

ORDINANCE NO. 5708

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE TITLE 10.06 TO COMPLY WITH FEDERAL REGULATIONS REGARDING THE INDUSTRIAL PRETREATMENT PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS, the Federal Environmental Protection Agency (EPA) has revised industrial pretreatment regulations affecting the City of Albany's pretreatment program; and

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

WHEREAS, the City of Albany desires to amend the Municipal Code dedicated to industrial pretreatment regulations.

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

Section 1: Title 10.06 of the Albany Municipal Code is hereby amended to incorporate the language herein:

**Chapter 10.06**

**WASTEWATER COLLECTION AND TREATMENT SYSTEM – REGULATION OF INDUSTRIAL WASTES**

Sections:

- 10.06.010 General provisions.
- 10.06.020 Abbreviations.
- 10.06.030 Definitions.
- 10.06.040 Regulations.
- 10.06.050 Hauled waste.
- 10.06.060 Administration.
- 10.06.070 **Reporting and Monitoring Requirements.**
- 10.06.0780 Pretreatment facilities.
- 10.06.0890 Enforcement.
- 10.06.090100 Penalties.
- 10.06.100110 Severability.

**10.06.010 General provisions.**

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

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

The objectives of this chapter are:

- (a) To protect the health of the City employees working in the City wastewater treatment system;
- (b) To prevent the introduction of pollutants into the City wastewater treatment system that will interfere with the normal operation of the system, or contaminate the resulting sludge;

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

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

(e) To allow the use of fees and charges to recover the costs of operation, maintenance, and administration of the wastewater treatment system.

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

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

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

(5) This chapter shall apply to the City of Albany and to persons outside the City of Albany who are, by contract or agreement with the City of Albany, users of the City of Albany POTW. Except as otherwise provided herein, the Director of Public Works of the City of Albany shall administer, implement, and enforce the provisions of this chapter. (Ord. 5637, 2006).

#### **10.06.020 Abbreviations.**

The following abbreviations shall have the designated meanings:

ASPP – Accidental Spill Prevention Plan;

ASTM – American Society for Testing and Materials;

BOD – Biochemical Oxygen Demand;

**BMP – Best Management Practice;**

CFR – Code of Federal Regulations;

COD – Chemical Oxygen Demand;

CWA – Clean Water Act;

DEQ – Oregon Department of Environmental Quality;

EPA – U.S. Environmental Protection Agency;

L – Liter;

mg – Milligrams;

mg/L – Milligrams per liter;

NDCIU – Nondischarging Categorical Industrial User;

NPDES – National Pollutant Discharge Elimination System;

O & M – Operation and Maintenance;

POTW – Publicly Owned Treatment Works;

SIC – Standard Industrial Classification;

SWDA – Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.;

TSS – Total Suspended Solids;  
USC – United States Code. (Ord. 5637, 2006).

### 10.06.030 Definitions.

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

- (1) Act or “the Act.” The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- (2) Applicable Pretreatment Standards. For any specified pollutant, City prohibitive discharge standards, City’s specific limitations on discharge, State of Oregon Pretreatment Standards, or Categorical Pretreatment Standards (when effective), whichever standard is most stringent.
- (3) Applicant. A person who applies for sewer service or a sewer connection.
- (4) Approval Authority. The Oregon Department of Environmental Quality (DEQ).
- (5) **Authorized or Duly Authorized Representative of Industrial User.** ~~An authorized representative of an industrial user shall be:~~
  - (a) **If the user is a corporation:**
    - (i) **The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or**
    - (ii) **The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulation; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.**
  - (b) **If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.**
  - (c) **If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.**
  - (d) **The individuals described in (a)-(c) above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for the environmental matters for the company, and the written authorization is submitted to the Director.**
    - ~~(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) **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in AMC 10.06.040(1). BMPs include but are not limited to treatment requirements,

operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

- (7) ~~(6)~~ **Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).
- (8) ~~(7)~~ **Building Sewer.** A sewer conveying wastewater from the premises of a user to the POTW.
- (9) ~~(8)~~ **Categorical Pretreatment Standard.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) that applies to a specific category of industrial users and that appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471, incorporated herein by reference.
- (10) ~~(9)~~ **City.** The City of Albany, a municipal corporation of the State of Oregon.
- (11) ~~(10)~~ **City Manager.** The person designated by the Albany City Council to act as the administrative head of the City government and who is charged with certain duties and responsibilities by this chapter or the duly authorized representative.
- (12) ~~(11)~~ **Commercial User.** Any person who contributes, causes or permits the contribution of wastewater into the City's POTW that by nature of the services rendered is of a dissimilar volume or chemical makeup than that of a domestic user. Examples of commercial users may include but are not limited to restaurants, grocery stores, and car washes.
- (13) ~~(12)~~ **Control Authority.** The Director of Public Works for the City of Albany.
- (14) ~~(13)~~ **Cooling Water.** The water discharged from any use such as air conditioning, cooling, or refrigeration, to which the only pollutant added is heat.
- (15) ~~(14)~~ **Direct Discharge.** The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.
- (16) ~~(15)~~ **Director/Director of Public Works.** The person designated by the City Manager to supervise the Public Works Department and who is charged with certain duties and responsibilities by this chapter or the duly authorized representative.
- (17) ~~(16)~~ **Discharge.** The discharge or introduction of pollutants into the municipal wastewater treatment system from any nondomestic user.
- (18) ~~(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.
- (19) ~~(18)~~ **Domestic Sewage or Domestic Waste.** The liquid and waterborne wastes derived from the ordinary living processes, free from industrial wastes, and of such character as to permit satisfactory disposal, without special treatment, into the public sewer or by means of a private sewage disposal system.
- (20) ~~(19)~~ **Domestic User.** Any person who discharges only domestic waste.
- (21) ~~(20)~~ **Domestic Water Supply.** Any water supply system that serves potable water and may include for the purposes of this chapter, wells that supply potable water.
- (22) ~~(21)~~ **Environmental Protection Agency (EPA).** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.
- (23) ~~(22)~~ **Garbage.** The residue from the preparation and dispensing of food, and from the handling, storage, and sale of food products and produce.
- (24) ~~(23)~~ **Grab Sample.** A sample that is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (25) ~~(24)~~ **Hauled Waste.** Waste including septage, wastewater, or chemical toilet waste that is hauled for discharge into the City wastewater treatment system.
- (26) ~~(25)~~ **Indirect Discharge.** The discharge or the introduction of pollutants from an industrial user into a POTW.
- (27) ~~(26)~~ **Industrial User.** Any person, including a waste hauler, that discharges wastewater that is not domestic waste.

- (28) ~~(27)~~Industrial Waste. Solid, liquid, or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery, or processing of natural resources.
- (29) **Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.**
- (30) ~~(28)~~Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources:
- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
  - (b) Is a cause of a violation of any requirements of the NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.
- (31) **Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR Part 403.5.**
- ~~(29)National Pretreatment Standard. National pretreatment standard is defined in 40 CFR 403.3(j) as any regulation containing pollutant discharge limits promulgated by EPA under Section 307(b) and (c) of the Clean Water Act applicable to industrial users, including the general and specific prohibitions found in 40 CFR 403.5.~~
- (32) ~~(30)~~Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- (33) ~~(31)~~New Source.
- (a) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act that will be applicable to such sources if such standards are thereafter promulgated in accordance with that section, provided that:
    - (i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
    - (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
    - (iii) The production of wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as existing source should be considered.
  - (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
  - (c) Construction of a new source as defined herein has commenced if the owner or operator has:
    - (i) Begun, or caused to begin as part of a continuous on-site construction program:
      - (1) Any placement, assembly, or installation of facilities or equipment; or
      - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for placement, assembly, or installation of new source facilities or equipment; or

