

AMENDED AGENDA

CANBY CITY COUNCIL MEETING

December 17, 2008, 7:30 P.M.

Council Chambers
155 NW 2nd Avenue

Mayor Melody Thompson

*Council President Walt Daniels
Councilor Teresa Blackwell
Councilor Paul Carlson*

*Councilor Randy Carson
Councilor Tony Helbling
Councilor Wayne Oliver*

CITY COUNCIL MEETING

1. CALL TO ORDER

A. Pledge of Allegiance and Moment of Silence

2. COMMUNICATIONS

3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

(This is an opportunity for visitors to address the City Council on items not on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Each citizen will be given 3 minutes to give testimony. Citizens are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter.)

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)

A. Approval of Minutes of the December 3, 2008 City Council Regular Meeting

7. RESOLUTIONS & ORDINANCES

- A. Res. 1012, Codifying and Compiling Certain Existing General Ordinances for the City of Canby Pg. 7
- B. Ord. 1299, Amending Canby Municipal Code Chapters 16.04, 16.35, 16.42, 16.52, 16.53, and 16.89 for the Purpose of Amending Sign Regulations (**2nd Reading**) Pg.1
- C. Ord. 1300, Authorizing Contract with SightLines Park and Playground Products to Purchase Replacement Bleachers for Maple Street Park (**2nd Reading**) Pg. 3
- D. Ord. 1301, Authorizing Contract for Purchase of Thirty-Four and One-Half Acres of Real Property for Future Expansion of the Wastewater Treatment Facility and Future Park Land (**2nd Reading**) Pg. 5

8. NEW BUSINESS

- 9. CITY ADMINISTRATOR’S BUSINESS & STAFF REPORTS**
- 10. CITIZEN INPUT**
- 11. ACTION REVIEW**
- 12. EXECUTIVE SESSION: ORS 192.660(2)(h) Pending Litigation**
- 13. ADJOURN**

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer at 503.266.4021 ext. 233. A copy of this Agenda can be found on the City’s web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503.263.6287.

ORDINANCE NO. 1299

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTERS 16.04, 16.35, 16.42, 16.52, 16.53, AND 16.89 FOR THE PURPOSE OF AMENDING SIGN REGULATIONS.

WHEREAS, the City of Canby initiated an application (application no. TA-08-04) for an amendment to the text of Title 16 for the purpose of amending Canby's sign codes; and

WHEREAS, City's Economic Development Manager formed and worked with a citizen committee to create a recommendation for amending Canby's sign codes; and

WHEREAS, the Planning Commission held a public hearing concerning the text amendment application on November 24, 2008, and based on their determination that the proposed amendment met all required approval criteria, voted 5-0 to forward a recommendation of approval to City Council; and

WHEREAS, the City Council received the text amendment application and Planning Commission recommendation for their consideration on December 03, 2008, and voted to approve Text Amendment No. TA 08-04 as presented, based on the findings in the Council staff report, and directed staff to present Council with an ordinance for adoption; and

WHEREAS, this ordinance is for the purpose of codifying Text Amendment No. TA 08-04 into law, a copy of which is attached hereto as Exhibit A and by this reference incorporated herein; now therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Title 16 of the Canby Municipal Code, otherwise known as the "Land Development and Planning Ordinance of the City of Canby", is amended as set forth in the attached Exhibit A.

2nd Reading

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, December 03, 2008, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, January 07, 2009, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder Pro-Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 7th of January, 2009, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder Pro-Tem

2nd Reading

ORDINANCE NO. 1300

AN ORDINANCE AUTHORIZING THE MAYOR AND/OR CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH SIGHTLINES PARK AND PLAYGROUND PRODUCTS TO PURCHASE REPLACEMENT BLEACHERS FOR MAPLE STREET PARK AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby wishes to replace the bleachers at Maple Street Park, and

WHEREAS, the cost of the replacement bleachers will be paid by the Parks Department with funds budgeted and approved for this purpose in the 2008-2009 fiscal year budget; and

WHEREAS, in accordance with ORS Chapter 279 and Canby Public Purchasing Rules as set forth in Ordinance No. 1170 and Resolution No. 897, three written quotes were obtained for the bleachers:

- | | |
|--|-------------|
| 1. SightLines Park and Playground Products | \$25,966.00 |
| 2. Recreation Resources | \$26,216.00 |
| 3. Ross Recreation Equipment | \$52,460.00 |

WHEREAS, SightLines Park and Playground Products submitted the lowest quote of \$25,966.00 for the specified bleachers; and

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this bid, reviewed the staff report and believes it to be in the best interest of the City to contract with SightLines Park and Playground Products for said bleachers.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and/or City Administrator are hereby authorized and directed to make, execute and declare in the name of the City of Canby and on its behalf, an appropriate contract with SightLines Park and Playground Products to purchase replacement bleachers for the Parks Department for a total of \$25,966.00.

Section 2. In so much as it is in the best interest of the citizens of the City of Canby, Oregon to provide the Parks Department with the afore mentioned bleachers without further delay, and to better serve the citizens of Canby, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on December 3, 2008, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on December 17, 2008, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at 155 NW 2nd Avenue in Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder - Pro Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 17th day of December, 2008, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder - Pro Tem

ORDINANCE NO. 1301

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT FOR THE PURCHASE OF THIRTY-FOUR AND ONE-HALF (34.5) ACRES OF REAL PROPERTY FOR FUTURE EXPANSION OF THE WASTEWATER TREATMENT FACILITY AND FUTURE PARK LAND; AND DECLARING AN EMERGENCY.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Purchase Authorized. The Canby City Administrator is hereby authorized and directed to make, execute and declare in the name of the City of Canby and on its behalf, a contract with Three Sisters Ranch LLC for the purchase of the following described real property for expansion of the City's Wastewater Treatment facility and future park land:

Tax Lot 300 of T3 R1 E, SE 27, in the County of Clackamas and State of Oregon consisting of approximately thirty-four and one-half (34.5) acres.

Section 2. Purchase Price. The total purchase price to be the sum of Seven Hundred Fifty Thousand and no/100 dollars (\$750,000.00). The total price is to be paid in full at closing. A copy of the Sale Agreement and Receipt for Earnest Money entered into between the parties is attached hereto and marked as Exhibit "A" thereto. The City Administrator is authorized to complete the transaction according to the terms of Exhibit "A".

Section 3. Budgeted Funds to Pay Purchase Price. The purchase price is to be paid from the City's current fiscal budget line item number 306-318-434-7810, entitled "Sewer Project Reserve" account.

Section 4. City Attorney to Approve Title Report and Deed. The City Attorney shall first approve the preliminary title report and form of deed for the City's purchase of said property. Purchase price insuring the City's vendee interest in said property is to be furnished at the expense of the buyer and free and clear of all liens or encumbrances except for the usual printed exceptions.

Section 5. City Administrator to Execute Deed. The City Administrator or his designee is hereby authorized and directed to execute and deliver in the name of and on behalf of the City of Canby, as purchaser, the required deed and any other documents as may be required for closing the transaction.

Section 6. Emergency Declared. Inasmuch as it is necessary to proceed as quickly as possible with the purchase of this property and closing of the transaction for the use and benefit of the City, and for the general welfare of the residents, an emergency is hereby declared to exist and this ordinance shall take effect immediately after final reading and enactment by the Canby City Council.

SUBMITTED to the Canby City Council and read the first time at a special meeting thereof on December 10, 2008, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on December 17, 2008, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at 155 NW 2nd in Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder - Pro Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 17th day of December, 2008, by the following vote:

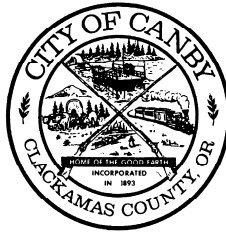
YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder - Pro Tem



MEMORANDUM

DATE: DECEMBER 12, 2008
TO: MAYOR THOMPSON AND CANBY CITY COUNCIL
FROM: KIM SCHEAFER, CMC, EXECUTIVE ASSISTANT/CITY RECORDER PRO TEM
THROUGH: MARK ADCOCK, CITY ADMINISTRATOR
RE: RESOLUTION #1012

Issue: This Resolution is brought before the Council so that supplement pages to the Canby Municipal Code can be formally adopted.

Background: The last supplement that was codified for the Canby Municipal Code was done in June 2007. Since that time, several ordinances have passed that affect the municipal code. In order to keep the code up-to-date, these ordinances were sent to American Legal Publishing who prepared a 2008 supplement for ordinances passed through October 15, 2008.

Recommendation: *Staff recommends approval of Resolution 1012, which formally adopts 2008 supplement pages to the Canby Municipal Code.*

RESOLUTION NO. 1012

A RESOLUTION CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES FOR THE CITY OF CANBY.

WHEREAS, on February 15, 2006 the Canby City Council adopted Ordinance 1200 which adopted a revised code of the City of Canby entitled the “Canby Municipal Code” and on June 20, 2007 the Council adopted Resolution 956 codifying a supplement;

WHEREAS, since that time Ordinances have been adopted affecting the Canby Municipal Code, causing the present general and permanent ordinances of the City to be inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Oregon empower and authorize the City to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the League of Oregon Cities, Ordinance Services Program, in its efforts to promote better and more efficient municipal governing, is willing to undertake the codification of the City’s ordinances;

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Canby that the City hereby authorizes a general compilation, revision and codification of the ordinances of the City of a general and permanent nature and publication of such ordinances in book form, at a cost according to the standard rates and billing procedures for services under the program. A copy of the 2008 supplement is attached hereto as Exhibit “A”.

This resolution will take effect on December 17, 2008.

ADOPTED this 17th day of December, 2008, by the Canby City Council.

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder, Pro-Tem

EXHIBIT "A"

CITY OF CANBY, OREGON

CODE OF ORDINANCES

2008 S-2 Supplement contains:

Local legislation current through Ord. 1296, passed 10-15-2008

AMERICAN LEGAL PUBLISHING CORPORATION

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PUBLISHER'S ACKNOWLEDGMENT

In the publication of this Code of Ordinances, every effort was made to provide easy access to local law by municipal officials, the citizens of this municipality, and members of the business community.

We want to express our grateful appreciation to all municipal officials for their untiring efforts in the preparation of this Code of Ordinances.

