of abatement are not paid to the City within 30 days from the date of the mailing of the summary of costs, said summary shall be presented to the City Council and if the Council finds said costs to be reasonable, the Council shall pass an ordinance directing the amount of said costs be entered in the docket of City liens; and upon such entry being made, said costs shall constitute a lien upon the property in question. Prior to passing said ordinance, the Council will afford the property owner/owners a right to be heard by the Council if a written request for hearing has been received by the Director within 30 days of the date of mailing of the aforesaid summary of costs.

(4) The lien shall be enforced in the same manner as liens for street improvements and shall bear interest at a rate to be determined by the Council at the time of the ordinance referred to above. The interest shall commence from the date of entry of the lien in the lien docket and shall have priority over all other liens and assessments to the maximum extent permitted by law.

(5) An error in the name of the property owner/owners/agents shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

10.01.190 Administration (1) Wastewater discharges. It shall be unlawful to discharge industrial wastes to the POTW without having first complied with the terms of this chapter, or without having first obtained the City's approval of a compliance schedule submitted by the industrial user.

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

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

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

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

(c) Wastewater constituents and characteristics including but not limited to those mentioned in this chapter, including standards contained in Chapter 10.01.040(1),(2) as appropriate, as determined by bona fide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the EPA and contained in 40 CFR, Part 136, as amended.

(d) Time and duration of discharges.

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

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

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

(h) A statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and, if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the industrial user to comply with this chapter.

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

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

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

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

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

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

(l) A statement signed by an authorized representative of the user and certified 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.

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

(4) Evaluation of disclosure. The City will evaluate the complete disclosure form and data furnished by the 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. 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 Chapter 10.01.040, and which in the judgement of the Director, may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may take any of the following actions:

(a) Reject the wastes,

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

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

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

(5) Standards modification. The City reserves the right to amend this chapter and the terms and conditions hereof in order to assure compliance by the City with applicable laws and regulations. All categorical pretreatment standards adopted by the EPA after the promulgation of this chapter shall be enforceable by the City through this chapter. Where an industrial user, subject to a categorical pretreatment standard, has not previously submitted a data disclosure form as required by Chapter 10.01.190(3), the industrial user shall file a disclosure form with the City within 180 days after the promulgation of the applicable categorical pretreatment standard by the EPA. In addition, any industrial user operating on the basis of a previous filing of a data disclosure form shall submit to the City within 180 days after the promulgation of an applicable categorical pretreatment standard the additional information required by subparagraphs (h) and (i) of Chapter 10.01.190(3). If deemed necessary by the City, where categorical pretreatment standards are more stringent, the wastewater discharge permit will be modified. The industrial

user shall be informed of any proposed changes in the chapter at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the chapter shall include a reasonable time schedule for compliance.

(6) Wastewater discharge permit. Wastewater permits shall include such conditions as are reasonably deemed necessary by the Director to prevent pass through or interference and to implement the objectives of this Code.

(a) Wastewater permits must contain the following conditions:

(1) A statement that indicates permit duration, which in no event shall exceed 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 POTW.

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

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

(6) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the wastewater treatment 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 Chapter 10.01.190(14) 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 the immediate notification of excessive, accidental, or slug loads, or any discharge which could cause any problems to the wastewater treatment system.

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

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

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

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

(b) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of permit issuance.

(c) A change in the municipal wastewater treatment system that requires either a temporary or permanent reduction or elimination of the authorized discharge.

(d) Information indicating that the permitted discharge poses a threat to the City's municipal wastewater treatment system, City personnel, or the receiving waters.

(e) Violation of any terms or conditions of the wastewater permit.

(f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.

(h) To correct typographical or other errors in the permit.

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

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

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

(9) Reporting requirements for industrial users.

(a) Final compliance report. Within ninety (90) days following the date for final compliance by the industrial user with applicable categorical pretreatment standards and requirements set forth in this chapter or a wastewater discharge permit, or within thirty (30) days following commencement of the introduction of wastewater into the POTW by a new source, any industrial user subject to this chapter shall submit to the City a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall include a statement, signed by an authorized representative of the industrial user and certified 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.

(b) Periodic compliance reports.

(1) 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 Chapter 10.01.190(20).

(2) Reports of industrial users shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the City. The frequency of monitoring by the industrial user shall be as prescribed within the wastewater discharge permit. If an industrial user monitors any pollutant more frequently than required by the wastewater discharge permit, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.

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

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

(12) Monitoring facilities. Each industrial user required to do so by the City shall provide and operate at the industrial user's own expense a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge to the City. Each monitoring facility shall be situated on the industrial user's premises, except where such a location would be impractical or cause undue hardship on the industrial

user, the City may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles.

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

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

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

(14) Record Keeping. Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under 40 CFR 403.12(o). These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with the Albany Municipal Code, or where the industrial user has been specifically notified of a longer retention period by the Director.