- (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.
- (34) ~~(32)~~ Nondischarging Categorical Industrial User (NDCIU). Any facility or industry having a connection to the City sewer system and having industrial processes that would otherwise be subject to national categorical pretreatment standards, but having no process wastewater discharge.
- (35) ~~(33)~~ Other Wastes. Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastes.
- (36) ~~(34)~~ Pass Through. The occurrence of an indirect discharge that exits the POTW into waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (37) ~~(35)~~ Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.
- (38) ~~(36)~~ pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (39) ~~(37)~~ Plumbing Fixture. Approved receptacle or devices intended to receive water, liquids or other permissible wastes, and that discharge the same into the soil pipe, waste pipe or special waste pipe with which they are connected and shall include all floor drains.
- (40) ~~(38)~~ Pollutant. Any dredged spoil, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
- (41) ~~(39)~~ Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into a POTW.
- (42) ~~(40)~~ Pretreatment Requirement. Any substantive or procedural requirement **related to pretreatment imposed on a User, other than a Pretreatment Standard.** ~~other than a national pretreatment standard, imposed on an industrial user.~~
- (43) **Pretreatment Standards or Standards. Prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.**
- (44) ~~(41)~~ Prohibited Discharges Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the Director. **substances; these prohibitions appear in AMC 10.06.040(1).**
- (45) ~~(42)~~ Publicly Owned Treatment Works (POTW). Any wastewater treatment works and the sewers, conveyances, and appurtenances discharging thereto, owned and operated by the City.
- (46) ~~(43)~~ Septage. Either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Septage does not include liquid or solid material removed from a septic tank, cesspool, or similar holding tank that receives industrial waste and does not include grease removed from a grease trap at a restaurant.
- (47) ~~(44)~~ Service Lateral. Any pipe between the main sewer lines of the City and the user's plumbing facilities.
- (48) ~~(45)~~ 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.
- (49) ~~(46)~~ Sewer. Any pipe, conduit, ditch, or other device used to collect and transport wastewater from the generating source.