AMERICAN LEGAL PUBLISHING CORPORATION

Stephen G. Wolf, Esq.
President

**CANBY, OREGON
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Canby - Revenue and Finance

shall fail to file the return or report. No person, firm, corporation or association shall knowingly furnish any false information to the city as all or part of any information furnished under any provision of this chapter. The furnishing of false information shall constitute a violation of this section even if the person furnishing the false information could not have profited or saved money by the deception. If any individual officer, employee or owner of any firm, corporation or association knowingly furnishes false information, the individual shall also be subject to the penalty set out in this section. The penalty set out in this section shall be in addition to any interest, late charge or other civil penalty provided by ordinance.

B. Any person, firm, corporation or association committing any violation described in this section shall, upon conviction, be fined not less than \$100, nor more than \$2,500, for each offense, and shall be subject to 1 year in jail. A separate offense shall be deemed committed with the filing of each false document.

(Ord. 1081, passed 11-21-2001)

§ 3.24.250 Appeal from collector.

A. An appeal from the determination upon the application made by the taxpayer for refund or revision of any tax, as provided for in this chapter, may be taken by the taxpayer to the circuit court located in Clackamas County. Any appeal must be within 60 days after notice of the collector's determination has been received by the taxpayer, given as provided in this chapter. If the collector fails to notify the taxpayer within 12 months after the claim was filed of its determination of the claim for refund or revision of the tax, the taxpayer may then appeal to the circuit court.

B. Unless otherwise ordered by the circuit court, an appeal to the collector or to the court from an assessment of taxes or additional taxes, shall not stay proceedings to collect any unpaid tax if the collector believes that collection of the tax will be jeopardized by delay.

(Ord. 1081, passed 11-21-2001)

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§ 3.30.010 Definitions.

As used in this chapter, unless the context requires otherwise:

Community Development Director. The City of Canby Community Development Director or the Director's designee.

Developed Property. A parcel or portion of real property on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping and outside storage.

Dwelling Unit. One or more rooms designed for occupancy by 1 family and not having more than 1 cooking facility.

Gross Square Footage. The area of all structures, located on a developed property, measured along the exterior walls of the structures, and including but not limited to enclosed courtyards and stairwells, but not including fences and parking areas which are not enclosed within a building.

Multi-unit Residential Property. Residential property consisting of 2 or more dwelling units.

For the purposes of this chapter, condominiums, attached single-family residences, and individual mobile home units are also classified as multi-unit residential properties.

Non-Residential Property. Any property that is not residential property.

Residential Property. A property that is primarily for personal, domestic accommodation, including single single-family, multi-unit residential property and group homes, but not including hotels and motels.

Responsible Party. The person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an occupied unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the city, the person(s) paying the sewer bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any occupied unit not otherwise required to pay a sewer bill, "responsible party" shall mean the person or persons legally entitled to occupancy of the occupied unit, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the city. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the city.

Single Family Residential. Residential property that has only detached dwelling units.

Street. A public street or right-of-way within the city that is under the jurisdiction or control of the city. For purposes of this chapter, county, state, and federal roads are excluded.

Street Maintenance Program. Program established by this chapter to maintain, repair and reconstruct city streets. Activities include the administration and collection of the street maintenance fee; preventive maintenance, rehabilitation and reconstruction projects; design and inspection of such projects; street condition monitoring and assessment, including inspection of street repairs; and staff training and consultant services in support of the above activities.

Trip Generation. The average number of vehicle trips, as determined by reference to the manual entitled, Trip Generation, published by the Institute of Transportation Engineers (ITE) ("ITE Manual"), 7th edition.

Use Category or Category of Use. The code number and resulting trip generation estimate determined with reference to the ITE Manual, and applicable to a particular developed property. (Ord. 1262, passed 1-16-2008)

§ 3.30.020 Administrative officers.

A. Except as provided below, the Community Development Director shall be responsible for the administration of this chapter.

B. The Community Development Director shall annually develop and update a 5-year street maintenance program project schedule. This schedule shall be properly integrated into the city's capital improvement program, to ensure that it is coordinated with other city capital projects and projects of other agencies.

C. The Community Development Director shall provide an annual report on the Street maintenance program to the City Council and Budget Committee.

D. The Community Development Director shall be responsible for implementation and enforcement of steps to minimize utility cut damage to streets.

E. The Finance Director shall be responsible for the administration and collection of fees under this chapter.

(Ord. 1262, passed 1-16-2008)

§ 3.30.030 Dedication of revenues.

All funds and all proceeds from funds collected pursuant to this chapter shall be used for the street maintenance program.

(Ord. 1262, passed 1-16-2008)

§ 3.30.040 Annual street maintenance program report.

A. Each year the Community Development Director shall prepare and present to the Budget Committee and City Council the "Annual Street

Maintenance Program Report.” This document is a public record.

B. The report shall include a narrative description of the overall condition of the street network, the findings of any new condition assessments, a detailed project schedule for the upcoming year, an updated 5-year project schedule, the project selection criteria employed, and a report on the previous year projects, workload impacts, and overall program progress. The report shall include revenues received relative to revenue projections, project cost inflation trends, and any other new developments that impact the adequacy of the program funds to meet program goals.

(Ord. 1262, passed 1-16-2008)

§ 3.30.050 Street maintenance fee.

A. A street maintenance fee is imposed and levied upon the responsible party for all developed property within the city. The fee shall be based on the direct and indirect use of or benefit derived from the use of public streets generated by the developed property, to be calculated as described in § 3.30.060.

B. The street maintenance fee is also imposed and levied on the property owner of the developed property in the event of non-payment by the responsible party.

(Ord. 1262, passed 1-16-2008)

§ 3.30.060 Determination of street maintenance fee.

A. Residential fees.

1. Detached single family residences shall be charged \$5.00 per month. ITE Code 210.

2. Multi-family residences, except for senior housing, mobile home parks, and congregate care, shall be charged \$3.34 per month for each dwelling unit. ITE Codes 220, 221, 222, 223, 224, 230, 231, 232, 233.

3. Detached senior housing and mobile home parks will be charged \$2.09 per month for each dwelling unit. ITE Codes 240, 250, 251.

4. Attached senior housing and congregate care facilities will be charged \$1.04 per month for each dwelling unit. ITE Codes 252, 253, 254.

B. Non-residential fees.

1. Category assignment. Each non-residential developed property in the city shall be assigned to a category of use according to the land use type listed in division C.

2. Upon request of the customer, the Community Development Director shall review the category of use assignment. The Community Development Director shall consider evidence provided by the customer that relates to the actual trip generation patterns of the property in question. The determination of category of use shall not be considered a land use decision as that term is defined in O.R.S. 197.015.

3. Fee calculation. The street maintenance fee shall be calculated by multiplying the number of units (listed in division C.) by the trip rate per unit for that assigned category of use and then by the monthly per trip charge of \$0.522 to establish the monthly fee to be billed.

4. Fee minimum. The minimum monthly street maintenance fee for non-residential accounts shall be \$5.00.

C. Category of use.

1. Category 0 shall be estimated at 1.00 trip per unit. Land uses include city park, state park, waterslide park, movie theater, military base, wholesale market, furniture store, general heavy industrial, mini-warehouse, high cube warehouse, utilities. ITE Codes 411, 413, 414, 444, 501, 860, 890, 120, 151, 152.

2. Category 1 shall be estimated at 2 trips per unit. Land uses include county park, nursing home, discount club, light rail transit station w/ parking, all suite hotel, business hotel ITE Codes 93, 311, 312, 412, 620, 861.

3. Category 2 shall be estimated at 4 trips per unit. Land uses include general aviation airport, general light industrial, industrial park, manufacturing, warehouses, hotel, motel, resort hotel, regional park, golf course, prison, general office, corporate headquarters, single tenant office, office park, research center, auto care center, self-service car wash, tire store, wholesale tire store,

supermarket, discount supermarket, and toy/children's superstore. ITE Codes 22, 110, 130, 140, 150, 310, 320, 330, 417, 430, 571, 710, 714, 715, 750, 760, 840, 947, 848, 849, 850, 854 and 864.

4. Category 3 shall be estimated at 8 trips per Unit. Land Uses include water port/marine terminal, truck terminals, casino/video lottery establishment, tennis club, racquet club, elementary school, middle/junior high school, high school, church, hospital, business park, building materials/lumber, specialty retail center, nursery-retail (garden center), nursery-wholesale, shopping center, factory outlet center, quality restaurant, quick lubrication, auto parts sales, gasoline/service station, gasoline/service station w/convenience market, gasoline/service station w/convenience market and car wash, convenience market (16 hr), home improvement superstore, and video rental. ITE Codes 10, 30, 473, 491, 492, 520, 522, 530, 560, 610, 770, 812, 814, 817, 818, 820, 823, 931, 837, 843, 944, 945, 946, 852, 862 and 896.

5. Category 4 shall be estimated at 16 trips per Unit. Land Uses include beach park, marina, junior/community college, day care center/ preschool, library, clinic, medical-dental office building, freestanding discount superstore, free-standing discount store, hardware/paint stores, high turnover sit-down restaurant, fast food restaurant w/drive through, new car sales, convenience market (24 hr), electronics superstore, apparel store, bank/ savings w/walk-in, bank savings w/drive-in, bus depot, and racquetball club. ITE Codes 415, 420, 540, 565, 590, 630, 720, 813, 815, 816, 932, 934, 841, 851, 863, 870, 911, 912.

6. Category 5 shall be estimated at 32 trips per unit. Land uses are fast food restaurant w/out drive-through, convenience market w/gas pump, pharmacy/drug store w/out drive through, and pharmacy/drug store w/drive-through. ITE Codes 933, 853, 880, and 881.

7. Category 6 shall be estimated at 64 trips per unit. Land uses include commercial airport, truck terminal, utilities, campground/recreational vehicle, multi-purpose recreational facility, government office

building, US post office, and amusement (theme) park. ITE Codes 21, 30, 170, 416, 435, 730, and 732.

8. Category 7 shall be estimated at 128 trips per Unit. Land Uses include state motor vehicles department. ITE Codes 731.

9. Category 8 shall be estimated at 256 trips per Unit. Land Uses include park and ride lot with bus service. ITE Codes 90.