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

(16) Report of changed conditions. Each industrial user is required to notify the City of any planned significant changes to the industrial user's operations or pretreatment systems 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 Chapter 10.01.190(3), if necessary.

(b) The City may issue a wastewater permit under Chapter 10.01.190(4) or modify an existing wastewater permit under Chapter 10.01.190(7).

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

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

(17) Notification of significant production change. An industry operating under a wastewater discharge permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the City within two (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.

(18) Confidential information. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from City inspection and sampling activities shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state laws.

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

(b) When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report 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 the Albany Municipal Code, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report.

(19) Notification by industrial users discharging hazardous waste. Any industrial user discharging hazardous waste shall notify the City in accordance with 40 CFR 403.12(p). The City may request additional information on the nature and concentration of the discharge, and may prohibit such discharge of wastewater containing hazardous waste.

(20) Signatory requirements. All applications, reports, or information to the City shall be signed and certified in accordance with 403.12(l).

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

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

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

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

(2) Industrial user prohibited conduct. An industrial user shall not:

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

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

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

(d) Violate the provisions of the wastewater discharge permit or the provisions of this chapter.

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

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

(a) Notification of Violation - Adjustment by Consent. Whenever the City finds that any industrial user has violated the provisions of Chapter 10.01.200(2) hereof, the City may notify the industrial user personally, by regular mail, or by telephone, of the alleged violation or violations and may request information from the industrial user concerning the nature of the discharge, its causes, and any mitigating considerations. The City and the industrial user may agree, in writing, upon a course of correction aimed at preventing future violation(s) and may agree upon the imposition of appropriate civil penalties for said violation(s).

(b) Administrative Order. In the event that the City and the industrial user cannot agree upon an adjustment by consent, including the payment of appropriate civil penalties, or in the event that an adjustment by consent is not effective in preventing the reoccurrence of violation(s), or in the event the City

elects not to seek adjustment by consent, the City may impose any of the sanctions set forth below by Administrative Order. These sanctions may include:

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

(c) Notification of Proposed Administrative Order. An Administrative Order shall be preceded by a notification to the industrial user, in writing, containing a statement of the nature of the alleged violation or violations and the proposed Administrative Order. This notice shall be served upon the industrial user either by personal service to any owner, operator, authorized agent, or any employee of the industrial user at any office maintained by the industrial user either within or outside of the City of Albany. Service of the notice may also be accomplished by mailing the notice, via registered or certified mail, return receipt requested, to the industrial user at any office maintained by the industrial user either within or outside of the City of Albany. The Administrative Order shall be entered and effective against the industrial user unless, within seven (7) days of the date of receipt of notice, the industrial user shall serve upon the City, a written Request for Hearing concerning the Administrative Order. Service of this Request for Hearing may be accomplished by personal service on the City Manager or Public Works Director of the City or by personal service upon any employee of the City at the counter of the Engineering/Public Works Department of the City. Service of the Request for Hearing may also be accomplished by registered or certified mail, return receipt requested, addressed to the Public Works Director of the City of Albany at his office address at Albany City Hall.

(d) Hearing on Administrative Order. Upon receipt of a Request for Hearing on the Administrative Order, the City shall cause a hearing to be held before the Public Works Director of the City of Albany, or his authorized representative. The City shall notify the industrial user, by regular mail, of the time, date, and place of said hearing. The Public Works Director, or his authorized representative, shall conduct the hearing with the advice and counsel of the City Attorney and shall establish such rules and procedures as may be determined by the City in order to meet due process minimums. Such rules and procedures shall include, at a minimum, a presentation by the City of evidence concerning the alleged violations and an opportunity for the industrial user to provide evidence in defense of said allegations and, or, in mitigation of the sanctions sought the City. The City shall bear the burden of proving the occurrence of the alleged violation(s) by a preponderance of the evidence. Following the close of the hearing, the Public Works Director, or his authorized representative, shall enter appropriate Findings of Fact, Conclusions of Law, and an Administrative Order with respect to the alleged violations and under the terms of the Order, may impose any or all of these sanctions referred to in paragraph 3(b) above. Said sanction may exceed those originally purposed in the Notice of Proposed Administrative Order. The Findings, Conclusions and Order shall be served upon the industrial user in the manner provided above for the service of the Notification of Proposed Administrative Order.