- (50) ~~(47)~~Sewerage. The system of sewers and appurtenances for the collection, transportation, and pumping of wastewater.
- (51) ~~(48)~~Sewer Connection Permit. A permit issued to connect buildings or structures to a public sewer.
- (52) ~~(49)~~Sewer, Public. A sewer provided by or subject to the jurisdiction of the City. It also includes sewers within or outside the City boundaries that serve one or more persons and ultimately discharge into the City sanitary sewer system, even though those sewers may not have been constructed with City funds.
- (53) ~~(50)~~Sewer, Sanitary. A sewer that conveys only wastewater and into which storm, surface, and groundwaters are not intentionally admitted.
- (54) ~~(51)~~Sewer, Storm. A sewer that conveys storm, surface, and groundwaters and into which wastewaters are not intentionally admitted.
- (55) ~~(52)~~Sewer System Facility Plan. The current version of the facility plan for the development of the wastewater treatment plant and sanitary sewer system as amended or updated.
- (56) ~~(53)~~Sewer Use Charge. The assessment levied on all users of the public sewer system.
- (57) ~~(54)~~Shall, May. “Shall” is mandatory; “may” is permissive.
- (58) ~~(55)~~Significant Industrial User. Except as provided in subdivision (c) of this subsection, the term “significant industrial user” shall mean:
- (a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR I, Subchapter N; ~~and or~~
  - (b) Any other industrial user that:
    - (i) Discharges a process waste stream that makes up five percent of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - (ii) Discharges to the POTW a process wastewater flow of 25,000 gallons or more per average work day (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
    - (iii) Is designated as significant by the City on the basis that the industrial user has a reasonable potential for ~~causing pass through or interference.~~ **adversely affecting the POTW’s operation or for violating any Pretreatment Standard or Requirement.**
  - (c) Upon finding that an industrial user meeting the criteria in subdivision (b) of this definition has no reasonable potential for adversely affecting the POTW’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.
- (59) ~~(56)~~Significant Noncompliance. A **Significant Industrial User (or any other Industrial User that violates paragraph (c), (d), or (h) below)** is determined to be in significant noncompliance if its violation meets one or more of the following criteria:
- (a) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken **for the same pollutant parameter during a six-month period exceeded (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter; a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in AMC 10.06.030(29).**
  - (b) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equaled or exceeded the product of the **numeric Pretreatment Standard or Requirement including Instantaneous Limits as defined by AMC 10.06.030(29)** ~~daily maximum limit or the average limit~~ multiplied by the applicable criteria 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 Standard or Requirement as defined by AMC 10.06.030(42) and 10.06.030(43) effluent limit (daily maximum, or longer-termed average, Instantaneous Limit, or narrative standard)** that the **City Director** 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 Director's** exercise of its emergency authority to halt or prevent such a discharge;
  - (e) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (f) Failure to provide within ~~30~~ **forty-five (45)** days after the due date, required reports such as baseline monitoring reports, ~~90-day compliance~~ reports **on compliance with categorical Pretreatment Standard deadlines**, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (g) Failure to accurately report noncompliance; **or**
  - (h) Any other violation or group of violations, **which may include a violation of Best Management Practices**, that the **City Director** determines will adversely affect the operation or implementation of the City's pretreatment program.
- (60) ~~(57)~~ **Slug Load or Slug Discharge.** Any pollutant (including BOD) released in a nonroutine, episodic, or noncustomary batch discharge at a flow rate or concentration that has the potential to cause **interference or pass through, cause** a violation of the specific discharge prohibitions in AMC 10.06.040, **or in any other way violate the POTW's regulations, Local Limits, or permit conditions.**
  - (61) ~~(58)~~ **Storm Water.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.
  - (62) ~~(59)~~ **Total Suspended Solids.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.
  - (63) ~~(60)~~ **Toxic Pollutant.** One of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of Section 307 (33 U.S.C. 1317) of the Act.
  - (64) ~~(61)~~ **Treatment Plant.** That portion of the municipal wastewater treatment system designed to provide treatment to wastewater.
  - (65) ~~(62)~~ **Upset.** An exceptional incident in which an industrial user unintentionally and temporarily is in a state of noncompliance with the standards set forth in AMC 10.06.0980(6)(a) 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.
  - (66) ~~(63)~~ **User.** Any person who contributes, causes, or permits the contribution of wastewater into the City's POTW.
  - (67) ~~(64)~~ **Utility.** The City of Albany, a municipal corporation of the State of Oregon.
  - (68) ~~(65)~~ **Wastewater.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, that is contributed into or permitted to enter the POTW.
  - (69) ~~(66)~~ **Wastewater Discharge Permit.** As set forth in AMC 10.06.060.
  - (70) ~~(67)~~ **Wastewater Treatment System.** Any wastewater treatment works and the sewers, conveyances, and appurtenances discharging thereto, owned and operated by the City. Same as publicly owned treatment works (POTW).
  - (71) ~~(68)~~ **Waters of the State.** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the State, or any portion thereof. (Ord. 5637, 2006).

### **10.06.040 Regulations.**

(1) **Discharge Prohibitions.** No user shall contribute or cause to be discharged, directly or indirectly, any pollutant or wastewater that will cause interference or pass through. These general prohibitions apply to all users of the publicly owned treatment works (POTW) whether or not the use is subject to



categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements. Furthermore, no user may contribute the following substances to the ~~POTW-wastewater treatment system~~:

(a) Any liquids, solids, or gases that by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Wastewater discharges 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 are prohibited.

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

(c) Any wastewater having a pH less than six or greater than 10, except under conditions of continuous pH monitoring as specified in the City's enforcement response plan. In no case shall a user be permitted to discharge wastewater having a pH of less than five, or wastewater having any corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the City.

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

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

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

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

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

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

(j) Any unpolluted water including, but not limited to, storm water, surface water, groundwater, roof runoff, parking lot and subsurface drainage, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Public Works Director.

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

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

(m) Wastewater containing substances not amenable to treatment or reduction by the wastewater treatment system processes employed, or are amenable to treatment only to such degree that the

wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

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

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

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

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

**(s) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through.**

(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.

**(i) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users, in accordance with AMC 10.06.040(2)(a)(ii).**

**(ii) The Director may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the Director. When converting any mass limits to concentration limits, documentation will be made that dilution is not being substituted for treatment as prohibited by AMC Chapter 10.06.040(2)(d). The Director will document how the equivalent limits were derived for any changes from mass limits to concentration and make this information publicly available upon request.**

**(iii) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical standards from which the equivalent limitations were derived.**

**(iv) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.**

**(v) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director 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 Director 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.**

(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 chapter or any other applicable ordinance.