D. Units. The unit used in calculating the non-residential street maintenance fee shall be 1,000 square gross square feet of building area, with the following exceptions. The unit for parks, golf courses, park and ride facilities with bus service, cemeteries, marinas, and multi-purpose recreational facilities shall be 1 acre. The unit for lodges shall be 1 member. The unit for hotels or motels shall be 1 room. The unit for self-service car washes shall be 1 wash stall. The unit for tennis courts or racquet clubs shall be 1 court. The unit for quick lubrication vehicle stops or gas stations shall be 1 fueling or service position. The unit for movie theaters shall be 1 seat.

E. Unlisted uses. In the event that a property is occupied by a use that is not expressly listed in any of the above categories, the Community Development Director shall determine which category the property should be placed in, based on similarity in expected trip generation. If no category is appropriate, the Community Development Director shall determine the trips per unit shall be based on a transportation study, the Trip Generation Manual, or any other method of determining trips. Any determination by the Community Development Director under this section may be reviewed under the procedure described in § 3.30.090B. The result of the review may be appealed to the City Council by filing a notice of appeal within 10 days of the date notice of the result of the review is mailed to the property owner. (Ord. 1262, passed 1-16-2008)

§ 3.30.070 Administration of street maintenance fee.

A. The street maintenance fee shall be billed and collected with and as part of the monthly sewer

bill for those lots or parcels utilizing city sewer and billed and collected separately for those developed properties not utilizing city sewer. In the event of non-payment, the city may bill the property owner or take other action as authorized by law to collect from the responsible party.

B. In the event funds received from city utility billings are inadequate to satisfy in full all of the sanitary sewer and street maintenance fees, credit shall be given first to the street maintenance fee and second to the sanitary sewer service charges.

C. Notwithstanding any provision herein to the contrary, the city may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing. The city's enforcement rights shall be cumulative.
(Ord. 1262, passed 1-16-2008)

§ 3.30.080 Waiver of street maintenance fee in case of vacancy.

A. When any property within the city becomes vacant and utility services are discontinued (if applicable), a waiver of the street maintenance fee may be granted by the Finance Director upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding sanitary sewer and street maintenance charges.

B. For purposes of this section, "vacant" shall mean that an entire building or utility billing unit has become vacant or continuously unoccupied for at least 30 days. "Vacant" shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

C. Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the city within 5 days of the premises being occupied, partially occupied or used, regardless of whether utility service is restored.
(Ord. 1262, passed 1-16-2008)

§ 3.30.090 Street maintenance fee appeal procedure.

A. Any owner who disputes any interpretation given by the city as to the category of use assigned to such owner's property pursuant to this chapter may request a review and appeal such interpretation, but only in accordance with this section. The dispute must first be presented to the Community Development Director for review and thereafter may be appealed to the City Council in accordance with this section. Failure to appeal an interpretation made under this chapter within the time and in the manner provided shall be sufficient cause to deny the relief requested. Except in cases of hardship as determined by the Council, disputes which result in changes in the street maintenance fee charged under this chapter shall become effective with the next billing cycle.

B. A utility customer may request a review of the category of use assigned. The Community Development Director shall conduct the review, considering all relevant evidence presented by the customer related to their actual trip generation patterns. Such evidence may include business records, parking lot usage, or traffic studies. The Community Development Director shall make a determination based on the evidence provided and provide notice to the customer.

C. A customer who wishes to dispute an interpretation made by the Community Development Director as to the assigned category of use under this chapter shall submit a written appeal to the City Administrator within 10 days from the date of notice of the Community Development Director's determination under division B., together with a filing fee in the amount of \$300. The application for appeal shall specify the reasons therefore and include an engineering study prepared by a licensed professional engineer in conformance with the methodology outlined in the ITE Manual. Appeals shall be limited to the issue of whether the appropriate category of use has been assigned to the property.

D. The City Administrator shall schedule the matter for City Council review and notify the appellant not less than 10 days prior to the date of such Council review. The Council shall conduct a

hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the Community Development Director. The Council may continue the hearing for purposes of gathering additional information bearing on the issue. The Council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the Council with respect to the category of use shall be limited to whether the appellant has been assigned to the appropriate category of use. If the Council should determine that a different category of use should be assigned, it shall so order, provided no refund of prior street maintenance fees shall be given. Only where the Council decision results in a change in category of use will the filing fee on the appeal be refunded. The Council decision shall be final.
(Ord. 1262, passed 1-16-2008)

§ 3.30.100 Exceptions to street maintenance fee.

The following shall not be subject to the street maintenance fee:

- A. City public parking lots.
- B. Publicly owned parkland, open spaces, and greenways, unless public off-street parking designed to accommodate the use of such areas is provided.
- C. Areas encompassed by railroad and public rights-of-way, except for developed railroad property such as maintenance areas, non-rolling storage areas and areas used for the transfer of rail-transported goods to non-rail transport, which areas shall be subject to street maintenance fees.
(Ord. 1262, passed 1-16-2008)

§ 3.30.110 Severability.

In the event any section, subsection, paragraph, sentence or phrase of this chapter is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this chapter imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions

from the imposition of the street maintenance fee shall be created and the remainder of the ordinance and the fees imposed thereunder shall continue to apply to the remaining properties without interruption. Nothing contained herein shall be construed as limiting the city's authority to levy special assessments in connection with public improvements pursuant to applicable law.
(Ord. 1262, passed 1-16-2008)

Chapter 3.40 MOTOR VEHICLE FUEL TAX

Sections:

3.40.020	Definitions.
3.40.030	Tax imposed.
3.40.040	Amount and payment.
3.40.050	Permit requirements.
3.40.060	Permit applications and issuance.
3.40.070	Failure to secure permit.
3.40.080	Revocation of permit.
3.40.090	Cancellation of permit.
3.40.100	Remedies cumulative.
3.40.110	Payment of tax and delinquency.
3.40.120	Monthly statement of dealer and fuel-handler.
3.40.130	Failure to file monthly statement.
3.40.140	Billing purchasers.
3.40.150	Failure to provide invoice or delivery tag.
3.40.160	Transporting motor vehicle fuel in bulk.
3.40.170	Exemption of export fuel.
3.40.180	Sales to armed forces exempted.
3.40.190	Fuel in vehicle coming into city not taxed.
3.40.200	Refunds.
3.40.210	Examination and investigations.
3.40.220	Limitation on credit for refund or overpayment and on assessment of additional tax.

- 3.40.230 Examining books and accounts of carrier of motor vehicle fuel.
- 3.40.240 Records to be kept by dealers and fuel handlers.
- 3.40.250 Records to be kept 3 years.
- 3.40.260 Use of tax revenues.
- 3.40.270 Administration.
- 3.40.280 Severability.

§ 3.40.020 Definitions.

As used in this chapter, unless the context requires otherwise:

City means City of Canby and any person, agency or other entity authorized by the city to act as its agent related to administration of the this chapter or collection of the motor vehicle fuel tax.

Dealer means any person who:

1. Supplies or imports motor vehicle fuel for sale, use or distribution in, and after the same reaches the city, but "dealer" does not include any person who imports into the city motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is permitted as a dealer hereunder and who assumes liability for the payment of the applicable motor vehicle fuel tax to the city; or

2. Produces, refines, manufactures or compounds motor vehicle fuels in the city for use, distribution or sale in the city; or

3. Acquires in the city for sale, use or distribution in the city motor vehicle fuels with respect to which there has been no motor vehicle fuel tax previously incurred.

Motor Vehicle Fuel-Handler means any person who acquires or handles motor vehicle fuel within the city through a storage tank facility with storage tank capacity that exceeds 500 gallons of motor vehicle fuel.

Distributor means, in addition to its ordinary meaning, the deliverer of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks or motor vehicles whether or not the service

station, tank or storage facility is owned, operated or controlled by the dealer.

Motor Vehicle means all vehicles, engines or machines, moveable or immovable, operated or propelled by the use of motor vehicle fuel.

Motor Vehicle Fuel includes gasoline, diesel, and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles. Propane fuel and motor vehicle fuel used exclusively as a structural heating source are excluded as a taxable motor vehicle fuel.

Person includes every natural person, association, firm, partnership, or corporation.

Service Station means and includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(Ord. 1261, passed 1-2-2008)

§ 3.40.030 Tax imposed.

A motor vehicle fuel tax is hereby imposed on every dealer operating within the corporate limits of the city. The city motor vehicle fuel tax imposed shall be paid monthly to the city.

A. A person who is not a permitted dealer or permitted motor vehicle fuel-handler shall not accept or receive motor vehicle fuel in this city from a person who supplies or imports motor vehicle fuel who does not hold a valid motor vehicle fuel dealers permit in this city. If a person is not a permitted dealer or permitted motor vehicle fuel-handler in this city and accepts or receives motor vehicle fuel, the purchaser or receiver shall be responsible for all taxes, interests and penalties prescribed herein.

B. A permitted dealer or fuel-handler who accepts or receives motor vehicle fuel from a person who does not hold a valid dealer or fuel-handler permit in this city, shall pay the tax imposed by this chapter to the city, upon the sale, use or distribution of the motor vehicle fuel.

(Ord. 1261, passed 1-2-2008)

§ 3.40.040 Amount and payment.

A. Subject to divisions B. and C. of this section, by law, every dealer engaging in his own name, or in the name of others, or in the name of his representatives or agents in the city, in the sale, use or distribution of motor vehicle fuel, shall:

1. Not later than the twenty-fifth day of each calendar month, render a statement to the city or to its authorized agent, of all motor vehicle fuel sold, used or distributed by him in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable motor vehicle fuel tax during the preceding calendar month.

2. Pay a motor vehicle fuel tax computed on the basis of 3.0 cents per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this chapter.

B. In lieu of claiming refund of the tax as provided in § 3.40.200, or of any prior erroneous payment of motor vehicle fuel tax made to the city by the dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.

C. The motor vehicle fuel tax shall not be imposed wherever it is prohibited by the Constitution or laws of the United States or of the State of Oregon. (Ord. 1261, passed 1-2-2008)

§ 3.40.050 Permit requirements.

No dealer or fuel handler, shall sell, use or distribute any motor vehicle fuel until he has secured a dealer or fuel-handler permit as required herein. (Ord. 1261, passed 1-2-2008)

§ 3.40.060 Permit applications and issuance.

A. Every person, before becoming a dealer or fuel handler in motor vehicle fuel in this city shall make an application to the city or its duly authorized agent, for a permit authorizing such person to engage in business as a dealer or fuel-handler.