(e) Appeals. Within seven (7) days of its receipt of the Administrative Order as outlined above, the industrial user may appeal the Findings, Conclusions, and Order of the Public Works Director or his authorized representative, by serving a written notice of such appeal in the same manner as provided above for the service of the Request for Hearing. Thereafter, a hearing on the appeal shall be scheduled before the City Council of the City of Albany, or such Appeal Hearings Officer as the City may appoint for such purpose. The City Manager of the City of Albany shall have the authority and discretion to appoint an Appeal Hearings Officer or direct the appeal to the City Council. Thereafter, the City Council or the Appeal Hearings Officer may render its decision based upon the record of the Hearing on the Administrative Order, grant an additional hearing to take additional evidence, or conduct a de novo hearing. The City Council, or Appeal Hearings Officer, in consultation with the City Attorney, shall establish rules and procedures for the conduct of the appeal in order to accord the industrial user minimum due process. The burden of proof, on appeal, shall remain with the City by a preponderance of the evidence. The City Council or Appeal Hearings Officer, shall affirm, reverse, or modify the Findings, Conclusions, and Administrative Order and shall serve its decision,

in writing, upon the industrial user, in the manner provided for the service of the original Administrative Order. The decision of the City Council or Appeal Hearings Officer, shall be final.

(4) **Judicial Proceedings.** Following the entry of any final Administrative Order by the City with respect to the violation by an industrial user of Chapter 10.01.200(2) hereof under this chapter, the City may commence an action for appropriate legal and/or equitable relief in the appropriate local court to enforce the penalty or remedy imposed by the City hereunder.

(5) **Enforcement Actions; Annual Publication.** A list of all industrial users in significant noncompliance during the twelve (12) previous months shall be annually published by the City in the largest daily newspaper circulated in the area of the municipality, summarizing the violations and enforcement action undertaken by the City. For purpose of this paragraph, an industrial user is in significant noncompliance if its violation meets one or more of the criteria stated under the definition of significant noncompliance in Chapter 10.01.030(55).

(6) **Affirmative defense.**

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

(1) The industrial user can identify the cause of the upset.

(2) The facility was operating in a prudent and workmanlike manner at the time of the upset and was in compliance with applicable operation and maintenance procedures.

(3) The industrial user submits, within 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.

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

(5) 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 caused by operational error, improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation does not constitute an upset.

(b) **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 Chapter 10.01.040 if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference and that either:

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

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

(c) **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.

10.01.210 Penalties (1) **Civil penalties.** Any industrial user who violates an Administrative Order of the City, or who fails to comply with:

(a) Any provision of this chapter, or

(b) Any regulation, rule, or permit of the City, issued pursuant to this chapter, shall be liable to the City for a civil penalty. The amount of such civil penalty shall be not less than \$250.00 per violation nor more than \$1,000.00 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. Such penalties may be collected by judicial actions commenced by the City as provided in Chapter 10.01.200(4). In addition, the City may issue an Administrative Order terminating the industrial user's wastewater service if a civil penalty is not paid when due.

(2) Recovery of cost incurred by the City. Any user violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the City's wastewater treatment system shall be liable to the City for any expense, loss, or damage caused by such violation or discharge. The City may, by Administrative Order, require the user to pay for the cost incurred by the City for any cleaning, repair, or replacement work caused by the violation or discharge and for cost incurred by the City in investigating the violation and in enforcing the ordinance against the user, including reasonable administrative costs, fees for testing, attorney fees, court cost, and all expenses of litigation. Refusal to pay the ordered costs shall constitute a violation of this chapter, enforceable under the provisions of Chapter 10.01.200. The user shall also reimburse the City for any and all fines or penalties levied against the City as a result of a discharge by the user.

(3) Falsifying information. Any person who knowingly makes any false statement, representation, or certification in any application, record, report and plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under Chapter 10.01.190, shall (in addition to civil and/or criminal penalties provided by state law) be guilty of a misdemeanor and shall be prosecuted and punished accordingly.

(4) Fraud and false statements. Any reports required in this code and any other documents required to be submitted by the City or maintained by the industrial user shall be subject to enforcement provision of the Albany Municipal Code, municipal, and state law relating to fraud and false statements. In addition the industrial user shall be subject to: 1) the provisions of 18 U.S.C. Section 1001 relating to fraud and false statements; 2) the provisions of Sections 309(c)4 of the Clean Water Act, as amended governing false statements representation or certification; and 3) the provision of Section 309(c)(6) regarding responsible corporate officers.

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

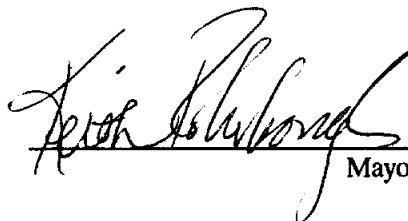
10.01.220 Severability. If any provision, paragraph, word, section, or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

EMERGENCY CLAUSE: Inasmuch as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albay, an emergency is hereby declared to exist and this ordinance shall become immediately effective and in full force upon its passage by the City Council and approval by the Mayor.

Passed by Council: November 18, 1992

Approved by Mayor: November 18, 1992

Effective Date: November 18, 1992



Mayor

ATTEST:



Deputy City Recorder