(c) Right of Revision. The City reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in AMC 10.06.010.

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

(e) Specific Pollutant Limitations.

(i) No nondomestic user shall discharge wastewater containing restricted substances into the ~~POTW 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, **termed Local Limits, including designation of affected nondomestic users**. These standards shall be developed in accordance with 40 CFR 403.5 and shall implement the objectives of this chapter. Standards published in accordance with this section will be deemed pretreatment standards for the purposes of Section 307(d) of the Act.

**(ii) The Director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of AMC 10.06.040(1).**

~~(iii)~~ (iii) 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) or **slug discharge control plan** showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which industrial users are required to develop an ASPP and require said industrial users to submit the ASPP within 60 days after notification by the City. Each industrial user shall implement its ASPP as submitted after such ASPP has been reviewed and approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the industrial user from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

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

(i) Description of discharge practices, including nonroutine batch discharges;

(ii) Description of stored chemicals;

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

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

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

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

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

**(e) Industrial users required to develop an ASPP or slug discharge control plan including significant industrial users are required to notify the City immediately of any changes at the industrial facility affecting the potential for a slug discharge.**

(4) Special Agreements. The City reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the wastewater treatment system. In no case will a special agreement waive compliance with a pretreatment standard. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. Industrial users may also request a variance from the categorical pretreatment standard from U.S. EPA. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by U.S. EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13. (Ord. 5637, 2006).

#### **10.06.050 Hauled waste.**

All hauled waste including septage must be discharged at the City of Albany wastewater treatment plant. All discharges at any other point within the wastewater treatment system, including sanitary sewer manholes, are hereby prohibited. Administration and enforcement of hauled waste permits shall be the same as industrial permits, AMC 10.06.060, **10.06.070, and 10.06.090** and ~~10.06.080~~.

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

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

(a) A valid Oregon Department of Environmental Quality septage hauling permit if applicable; and

(b) Proof of liability insurance with coverage limits as required by the City of Albany Finance Director; and

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

(3) Permit fees and treatment rates for hauled waste shall be established by Council resolution. (Ord. 5637, 2006).

#### **10.06.060 Administration.**

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

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

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

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

(4) ~~Disclosure Forms~~ **Wastewater Discharge Permit Application.** ~~Significant industrial~~ **All users required to obtain a wastewater discharge permit must submit a permit application 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~~ **permit application** within 60 days after the notification by the City and any proposed industrial user that is a

new source shall file a ~~disclosure form~~ **permit application** a minimum of 90 days prior to connecting to the POTW. This ~~data disclosure form~~ **permit application** shall satisfy the requirements of the baseline monitoring report as described in 40 CFR 403.12(b). The ~~disclosure to be made by the industrial user~~ **permit application** 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, **and name of the operator and owner.**

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

(c) Wastewater constituents and characteristics including but not limited to those mentioned in this chapter, including standards contained in AMC 10.06.040(1) and (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 nonfeasibility.

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

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

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

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

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

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

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

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

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

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

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

**(m) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on AMC 10.06.070(1)(b)(iii).**

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

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of AMC 10.01.070.

(6) Standards Modification. The City reserves the right to amend this chapter and the terms and conditions hereof in order to assure compliance by the City with applicable laws and regulations. All categorical pretreatment standards adopted by the EPA after the promulgation of this chapter shall be enforceable by the City through this chapter.