B. Applications for the permit must be made on forms prescribed, prepared and furnished by the city or its duly authorized agent.

C. The applications shall be accompanied by a duly acknowledged certificate containing:

1. The business name under which the dealer or fuel-handler is transacting business.

2. The place of business and location of distributing stations in the city and in areas adjacent to the city limits in the state.

3. The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.

D. The application for a motor vehicle fuel dealer or fuel-handler permit having been accepted for filing, the city, shall issue to the dealer or fuel-handler a permit in such form as the city or its duly authorized agent may prescribe to transact business in the city. The permit so issued is not assignable, and is valid only for the dealer or fuel handler in whose name issued.

E. The City Recorder's office shall keep on file a copy of all applications and/or permits.

F. No fee(s) shall be charged by the city for securing said permit as described herein. (Ord. 1261, passed 1-2-2008)

§ 3.40.070 Failure to secure permit.

A. If any dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the permit required by § 3.40.060, the motor vehicle fuel tax shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.

B. The city shall proceed forthwith to determine, from the best available sources, the amount of such tax, and it shall assess the tax in the amount found due, together with a penalty of 200% of the tax, and shall make its certificate of such assessment and penalty, determined by City Administrator or the city's duly authorized agent. In any suit or proceeding to collect such tax or penalty or both, the certificate is prima facie evidence that the dealer therein named is indebted to the city in the amount of the tax and penalty therein stated.

C. Any fuel-handler who sells, handles, stores, distributes, or uses any motor vehicle fuel without first filing the certificate and securing the permit required by § 3.40.060, shall be assessed a penalty of \$250 unless modified by § 3.40.270(a), determined by the City Manager or the city's duly authorized agent. In any suit or proceeding to collect such penalty, the certificate is prima facie evidence that the fuel-handler therein named is indebted to the city in the amount of the penalty therein stated.

D. Any tax or penalty so assessed may be collected in the manner prescribed in § 3.40.110 with reference to delinquency in payment of the tax or by court action.

(Ord. 1261, passed 1-2-2008)

§ 3.40.080 Revocation of permit.

The city shall revoke the permit of any dealer or fuel-handler refusing or neglecting to comply with any provision of this chapter. The city shall mail by certified mail addressed to such dealer or fuel-handler at his last known address appearing on the files, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective without further notice if within 10 days from the mailing of the notice the dealer or fuel-handler has not made good its default or delinquency.

(Ord. 1261, passed 1-2-2008)

§ 3.40.090 Cancellation of permit.

A. The City may, upon written request of a dealer or fuel-handler cancel any permit issued to such dealer or fuel-handler, the cancellation to become effective 30 days from the date of receipt of the written request.

B. If the city ascertains and finds that the person to whom a permit has been issued is no longer engaged in the business of a dealer or fuel-handler, the city may cancel the permit of such dealer or fuel-handler upon investigation after 30 days' notice has been mailed to the last known address of the dealer or fuel-handler.

(Ord. 1261, passed 1-2-2008)

§ 3.40.100 Remedies cumulative.

Except as otherwise provided in §§ 3.40.110 and 3.40.130, the remedies provided in §§ 3.40.070, 3.40.080, and 3.40.090 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this chapter. (Ord. 1261, passed 1-2-2008)

§ 3.40.110 Payment of tax and delinquency.

A. The motor vehicle fuel tax imposed by §§ 3.40.030 and 3.40.040 shall be paid on or before the twenty-fifth day of each month to the city which, upon request, shall receipt the dealer or fuel-handler therefor.

B. Except as provided in division D., to any motor vehicle fuel tax not paid as required by division A., there shall be added a penalty of 1% of such motor vehicle fuel tax.

C. Except as provided in division D. of this section, if the tax and penalty required by division B. of this section are not received on or before the close of business on the last day of the month in which the payment is due, a further penalty of 10% shall be paid in addition to the penalty provided for in division B.

D. If the city, determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided by divisions B. and C. may be waived. Penalties imposed by this section shall not apply when the penalty provided in § 3.40.070 has been assessed and paid.

E. If any person fails to pay the motor vehicle fuel tax or any penalty provided for by this chapter, the amount thereof shall be collected from such person for the use of the city. The city shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same.

F. In the event any suit or action is instituted to collect the motor vehicle fuel tax or any penalty provided for by this chapter, the city shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

G. No dealer who collects from any person the tax provided for herein, shall knowingly and willfully

fail to report and pay the same to the city, as required herein.

(Ord. 1261, passed 1-2-2008)

§ 3.40.120 Monthly statement of dealer and fuel-handler.

Unless modified by § 3.40.270B., every dealer and fuel-handler in motor vehicle fuel shall render to the city, on or before the twenty-fifth day of each month, on forms prescribed, prepared and furnished by the city, a signed statement of the number of gallons of motor vehicle fuel sold, distributed, used or stored by him during the preceding calendar month. The statement shall be signed by the permit holder. All statements as required in this section are public records.

(Ord. 1261, passed 1-2-2008)

§ 3.40.130 Failure to file monthly statement.

If any dealer or fuel-handler fails to file the report required by § 3.40.120, the city, shall proceed forthwith to determine from the best available sources the amount of motor vehicle fuel sold, distributed, used or stored by such dealer or fuel-handler for the period unreported, and such determination shall be prima facie evidence of the amount of such fuel sold, distributed, used or stored. The city, immediately shall assess the motor vehicle fuel tax in the amount so determined, as pertaining to the reportable dealer, adding thereto a penalty of 10% for failure to report. Fuel-handlers failing to file a monthly statement of motor vehicle fuel shall be assessed a penalty of \$50. The penalty shall be cumulative to other penalties provided in this chapter. In any suit brought to enforce the rights of the city under this section, the above determination showing the amount of tax, penalties and costs unpaid by any dealer or fuel-handler and that the same are due and unpaid to the city is prima facie evidence of the facts as shown.

(Ord. 1261, passed 1-2-2008)

§ 3.40.140 Billing purchasers.

Bills shall be rendered to all purchasers of motor vehicle fuel by dealers in motor vehicle fuel. The bills shall separately state and describe to the satisfaction of the city the different products shipped thereunder and

shall be serially numbered except where other sales invoice controls acceptable to the city are maintained. The bills required hereunder may be the same as those required under O.R.S. 319.210.

(Ord. 1261, passed 1-2-2008)

§ 3.40.150 Failure to provide invoice or delivery tag.

No person shall receive and accept any shipment of motor vehicle fuel from any dealer, or pay for the same, or sell or offer the shipment for sale, unless the shipment is accompanied by an invoice or delivery tag showing the date upon which shipment was delivered and the name of the dealer in motor vehicle fuel.

(Ord. 1261, passed 1-2-2008)

§ 3.40.160 Transporting motor vehicle fuel in bulk.

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public streets of the city with such conveyance, have and possess during the entire time of his hauling or transporting such motor vehicle fuel an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any officer authorized by the city to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

(Ord. 1261, passed 1-2-2008)

§ 3.40.170 Exemption of export fuel.

A. The license tax imposed by §§ 3.40.030 and 3.40.040 shall not be imposed on motor vehicle fuel:

1. Exported from the city by a dealer; or
2. Sold by a dealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the city in such detail as may be required.

B. In support of any exemption from motor vehicle fuel taxes claimed under this section other than in the case of stock transfers or deliveries in his own equipment, every dealer must execute and file with the city an export certificate in such form as shall be prescribed, prepared and furnished by the city, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the city, and giving such details with reference to such shipment as may be required. The city may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The city may, in a case where it believes no useful purpose would be served by filing of an export certificate, waive the certificate.

C. Any motor vehicle fuel carried from the city in the fuel tank of a motor vehicle shall not be considered as exported from the city.

D. No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the city motor vehicle fuel tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the city and fail to notify the city and the dealer from whom the motor vehicle fuel was originally purchased of his act.

E. No dealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the city for sale or use so as to avoid any of the fees imposed herein.

F. In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the city. This certificate shall be prima facie evidence of the

exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith. (Ord. 1261, passed 1-2-2008)

§ 3.40.180 Sales to armed forces exempted.

The motor vehicle fuel tax imposed by §§ 3.40.030 and 3.40.040 shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States for use in ships, aircraft or for export from the city; but every dealer shall be required to report such sales to the city, in such detail as may be required. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate. (Ord. 1261, passed 1-2-2008)

§ 3.40.190 Fuel in vehicles coming into city not taxed.

Any person coming into the city in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for his own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in §§ 3.40.030 and 3.40.040, or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the city is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into the city shall be subject to all provisions herein applying to dealers. (Ord. 1261, passed 1-2-2008)

§ 3.40.200 Refunds.

Refunds will be made pursuant to O.R.S. 319.280 to 319.320. (Ord. 1261, passed 1-2-2008)

§ 3.40.210 Examination and investigations.

The city, or its duly authorized agent, may make any examination of accounts, records, stocks, facilities and equipment of dealers, fuel-handlers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum products within this city, and such other

investigations as it considers necessary in carrying out the provisions of this chapter. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the city pursuant to the requirements herein, have shown incorrectly the amount of gallons of motor vehicle fuel distributed or the tax accruing thereon, the city may make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors by its examinations or investigations.
(Ord. 1261, passed 1-2-2008)

§ 3.40.220 Limitation on credit for refund or overpayment and on assessment of additional tax.

A. Except as otherwise provided in this chapter, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a dealer must be so taken or filed within 3 years after the date on which the overpayment was made to the city or to its authorized agent.

B. Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this chapter shall be served on dealers within three years from the date upon which such additional taxes become due.
(Ord. 1261, passed 1-2-2008)

§ 3.40.230 Examining books and accounts of carrier of motor vehicle fuel.

The city or its duly authorized agent may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the city for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of taxes in enforcing the provisions of this chapter.
(Ord. 1261, passed 1-2-2008)

§ 3.40.240 Records to be kept by dealers and fuel handlers.

Every dealer and fuel-handler in motor vehicle fuel shall keep a record in such form as may be

prescribed by the city of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and purchases, and shall at all times during the business hours of the day be subject to inspection by the city or its authorized officers or agents.
(Ord. 1261, passed 1-2-2008)

§ 3.40.250 Records to be kept 3 years.

Every dealer and fuel-handler shall maintain and keep, for a period of 3 years, all records of motor vehicle fuel used, sold and distributed within the city by such dealer or fuel-handler, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the city. In the event such records are not kept within the state, the dealer shall reimburse the city or its duly authorized agents for all travel, lodging, and related expenses incurred in examining such records. The amount of such expenses shall be an additional tax imposed hereunder.

(Ord. 1261, passed 1-2-2008)

§ 3.40.260 Use of tax revenues.

A. The City Administrator shall be responsible for the disposition of the revenue from the tax imposed by this chapter in the manner provided by this section.

B. For the purposes of this section, net revenue shall mean the revenue from the tax imposed by this chapter remaining after providing for the cost of administering the motor vehicle fuel tax to motor vehicle fuel dealers and any refunds and credits authorized herein. The program administration costs of revenue collection and accounting activities shall not exceed 10.5% for the first year, and 10% thereafter, of annual tax revenues.

C. The net revenue shall be used only for the activities related to the construction, reconstruction, improvement, repair, and maintenance of public highways, roads and streets within the city.

D. The net revenue shall be used for the street maintenance program established under Chapter 3.30.
(Ord. 1261, passed 1-2-2008)

§ 3.40.270 Administration.

The City Administrator or his designate is responsible for administering this chapter. In addition, the City Administrator may enter into an agreement with the Motor Vehicle Division of the Department of Transportation as an authorized agent for the implementation of certain sections of this chapter. If the Motor Vehicles Division is chosen as an authorized agent of the city, then the modifications outlined below shall apply:

A. The fuel handler's penalty of § 3.40.070C. shall be reduced to \$100. And if the Division determines that the failure to obtain the permit was due to reasonable cause and without any intent to avoid obtaining a permit, then the penalty provided in § 3.40.070 and this section may be waived.

B. The fuel handler's monthly reporting requirements of §§ 3.40.120 and 3.40.130 shall be waived.

(Ord. 1261, passed 1-2-2008)

§ 3.40.280 Severability.

If any portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this chapter.

(Ord. 1261, passed 1-2-2008)

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A personal surety must be a resident of this state. The bond shall be for the security and benefit of the city and shall be conditioned upon the applicant faithfully performing the excavation or street cut work in a careful, good and workmanlike manner to the satisfaction of the Superintendent of Public Works and within the time limit as prescribed by the permit. The amount of the bond shall be set by the City Administrator, but in no event shall it be less than \$1,000. In setting the amount of the bond, the City Administrator shall consider the nature and extent of the work to be done, the location of the street, usual traffic, kind and use of adjoining property, and probable costs to the city for replacement and restoration. The bond shall remain in force until 12 months after substantial completion of the work as determined by the city.

(Ord. 1035, passed 11-3-1999)

§ 12.08.150 Specifications for work.

All portions of an excavation or street cut which lie within the curb lines of the street or other actual traveled portion of the street as designated by the City Administrator shall be back-filled according to standard public works specifications. On streets having asphaltic paving and/or impregnated surfaces, a minimum of 4 inches of compacted hot-mix asphaltic concrete shall be placed in the upper portions of the pavement cut and rolled and/or tamped to the grade of the surrounding pavement. The same standards shall be applied to sidewalks except when the sidewalk is composed of poured concrete, in which case the sidewalk, where cut, shall be replaced with concrete. On surfaced streets and on the shoulders of paved and surface streets, the permittee shall place a minimum of 8 inches of compacted crushed rock having a gradation of 1 minus, which shall be rolled and/or tamped to the grade of the surrounding surfacing. If the full depth of the cut exceeds 8 inches, it shall be entirely filled with a granular material of 1 minus gradation and rolled and/or tamped to the grade of the surrounding surfacing. All backfilling and resurfacing shall be inspected and approved by the Superintendent of Public Works.

(Ord. 1035, passed 11-3-1999)

§ 12.08.160 Acceptance or rejection of replacement work.

All bonds filed by applicants shall be retained by the city until the City Administrator gives approval of the replacement. The City Administrator shall, within 45 days of the completion date stated on the permit or any extension thereof, if an extension is granted, either approve or reject the replacement. If the replacement is rejected, the permittee shall be informed in writing of the rejection and must, within 30 days of the notification, correct the replacement to the standards in effect. If the permittee fails to make the necessary corrections, his or her bond will be forfeited to the city to apply on its costs, and the city will proceed to make the necessary correction either by contract or city construction method, or a combination of both. In either case, the permittee shall be responsible for paying the city's costs of making or having corrections made, including engineering and any legal publication costs.

(Ord. 1035, passed 11-3-1999)

§ 12.08.170 Responsibility for underground utilities.

The permittee shall inform himself or herself as to the existence and location of all underground utilities and protect the same against damage. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewers, gas pipes, electric conduits or other utility facilities.

(Ord. 1035, passed 11-3-1999)

§ 12.08.180 Claims for defective work.

Acceptance or approval by the city of any excavation work and the replacement thereof and resurfacing, if any, shall not prevent the city from asserting a claim against the permittee for incomplete or defective work, if discovered within 12 months from the completion of the work.

(Ord. 1035, passed 11-3-1999)

§ 12.08.190 Water seepage.

It shall be unlawful for any person owning, controlling, using or operating any water main, irrigation or drainage pipeline or ditch, flume or other structure to permit any water from the water main,

pipeline, ditch, flume or other structure to flow, waste or seep into any street or alley of the city in a manner as to damage or injure the street or alley, or as to interfere with traffic thereon.

(Ord. 1035, passed 11-3-1999)

§ 12.08.200 Penalty.

Any person violating the provisions of this chapter, upon conviction, shall be punished by a fine not to exceed \$500.

(Ord. 1035, passed 11-3-1999)

CHAPTER 12.12: SIDEWALK DISPLAYS

Section

- 12.12.010 Space for displays.
- 12.12.020 Shelves to be removed during nighttime.
- 12.12.030 Obstructions prohibited.
- 12.12.035 Exemptions.
- 12.12.040 Penalty.

§ 12.12.010 Space for displays.

It shall be unlawful for any person or persons in business or otherwise within the corporate limits of the city to cause or permit any display of groceries, vegetables or merchandise of any character whatsoever to occupy a space of more than 14 inches on the inside of the sidewalks. A display shall be not less than 2 feet in height, as measured from the sidewalk surface, so as not to create a tripping hazard. When a display is placed in front of a window, such display shall be no greater than three feet in height, as measured from the sidewalk surface, to ensure that windows are not blocked above that height.

(Am. Ord. 1296, passed 10-15-2008)

§ 12.12.020 Shelves to be removed during nighttime.

It shall be unlawful for any person to allow display shelves to remain upon the sidewalks after the

displays are removed within the places of business, during the night, unless the shelves are on hinges and can be dropped against the sides of the buildings when not used without extending or protruding so as to make them dangerous.

(Am. Ord. 1296, passed 10-15-2008)

§ 12.12.030 Obstructions prohibited.

It shall be unlawful for any person to wholly or partially obstruct the sidewalks with displays, boxes, tables and the like which interfere with pedestrians passing along the sidewalks, except in the case of temporary construction authorized pursuant to a building permit or as otherwise provided in this chapter.

(Am. Ord. 1296, passed 10-15-2008)

§ 12.12.035 Exemptions.

A. Businesses selling food and/or nonalcoholic beverages may place tables and chairs on the sidewalk in front of the buildings housing the business, provided there remains at least 4 feet of unobstructed passage available for pedestrian passage. Umbrellas used in connection with tables must be at least 7 feet in height so as not to create clearance problems.

B. Businesses wishing to utilize tables and chairs as provided in division A. above shall be required to apply to City Hall for a permit authorizing the use. No fee is required for the permit, but applicant must provide liability insurance coverage with the city named as additional insured. This coverage shall be comprehensive personal or general liability with a coverage amount not less than \$500,000 combined single limit covering bodily injury and property damage. Permits must be renewed annually.

(Am. Ord. 1282, passed 7-2-08; Am. Ord. 1296, passed 10-15-2008)

§ 12.12.040 Penalty.

Any person or persons violating or failing to comply with any of the provisions of this chapter shall be deemed guilty of an infraction and upon conviction thereof may be fined up to \$100 per each day of the violation.

(Am. Ord. 1296, passed 10-15-2008)

Streets, Sidewalks and Public Places

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- 12.16.020 Permit to make repairs.
- 12.16.030 Notice to make repairs.

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Chapter

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13.08 GENERAL PROVISIONS

13.12 RATES AND CONNECTION FEES

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Canby - Public Services

Public Services

CHAPTER 13.16: SEWER USE

Section

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- 13.16.002 Administration.
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GENERAL PROVISIONS**§ 13.16.001 Purpose and policy.**

A. This chapter sets forth uniform requirements for users of publicly owned treatment works (POTW) for the city and enables the city to comply with all applicable state and federal laws including the Clean Water Act (Act 33 U.S.C. 1251 *et seq.*), and the General Pretreatment Regulations (40 C.F.R. Part 403) and Oregon Administrative Rules (OAR) Chapter 340. The objectives of this chapter are:

1. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

2. To prevent the introduction of pollutants into the POTW, which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

3. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal to be in compliance with applicable statutes and regulations.

4. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and

5. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

B. This chapter shall apply to all users of the POTW. The chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires users reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. 1292 § 1.1, passed 9-3-2008)

§ 13.16.002 Administration.

Except as otherwise provided herein, the Public Works Manager or designate shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Public Works Manager may be delegated by the Public Works Manager to other city personnel.

(Ord. 1292 § 1.2, passed 9-3-2008)

§ 13.16.003 Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter shall have the meanings hereinafter designated;

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.*

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

Authorized Representative of the User.

1. If the industrial user is a corporation, authorized representative shall mean:

a. The President, Secretary, or 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

b. The manager of 1 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 regulations; 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.

2. If the industrial user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

3. 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 his or her designee.

4. The individuals described in divisions 1. through 3. may designate another authorized representative if the authorization is in writing. The authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the city.

Best Management Practice (BMP). Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 13.16.015A. and B. [40 C.F.R. 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, within 5 days at 20° Celsius, usually expressed as a concentration [milligrams per liter (mg/l)].

Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.

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

Categorical Industrial User. A user regulated by one of EPA's Categorical Pretreatment Standards.

City. City of Canby Oregon, a municipal corporation of the State of Oregon, acting through its City Council or any board, committee, body, official, or person to whom the Council shall have lawfully delegated the power to act for or on behalf of the city.