(7) **Categorical Standards Promulgation**. Where an industrial user, subject to a categorical pretreatment standard, has not previously submitted a ~~data disclosure form~~ **permit application** as required by subsection (4) of this section, the industrial user shall file a ~~disclosure form~~ **permit application** 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~~ **permit application** shall submit to the City within 180 days after the promulgation of an applicable categorical pretreatment standard a **permit application**, and the additional information required by subsections (4)(h) and (i) of this section. If deemed necessary by the City, where categorical pretreatment standards are more stringent, the wastewater discharge permit will be modified. ~~The industrial user shall be informed of any proposed changes in the chapter at least 30 days prior to the effective date of change. Any changes or new conditions in the chapter shall include a reasonable time schedule for compliance.~~

(8) ~~(7)~~ **Wastewater Discharge Permit**. Wastewater permits shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, **protect the quality of the receiving water body, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the POTW**, and to implement the objectives of this code.

- (a) Wastewater permits must contain the following conditions:
  - (i) A statement that indicates permit duration, which in no event shall exceed five years.
  - (ii) A statement that the permit is nontransferable without prior notification to and approval from the City and provisions for furnishing the new owner or operator with a copy of the existing permit.
  - (iii) Effluent limits, **including Best Management Practices**, ~~applicable to the user~~ based on applicable **Pretreatment Standards in Federal, State, and local law**.
  - (iv) Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants (**or Best Management Practice(s)**) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
  - (v) Statement of applicable penalties for violation of Pretreatment Standards and Requirements, and compliance schedules.

(vi) **The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with AMC 10.06.070(1)(b)(3). Any grant of the monitoring waiver by the Director must be included as a condition in the user's permit.**

(vii) **Requirements to control slug discharge, if determined by the Director to be necessary.**

- (b) Permits may contain, but need not be limited to, the following:
  - (i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

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

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

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

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

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

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

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

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

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

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

(xi)(xii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in subsection (14)AMC 10.06.070(6) of this section and affording the Director, or his representatives, access thereto.

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

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

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

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

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

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

(a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.

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

(c) A change in the POTW ~~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 POTW ~~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.

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

### 10.06.070 Reporting and Monitoring Requirements.

#### (1)(10) Reporting Requirements for Industrial Users.

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

#### (b) Periodic Compliance Reports.

(i) Any significant industrial users subject to a pretreatment standard shall, at a frequency determined by the Director, but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge that are limited to such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. **In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP), the user must submit documentation required by the Director or the pretreatment standard necessary to determine the compliance status of the user.** All periodic compliance reports must be signed and certified in accordance with **AMC 10.06.070(11)** ~~subsection (11) of this section.~~

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

**(iii) The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. Any grant of the monitoring waiver by the Director shall be included as a condition in the user's permit. This authorization is subject to the industrial user meeting the conditions specified in 40 CFR Part 403.12(e)(2) as amended.**

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

**(2)(11) Analytical Requirements.** All pollutant analyses, including sampling techniques, to be submitted as part of a permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 **and amendments** 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.

**(3) Sample Collection. Data collected to satisfy reporting requirements must be based on appropriate sampling and analysis performed during the period covered by the report, and must be representative of conditions occurring during the reporting period.**



(a) Except as indicated in (b) and (c) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in AMC 10.06.060(4) and AMC 10.06.070(1)(a), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by AMC 10.06.070(1)(b), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

~~(4)(12)~~ 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 30 days of discovering the first violation. **Resampling by the industrial user is not required if the City performs sampling at the user's facility at least once a month, or if the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the industrial user. If the City performed the sampling and analysis in lieu of the industrial user, the City will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.**

~~(5)(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 Director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. 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.~~

(a) The Director shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling, inspection compliance, monitoring, and/or metering operations.

(b) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director or authorized representatives shall be permitted to enter without delay for the purposes of performing specific responsibilities.

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

(d) Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this ordinance.

(6)(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(e) of information obtained pursuant to any monitoring activities required by the ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, documentation supporting any monitoring waiver for pollutants not present established under AMC 10.06.070(1)(b)(iii), and documentation associated with Best Management Practices established under AMC 10.06.040(2)(e)(ii). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning compliance with the Albany Municipal Code, or where the industrial user has been specifically notified of a longer retention period by the Director.

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

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

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

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

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

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

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

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

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

(10)(18) Notification by Industrial Users Discharging Hazardous Waste. In compliance with 40 CFR 403.12(p), industrial users shall notify the Director, EPA, and DEQ in writing of any discharge into the

municipal wastewater system of a substance that, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. The City may request additional information on the nature and concentration of the discharge, and may prohibit such discharge of wastewater containing hazardous waste.