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

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

Control Authority. The City of Canby Public Works Manager.

Continuing Violation. Each day a violation occurs may be considered as a separate violation.

Cooling Water/Non Contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

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

Domestic User (Residential User). Any person who contributes, causes, or allows the contribution of wastewater into the city POTW that is of a similar volume and/or chemical make-up to that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day, 0.2 pounds of BOD per

capita per day, and 0.17 pounds of TSS per capita per day.

Environmental Protection Agency or U.S. EPA. The U.S. Environmental Protection Agency or, where appropriate, the Director of the Region 10 Office of Water, or other duly authorized official of said agency.

Existing Source. A categorical industrial user, the construction or operation of whose facility commenced prior to the publication by EPA of proposed categorical pretreatment standards, which would be applicable to such source if and when the standard is thereafter promulgated in accordance with Section 307 of the Act.

Existing User. Any non-categorical user which was discharging wastewater prior to the effective date of this chapter.

Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

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

Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

Industrial User. Any person, which is a source of indirect discharge.

Industrial Pretreatment Coordinator. The person designated by the city to carry out certain duties and responsibilities associated with the pretreatment program. This person is the duly authorized representative of the Public Works Manager in accordance with this section.

Infiltration. Any water other than wastewater that enters the sewage treatment system (including service connections) from the ground, typically from broken pipes, or defective joints in pipes and manhole walls.

Inflow. Any water from storm water runoff that directly enters the sewage system during or immediately after rainfall. Typical points of entry include, but are not limited to, connections with roof

and area drains, storm drain connections, holes in manhole covers in flooded streets, cooling water discharges, catch basins, and drainage from springs and swampy areas.

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.

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

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

2. Therefore is a cause of a violation of any requirement of the city's 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 any of the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II, commonly referred to as (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.

Local Discharge Limitations. 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 C.F.R. 403.5(a)(1) and (b).

Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding,

surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

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

National Pretreatment Standard. National pretreatment standard is defined in 40 C.F.R. 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 C.F.R. 403.5.

New Source.

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

- a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

- b. The building, structure, facility or installation completely replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

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

2. 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 divisions a., b., or c. above but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

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

i. Any placement, assembly, or installation of facilities or equipment; or

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

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

New User. A "new user" is a user that is not regulated under federal categorical pretreatment standards but applies to the city for a new building permit or occupies an existing building and plans to commence discharge of wastewater to the city's collection system after the effective date of this chapter. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "existing user" if no significant changes are made in the manufacturing operation.

Non-domestic Pollutants. Any substances other than human excrement and household gray water (shower, dish washing operations, and the like). Non-domestic pollutants include the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

Pass Through. A discharge which exits the POTW into waters of the United States in quantities or

concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

Permittee. A person or user issued a wastewater discharge permit.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, or local governmental entities.

pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

Pretreatment Requirement. Any substantive or procedural requirements related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment Standards or Standards. Prohibited discharge standards, categorical pretreatment standards, and local limits established by the city/POTW.

Prohibited Discharge Standard or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances, which appear in § 3.16.015A. and B.

Publicly Owned Treatment Works (POTW). "A treatment works," as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the city.

Public Works Operations Manager or Public Works Manager. The person or his duly authorized representative designated by the city to supervise and carry out the responsibilities of the city pretreatment program, and who is charged with certain duties and responsibilities by this article.

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

Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage. Human excrement and gray water (household showers, dish washing operations, and the like).

Sewer. Any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

Shall, May. "Shall" is mandatory, "may" is permissive.

Significant Industrial User.

1. A user subject to categorical pretreatment standards; or

2. A user that:

a. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blow down wastewater); contributes a process wastewater; or

b. Contributes a process wastestream which makes up 5% or more of the average dry

weather hydraulic or organic capacity of the POTW treatment plant; or

c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

3. Upon a finding that a user meeting the criteria in division 2. has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user [in accordance with procedures in 40 C.F.R. 403.8(f)(6)] determine that such user should not be considered a significant industrial user.

Slug Load. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in §§ 3.16.015 *et seq.* A slug discharge is any discharge of a non routine, episodic nature, including but not limited to an accidental spill or a non customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

State. State of Oregon.

Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

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

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.

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

Treatment Plant Effluent. The discharge from the POTW into the waters of the state.

User or Industrial User. A source of indirect discharge. The source shall not include "domestic user" as defined herein.

Violation. Shall have occurred when any requirement of this chapter has not been met; or when a written request of the Public Works Manager, made under the authority of this chapter, is not met within the specified time; or when a condition of a permit or contract issued under the authority of this chapter is not met within the specified time; or when permitted effluent limitations are exceeded, regardless of intent or accident; or if an industrial user (IU), causes the POTW to violate its NPDES permit, the IU is in violation; or when false information has been provided by the discharger.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Discharge Permit (Industrial Wastewater Discharge Permit). An authorization or equivalent control document issued by the city to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter.

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

(Ord. 1292 § 1.3, passed 9-3-2008)

§ 3.16.004 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD	Biochemical Oxygen Demand
C.F.R.	Code of Federal Regulations
COD	Chemical Oxygen Demand

DEQ	Oregon Department of Environmental Quality
EPA	U.S. Environmental Protection Agency
GPD	Gallons Per Day
IU's	Industrial Users
IWA	Industrial Waste Acceptance
LC ₅₀	Lethal Concentration for 50% of the Test Organisms
l	Liter
LEL	Lower Explosive Limit
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SP/SCP	Spill Prevention/Slug Control Plan
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act (42 U.S.C. 6901)
TSS	Total Suspended Solids
USC	United States Code

(Ord. 1292 § 1.4, passed 9-3-2008)

GENERAL SEWER USE REQUIREMENTS

§ 13.16.015 Prohibited discharge standards.

A. General prohibitions (C.F.R. 403.5 (a)). A user may not introduce into a POTW any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibitions in this section apply to each user introducing pollutants into a POTW whether or not the user is subject to other national pretreatment standards or any national, state, or local pretreatment requirements.

B. Specific prohibitions (C.F.R. 403.5 (b)). No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

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

2. Any substance which may solidify or become discernible viscous at temperatures above 0°C (32°F). Solid or viscous substances in amounts which will cause interference with the flow in a sewer but in no case solids greater than 1/4 inch, (0.65 centimeters) in any dimension.

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

4. Any wastewater from a grab sample having a pH less than 6.0 su., or more than 10.0 su., or which may otherwise cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0, unless the sewerage treatment system is specifically designed to accommodate such discharges.

5. Any wastewater containing pollutants, including oxygen-demanding pollutants (BOD, and the like), in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to pass through or interfere with the municipal wastewater system, any wastewater treatment or sludge process, or constitute a hazard to humans or animals.

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

7. Any substance which may cause the treatment plant effluent or any other residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the system cause the city to be in noncompliance with sludge use or

disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other State requirements applicable to the sludge use and disposal practices being used by the city.

8. Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the city's NPDES permit.

9. Heat in amounts that will inhibit biological activity in the POTW resulting in Interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104°F (40° C).

10. Any wastewater containing any radioactive waste or isotopes except as specifically approved by the Public Works Manager in compliance with applicable state and federal regulations.

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

12. Any hauled pollutants, except at discharge points designated by the city in accordance with § 13.16.040.

13. Storm water, surface water, groundwater, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater, unless specifically authorized by the Public Works Manager.

14. Any sludge, screening, or other residues from the pretreatment of industrial wastes.

15. Any medical wastes, except as specifically authorized by the Public Works Manager in a wastewater permit.

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

17. Any material identified as hazardous waste according to 40 C.F.R. Part 261 except as specifically authorized by the Public Works Manager.

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

19. Recognizable portions of the human body or animal anatomy.

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

C. Waste prohibited by this section shall not be processed or stored in such a manner that these waste could be discharged to the POTW.
(Ord. 1292 § 2.1, passed 9-3-2008)

§ 13.16.016 Federal categorical pretreatment standards.

Users subject to categorical pretreatment standards are required to comply with applicable standards set out in 40 C.F.R. Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Public Works Manager may impose equivalent concentration or mass limits in accordance with 40 C.F.R. 403.6(c)

B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Public Works Manager shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. 403.6(e).

C. A user may obtain a variance from categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. 403.15.
(Ord. 1292 § 2.2, passed 9-3-2008)

§ 13.16.017 State requirements.

State requirements and limitations on discharges to the POTW shall be met by all users which 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 in other applicable ordinances.

(Ord. 1292 § 2.3, passed 9-3-2008)

§ 13.16.018 Local limits; special pollutant limitations.

A. 1. No person (user) shall discharge wastewater containing pollutants into the municipal wastewater system in excess of limitations specified in its wastewater discharge permit or published by the Public Works Manager.

2. The Public Works Manager shall publish and revise standards for specific prohibitions or limits on pollutants local limits. These standards shall be developed in accordance with 40 C.F.R. Section 403.5 and shall implement the objectives of this chapter.

B. 1. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing pollutant levels in excess of the following city local discharge limits January 2, 2001, or any revisions thereof adopted by Council, through resolution.

<i>2001 Local Limits</i>		
<i>Pollutant</i>	<i>Basis in Derivation of 2001 Local Limit</i>	<i>2001 Uniform Concentration Limit (mg/l)</i>
Arsenic	Inhibition (Activated Sludge)	2.04
Cadmium	Pass Through (NPDES)	0.56
Chromium	Inhibition (Nitrification)	11.64
Copper	Inhibition (Nitrification)	3.04

<i>Pollutant</i>	<i>Basis in Derivation of 2001 Local Limit</i>	<i>2001 Uniform Concentration Limit (mg/l)</i>
Cyanide	Inhibition (Activated Sludge)	2.08
Lead	Inhibition (Activated Sludge)	2.35
Mercury	Pass Through (NPDES)	0.0053
Nickel	Inhibition (Nitrification)	9.44
Silver	Pass Through (NPDES)	0.07
Zinc	Inhibition (Activated Sludge)	3.92
pH	Protection of Workers & Treatment System	6.0-10.0 su

2. The above limits apply at the point where the wastewater is discharged to the POTW (end of pipe). All concentrations of metallic substances are for "total" metals unless indicated otherwise. The Public Works Manager may impose mass limitations in addition to (or in place of) the concentration-based limitations above. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent or applicable pretreatment standard shall apply.

C. The Public Works Manager may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of § 13.16.015.
(Ord. 1292 § 2.4, passed 9-3-2008)

§ 13.16.019 City's right to revision.

The city reserves the right to establish, by ordinance or in wastewater permits, more stringent limitations or requirements for discharge to the municipal wastewater system if deemed necessary to comply with the objectives presented in § 13.16.001 or the general and specific prohibitions in § 13.16.015.
(Ord. 1292 § 2.5, passed 9-3-2008)

§ 13.16.020 Special agreement.

The city reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the system. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 C.F.R. 403.15. Industrial users may also request a variance from the categorical pretreatment standard from US EPA. Such a request shall be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by US EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 C.F.R. 403.13.
(Ord. 1292 § 2.6, passed 9-3-2008)

§ 13.16.021 Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute, a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard, or any other pollutant-specific limitation developed by the city.
(Ord. 1292 § 2.7, passed 9-3-2008)

§ 13.16.022 Deadline for compliance with categorical standards.

A. Compliance by existing sources with categorical pretreatment standards shall be within 3 years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 C.F.R. Chapter I Subchapter N.

B. New sources shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.
(Ord. 1292 § 2.8, passed 9-3-2008)

§ 13.16.023 Inflow and infiltration.

A. All property owners and responsible users identified by the city as contributors to excessive or improper infiltration or inflow into the treatment works shall be advised of their infiltration or inflow problems. All such properties shall be provided a 180-day grace period in which to correct the identified infiltration and inflow problems, said 180-day grace period to extend from the date of notification. By the end of the 180-day grace period, each property owner shall notify the city that corrective actions have been taken or are in progress, and describe the actions being taken.

B. A property owner failing to notify the city of corrective actions prior to the end of the 180-day grace period shall be subject to termination of service without further notice, and water service shall be immediately discontinued and shut off until the violations shall have been corrected in accordance to federal, state, and city regulations.

C. In the event any instance of excessive infiltration or inflow into the treatment works of the city shall continue beyond the 180-day grace period, it is hereby declared that such continuing infiltration or inflow is a public nuisance. The Public Works Manager shall have the right to abate such a public nuisance, to enter upon any private property within the city for such a purpose, and to assess the cost of such abatement as a lien against the property upon which such infiltration and inflow occurs. The Public Works Manager shall assess the cost of such abatement to the property from which infiltration and inflow occurs. An administration fee of \$350 or 5% of the cost, whichever is greater, shall be assessed by the Public Works Manager in addition to all cost of abatement. The assessment of all cost shall be levied by the filing of a statement of such costs together with the description of the property or properties to be

assessed and the name of the owner(s) thereof with the City Recorder. The City Recorder shall enter the assessment as a lien against such property in the lien docket of the city.

D. No new connections from inflow sources into the water pollution control facilities shall be permitted without the approval of the Public Works Manager.
(Ord. 1292 § 2.9, passed 9-3-2008)

PRETREATMENT OF WASTEWATER

§ 13.16.035 Pretreatment facilities.

Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in §§ 13.16.015 *et seq.* within the time limitations specified by the Public Works Manager. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this chapter.

(Ord. 1292 § 3.1, passed 9-3-2008)

§ 13.16.036 Additional pretreatment measures.

Whenever deemed necessary, the Public Works Manager may require industrial users to restrict the industrial user's discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the municipal wastewater system and determine the industrial user's compliance with the requirements of this chapter.

A. Each person discharging, into the municipal wastewater system greater than 100,000 gallons per day or greater than 5% of the average daily flow in the system, whichever is lesser, may be required by the Public Works Manager to install and maintain, on his property and at his expense, a suitable storable and flow control facility to ensure equalization of flow over a 24 hour period. The facility shall have a capacity for at least 50% of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Public Works Manager. A wastewater permit may be issued solely for flow equalization.

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

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

(Ord. 1292 § 3.2, passed 9-3-2008)

§ 13.16.037 Spill prevention and slug control plans.

The Public Works Manager may require any user to develop and implement a spill prevention/slug control plan (SP/SCP). Where deemed necessary by the city, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. A spill prevention/slug control plan (SP/SCP) showing facilities operating procedures to provide this protection shall be submitted to the city for review and approval before implementation. The city shall determine which user is required to develop a plan

and require said plan to be submitted within 90 days after notification by the city. Each user shall implement its SP/SCP as submitted or as modified after such plan has been reviewed and approved by the city. Review and approval of such plans and operating procedures by the city shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this chapter. The plan shall be posted and available for inspection at the facility during normal business hours.

A. Any user required to develop and implement an accidental spill prevention plan shall submit a plan which addresses, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any standards in §§ 13.16.015 through 13.16.018, including any discharge that would violate a prohibition under 40 C.F.R. 403.5(b), or as required by § 13.16.095 of this chapter; and
4. 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 pollutants, including solvents, and or measures and equipment for emergency response.

B. Users shall notify the city wastewater treatment facility immediately after the occurrence of a slug or accidental discharge of substances regulated by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any 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. Within 5 days following an accidental discharge, the user shall submit to the city a detailed

written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

D. Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such discharge with respect to emergency notification procedures.

E. Preventive measures.

1. If any user has a spill or uncontrolled discharge of prohibited or restricted substances into the city sewer, the Public Works Manager may require the user's spill prevention and control plan to be resubmitted, with revisions, in order to fully comply with the requirements of this chapter. The POTW may also require the industrial user to install, modify equipment and/or make other changes necessary to prevent such discharges as a condition of issuance of and industrial waste discharge permit or as a condition of continued discharge into the city sewer system. The Public Works Manager may establish a schedule of compliance for construction completion.

2. The Public Works Manager may require connections or entry points which could allow spills or uncontrolled discharges of prohibited or restricted substances to enter the city sewer systems to be eliminated, labeled, or controlled, so as to prevent the entry of wastes in violation of this chapter.

(Ord. 1292 § 3.3, passed 9-3-2008)

§ 13.16.038 Tenant responsibility.

Any person who shall occupy an industrial user's premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of this chapter in the same manner as the owner.

(Ord. 1292 § 3.4, passed 9-3-2008)

§ 13.16.039 Separation of domestic and industrial wastewater.

All domestic wastewaters from rest rooms, showers, drinking fountains, and the like, unless specifically included as part of a categorical pretreatment standard, shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a required pretreatment system and the industrial user's monitoring facility. When directed to do so by the Public Works Manager, industrial users must separate existing domestic wastestreams.

(Ord. 1292 § 3.5, passed 9-3-2008)

§ 13.16.040 Hauled wastewater.

Septic tank waste (septage) will be accepted into the municipal wastewater system at a designated receiving structure within the POTW area, (when such structures become available), and at such times as are established by the Public Works Manager, provided such wastes do not contain toxic or hazardous pollutants, and provided such discharge does not violate any other requirements established by the city. The Public Works Manager shall issue permits for individual vehicles to use such facilities.

A. All waste haulers, regardless of the origin of the hauled wastes, shall be considered "industrial users" for the purposes of this chapter and required to apply for a waste hauler permit.

B. The discharge of domestic septage wastes from commercial or industrial sites requires prior approval of the Public Works Manager. The Public Works Manager shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation.

C. Fees for the discharge of septage will be established as part of the user fee system as authorized in §§ 13.16.230 *et seq.*

(Ord. 1292 § 3.6, passed 9-3-2008)

§ 13.16.041 Vandalism.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the

municipal wastewater system. Any person found in violation of this requirement shall be subject to the sanctions set out in §§ 13.16.150 *et seq.* (Ord. 1292 § 3.7, passed 9-3-2008)

§ 13.16.042 Grease interceptors.

A. The city may inspect grease interceptors (i.e., traps, oil/water separators) to insure proper installation and maintenance. Users may be required to reimburse the city for cleaning and additional maintenance of public sewer mains due to discharge of grease caused by noncompliance with these rules and regulations.

B. In the event the city, during routine line maintenance, discovers an accumulation of grease in a public line sufficient to restrict the normal flow of waste, upstream IUs shall be inspected. When the city determines which user was responsible for the grease or oil discharge, the user may be required to cease discharge of the prohibited waste, install an interceptor, maintain the interceptors, and may be charged for the cost of cleaning the line. (Ord. 1292 § 3.8, passed 9-3-2008)

WASTEWATER PERMIT ELIGIBILITY

§ 13.16.055 Wastewater survey.

When requested by the city, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Public Works Manager is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be considered a violation of this chapter and subjects the industrial user to the sanctions set out in §§ 13.16.150 *et seq.* (Ord. 1292 § 4.1, passed 9-3-2008)

§ 13.16.056 Wastewater permit requirement.

A. It shall be unlawful for significant industrial users to discharge wastewater into the city's sanitary sewer system without first obtaining a wastewater

permit from the Public Works Manager. Any violation of the terms and conditions of wastewater permit shall be deemed a violation of this chapter and subjects the industrial user to the sanctions set out in §§ 13.16.150 *et seq.* Obtaining a wastewater permit does not relieve a permittee of its obligation to obtain other permits required by federal, state or local law.

B. The Public Works Manager may require other non-domestic users, non discharging categorical industrial users and liquid waste haulers, to obtain waste water permits as necessary to carry out the purpose of this chapter. (Ord. 1292 § 4.2, passed 9-3-2008)

§ 13.16.057 Permitting existing connections.

Any significant industrial user, without a current industrial discharge permit, which discharges industrial waste into the municipal wastewater system prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the city for a wastewater permit in accordance with § 13.16.060, and shall not cause or allow discharges to the system to continue after 180 days of the effective date of this chapter except in accordance with a permit issued by the Public Works Manager. (Ord. 1292 § 4.3, passed 9-3-2008)

§ 13.16.058 Permitting new connections.

Any significant industrial user proposing to begin or recommence discharging industrial wastes into the municipal wastewater system must obtain a wastewater permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least 90 days prior to the anticipated startup date. (Ord. 1292 § 4.4, passed 9-3-2008)

§ 13.16.059 Permitting extra-jurisdictional industrial users.