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

**(a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver.** The following certification statement is required to be signed and submitted by users submitting permit applications including baseline monitoring reports in accordance with AMC 10.06.060(4); users submitting final compliance reports under AMC 10.06.070(1)(a); users submitting reports on compliance with the categorical Pretreatment Standard deadlines under AMC 10.06.070(1)(b); users submitting compliance reports required by AMC 10.06.070(1); and users submitting an initial request to forego sampling of a pollutant on the basis of AMC 10.06.070(1)(b)(iii). The following certification statement must be signed by an authorized representative as defined in AMC 10.06.030:

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

**(b) Certification of Pollutants Not Present.** Users that have an approved monitoring waiver based on AMC 10.06.070(1)(b)(iii) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under AMC 10.06.070(1)(b). (Ord. 5637, 2006).

### **10.06.070080 Pretreatment facilities.**

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

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

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

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

**(3) Grease Interceptor Requirements.**

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

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

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

(d) The owner of any facility with a grease interceptor installation shall maintain the grease interceptor at all times in a manner that shall prevent fat waste, oil, or grease from being carried into the sewer system. Authorized City employees shall be allowed access to grease interceptors for the purpose of inspection and/or to verify compliance with this chapter. Fat waste, oil, or grease removed from such a facility shall not be disposed of in the sanitary sewer or the storm drain system, and recovered grease shall be stored in a manner to prevent spillage or runoff to the sanitary sewer or storm drain system. A record of disposal shall be maintained for review upon request by the City. (Ord. 5637, 2006).

**10.06.080090 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 this 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 subsection (1) of this section is not needed. Ordinarily, the enforcement procedure outlined below will be followed in the order hereinafter set forth, **and enforcement will generally be in accordance with the City's enforcement response plan**. Notwithstanding the foregoing, the City reserves the right and discretion to impose any of the sanctions listed below for any violation should the City deem such action appropriate or necessary in the individual circumstances.

(a) Notification of Violation. Whenever the City determines that any industrial user has violated or is violating the provisions of subsection (2) of this section, the City may serve upon such industrial user a written **Notice of Violation** stating the nature of the violation(s). Where directed to do so by the notice, a plan for the satisfactory correction of the violation(s) will be submitted to the City by the industrial user, within a time frame as specified in the **Notice of Violation**. **Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.**

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

These sanctions may include:

- (i) An order requiring corrective action.
- (ii) An order setting civil penalties **as described in AMC 10.06.100** in the event corrective action is not undertaken as ordered in subsection (3)(b)(i) of this section.
- (iii) An order imposing civil penalties **as described in AMC 10.06.100** in lieu of, or in addition to, an order of corrective action.
- (iv) An order requiring payment of City costs incurred as a result of a violation.
- (v) An order requiring a compliance schedule containing milestones and applicable reporting requirements, or requiring an industrial user to submit a compliance schedule for approval by the City.
- (vi) Revocation of the industrial user's wastewater discharge permit.
- (vii) Disconnection from the wastewater discharge system pursuant to the rights and procedures set forth concerning emergency suspension of service in subsection (1) of this section.

(c) Appeal of Administrative Order. An industrial user served by an administrative order may within seven days of the receipt of the order request in writing that the Director review the enforcement action. The request (letter of appeal) will state all points of disagreement and objection to the order. Upon receipt of the letter of appeal, the City shall cause a hearing to be held before the Public Works Director of the City of Albany, or his authorized representative. The Public Works Director, or his authorized representative, shall conduct the hearing with the advice and counsel of the City Attorney and shall establish such rules and procedures as may be determined by the City in order to meet due process minimums. Following the close of the hearing, the Public Works Director, or his authorized representative, shall enter appropriate findings of fact, conclusions of law, and an administrative order with respect to the alleged violations and under the terms of the order, may impose any or all of these sanctions referred to in subsection (3)(b) of this section. Said sanction may exceed those originally purposed in the notice of proposed administrative order. The findings, conclusions, and order shall be

served upon the industrial user in the manner provided above for the service of the notification of an administrative order.

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

(4) Judicial Proceedings. Following the entry of any final administrative order by the City with respect to the violation by an industrial user of subsection (2) of this section, the City may commence an action for appropriate legal and/or equitable relief in the appropriate local court to enforce the penalty or remedy imposed by the City hereunder.

(5) Enforcement Actions – Annual Publication. A list of all industrial users in significant noncompliance during the 12 previous months shall be annually published by the City in the largest daily newspaper circulated in the area of the municipality **or a newspaper of general circulation**, summarizing the violations and enforcement action undertaken by the City. For the purpose of this subsection, an industrial user is in significant noncompliance if its violation meets one or more of the criteria stated under the definition of significant noncompliance in AMC 10.06.030(56).

(6) Affirmative Defense – Upset.

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

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable Pretreatment Standards if the requirements of subsection (6)(c) of this section are met.

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

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

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

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

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

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

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

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

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

(f) Industrial users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement

applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

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

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

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

(8) **Affirmative Defense – Bypass.** The intentional diversion of waste streams from any portion of an individual user's treatment facility shall be an affirmative defense to an enforcement action brought against the industrial user if the user can demonstrate that such a bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, **and there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.** In order to be eligible for the affirmative defense, the industrial user must demonstrate that there was no feasible alternative to the bypass, and **meet all required conditions of 40 CFR 403.17, including notification** submit notice of the bypass. ~~as required by 40 CFR 403.17.~~

(9) **Remedies Nonexclusive.** **The remedies provided for in this ordinance are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Director may take other action against any user when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant user. (Ord. 5637, 2006).**

### **10.06.090100 Penalties.**

(1) **Civil Penalties.** Any industrial user who violates an administrative order of the City, or who fails to comply with: (a) any provision of this chapter, or (b) any regulation, rule, or permit of the City, issued pursuant to this chapter, shall be liable to the City for a civil penalty. The amount of such civil penalty shall be not less than \$250.00 per violation nor more than \$2,500 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. Such penalties may be collected by judicial actions commenced by the City as provided in AMC 10.06.090(4). In addition, the City may issue an administrative order terminating the industrial user's wastewater service if a civil penalty is not paid when due.

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

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

10.06.090. The user shall also reimburse the City for any and all fines or penalties levied against the City as a result of a discharge by the user.

(4) Falsifying Information. Any person who knowingly makes any false statement, representation, or certification in any application, record, report and plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under AMC 10.06.070, shall (in addition to civil and/or criminal penalties provided by state law) be subject to general criminal penalties under **AMC 10.06.100(6)**. ~~subsection (6) of this section.~~

(5) Fraud and False Statements. Any reports required in this code and any other documents required to be submitted by the City or maintained by the industrial user shall be subject to enforcement provision of the Albany Municipal Code, municipal, State, and Federal law relating to fraud and false statements. In addition, the industrial user shall be subject to general criminal penalties under **AMC 10.06.100(6)**. ~~subsection (6) of this section.~~

(6) General Criminal Penalties. Any user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a crime and subject to penalties under a misdemeanor or felony as determined by the court. (Ord. 5637, 2006).

#### **10.06.100110 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. (Ord. 5637, 2006).

Section 2: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the City of Albany, an emergency is hereby declared to exist. This ordinance will be in full force and effect immediately upon its passage by the Council and approval by the Mayor.


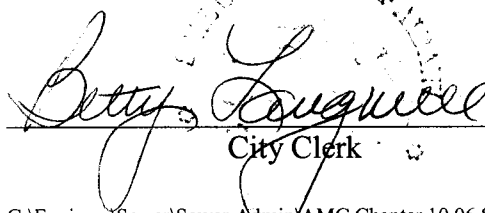
Passed by the Council: December 17, 2008

Approved by the Mayor: December 17, 2008

Effective Date: December 17, 2008

  
\_\_\_\_\_  
Mayor

ATTEST:

  
  
\_\_\_\_\_  
City Clerk