Any existing significant industrial user located beyond the city limits shall submit a permit application, in accordance with § 13.16.060, within 90 days of the effective date of this chapter. New significant industrial users located beyond the city limits shall submit such applications to the Public

Works Manager 90 days prior to any proposed discharge into the municipal system. Upon review of such application, the Public Works Manager may enter into a contract with the industrial user which requires the industrial user to subject itself to and abide by this chapter, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. Alternately, the Public Works Manager may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said user. (Ord. 1292 § 4.5, passed 9-3-2008)

§ 13.16.060 Wastewater permit application contents.

A. In order to be considered for a wastewater permit, all industrial users required to have a permit must submit the following information on an application form approved by the Public Works Manager.

1. Name, mailing address, and location if different from the mailing address);
2. Environmental control permits held by or for the facility;
3. Standard industrial classification (SIC) codes for pretreatment the industry as a whole and any processes for which categorical pretreatment standards have been promulgated.
4. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the municipal system;
5. Number and type of employees, and hours of operation, and proposed or actual hours of operation of pretreatment system.
6. Each product by type, amount, process or processes and rate of production;
7. Type and amount of raw materials process (average and maximum per day);
8. The site plans, floor plans and mechanical and plumbing plans and details to show all

sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge.

9. Time and duration of the discharge.

10. Measured average daily and maximum daily flow, in gallons per day, to the municipal system from regulated process streams and other streams as necessary to use the combined wastestream formula in 40 C.F.R. 403.6(e);

11. Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly, and seasonable variations, if any;

12. Wastewater constituents and characteristics, including any pollutants in the discharge which are limited by federal, state, and local standards, pretreatment standards applicable to each regulated process; and nature and concentration (or mass if pretreatment standard requires) of regulated pollutant in each regulated process (daily maximum and average concentration or mass when required by a pretreatment standard). Sampling and analysis shall be undertaken in accordance with 40 C.F.R. Part 136; and certified that sampling is representative of normal work cycles and expected pollutant discharges.

13. A statement reviewed by an authorized representative of the user and certified to by a qualified professional indicating whether or not the pretreatment standards are being met on a consistent basis, and if not, what additional pretreatment is necessary.

14. If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule;

- a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an

engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to above shall exceed 9 months nor shall the total compliance period exceed 36 months.

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

15. Any other information as may be deemed by the Public Works Manager to be necessary to evaluate the permit application.

16. A new source discharger may provide estimates as to the character and volume of pollutants described in divisions A.10. through A.12.

B. Incomplete or inaccurate applications shall not be processed and shall be returned to the industrial user for revision.

(Ord. 1292 § 4.6, passed 9-3-2008)

§ 13.16.061 Authorized signatory and accuracy certification.

A. All permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true,

accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

B. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to Public Works Manager prior to or together with any reports to be signed by an authorized representative.

(Ord. 1292 § 4.7, passed 9-3-2008)

§ 13.16.062 Wastewater permit decisions.

A. The Public Works Manager will evaluate the data furnished by the industrial user and may require additional information. Within 60 days of receipt of a complete permit application, the Public Works Manager will determine whether or not to issue a wastewater permit. If no determination is made within this time period, the application will be deemed denied.

B. If any waters or wastes are discharged, or area proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in §§ 13.16.015 *et seq.*, and which in the judgment of the Public Works Manager, may have a deleterious effect upon the municipal treatment system, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Manager may take any of the following actions:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge; and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

(Ord. 1292 § 4.8, passed 9-3-2008)

WASTEWATER PERMIT ISSUANCE PROCESS

§ 13.16.075 Wastewater permit duration.

Permits shall be issued for a specific time period, not to exceed 5 years. A permit may be issued for a period less than 5 years, at the discretion of the Public Works Manager. Each permit shall indicate a specific date upon which it will expire.

(Ord. 1292 § 5.1, passed 9-3-2008)

§ 13.16.076 Wastewater discharge permit contents.

Wastewater permits shall include such conditions as are reasonably deemed necessary by the Public Works Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plants effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Wastewater permits shall contain the following conditions:

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

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

3. Effluent limits, including best management practices, based on applicable pretreatment standards in federal, state and local law.

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

5. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

6. Requirements to control slug discharge, if determined by the Public Works Manager to be necessary.

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

8. Requirements for prior notification and approval by the Public Works Manager 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.

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

B. Permits may contain, but need not be limited to, the following:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulations and equalization;

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

3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, and the like, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

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

5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

6. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

7. Requirements for installation and maintenance of inspection and sampling facilities and equipment.

8. Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

9. Compliance schedules for meeting pretreatment standards and requirements.

10. Requirements for submission of periodic self-monitoring or special notification reports.

11. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in § 13.16.101 and affording the Public Works Manager, or his representatives, access thereto.

12. Requirements for the prior notification and approval by the Public Works Manager of any change in the manufacturing and/or pretreatment process used by the permittee.

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

14. Other conditions as deemed appropriate by the Public Works Manager to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(Ord. 1292 § 5.2, passed 9-3-2008)

§ 13.16.077 Wastewater discharge permit appeals.

Any person, including the user, may petition the Public Works Manager to reconsider the terms of the permit within 10 days of its issuance.

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

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

C. The effectiveness of the permit shall not be stayed pending the appeal.

D. If the Public Works Manager fails to act within 15 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purpose of judicial review.

E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the County Circuit Court, pursuant to O.R.S. Chapter 34, within 60 days of the final administrative decision. (Ord. 1292 § 5.4, passed 9-3-2008)

§ 13.16.078 Wastewater permit modifications.

A. The Public Works Manager may modify the permit for good cause including, but not limited to, the following:

1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

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

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

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

5. Violation of any terms or conditions of the wastewater permit.

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

7. Revisions of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. 403.13.

8. To correct typographical or other errors in the permit.

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

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

(Ord. 1292 § 5.4, passed 9-3-2008)

§ 13.16.079 Wastewater permit transfer.

A. Permits may be reassigned or transferred to a new owner and/or operator only with prior approval of the Public Works Manager. The permittee must give at least 30 days advance notice to the Public Works Manager. The notice must include provision for furnishing the new owner or operator with a copy of the existing permit and a written certification by the new owner which:

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

2. Identifies the specific date on which the transfer is to occur.

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

B. Failure to provide advance notice of a transfer renders the wastewater permit terminated.
(Ord. 1292 § 5.5, passed 9-3-2008)

§ 13.16.080 Wastewater permit revocation.

A. The Public Works Manager may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the city of significant changes to the wastewater prior to the changed discharge;

2. Falsifying self-monitoring reports;
3. Tampering with monitoring equipment;
4. Refusing to allow the city timely access to the facility premises and records;

5. Failure to meet effluent limitations;
6. Failure to pay administrative penalties;
7. Failure to pay sewer charges;
8. Failure to meet compliance schedules;
9. Failure to complete a wastewater survey;

10. Failure to provide advance notice of the transfer of a permitted facility;

11. Violations of any pretreatment standard or requirement or any terms of the permit or the chapter.

12. Failure to provide prior notification to the Public Works Manager of changed conditions pursuant to § 13.16.094.

13. Misrepresentation of, or failure to fully disclose all relevant facts in the wastewater discharge permit application.

14. Failure to complete a wastewater discharge permit application.

B. Wastewater discharge permits shall be voided upon cessation of operations, or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater permit to that user.

(Ord. 1292 § 5.6, passed 9-3-2008)

§ 13.16.081 Wastewater discharge permit reissuance.

A user who is required to have a wastewater discharge permit shall apply for a wastewater discharge permit application, in accordance with § 13.16.060, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the city issues or denies the new wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit.

(Ord. 1292 § 5.7, passed 9-3-2008)

§ 13.16.082 Regulation of wastewater received from other jurisdictions.

If another municipality, or user located within another jurisdiction, contributes wastewater to the municipal wastewater system, the Public Works Manager shall enter into an intermunicipal or interjurisdictional agreement with the contributing municipality or jurisdiction, or enter into a contract

with the user(s), in accordance with requirements specified in the city's pretreatment procedures. All inter-jurisdictional agreements made with users outside the city's jurisdiction will be considered a major modification to the city NPDES permit and will require approval from the Department of Environmental Quality.

(Ord. 1292 § 5.8, passed 9-3-2008)

REPORTING REQUIREMENTS

§ 13.16.090 Baseline monitoring reports.

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

B. The information required by this section includes:

1. Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners;

2. Permits. The user shall submit a list of any environmental controls permits held by or for the facility;

3. Description of operation. The user shall submit a brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a

schematic process diagram which indicates points of discharge to the system from the regulated processes.

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

5. Measurement of pollutant.

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

b. In addition, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by federal, state or city standards or the Public Works Manager) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required by federal, state or city standards or the Public Works Manager) shall be reported. The sample shall be representative of daily operations.

c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula, in order to evaluate compliance with pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. 403.6(e). This adjusted limit along with supported data shall be submitted to the control authority.

d. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136 and amendments thereto.

e. The control authority may allow the submission of a baseline monitoring report, which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

f. The baseline report shall indicate the time, date and place, of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharge to the POTW.

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

7. Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M shall be established. The completion date in this schedule will not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 13.16.060(14).

8. Signature and certification. All baseline-monitoring reports must be signed and certified in accordance with § 13.16.061. (Ord. 1292 § 6.1, passed 9-3-2008)

§ 13.16.091 Compliance schedule for meeting pretreatment standards.

The following conditions shall apply to the compliance schedule required by § 13.16.090B.7.:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, commencing and completing construction, and beginning and conducting routine operation).

B. No increment referred to above shall exceed 9 months.

C. The user shall submit a progress report to the Public Works Manager no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

D. In no event shall more than 9 months lapse between such progress reports to the Public Works Manager.

(Ord. 1292 § 6.2, passed 9-3-2008)

§ 13.16.092 Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the municipal (POTW) wastewater system, any user subject to such pretreatment standards and requirements shall submit to the Public Works Manager a report containing the information described in § 13.16.090B.4. through 6. of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §§ 13.16.061 and 13.16.090B.6. through 8.

(Ord. 1292 § 6.3, passed 9-3-2008)

§ 13.16.093 Periodic compliance reports.

A. Any user that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to the city semi-annually on the fifteenth day of June and December, unless required on other dates or more frequently by the city, a report indicating the nature and concentration of

pollutants in the discharge which are limited by pretreatment standards. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Public Works Manager or the pretreatment standard necessary to determine the compliance of the user. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, users shall sample their discharge at least twice per year. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge according to 40 C.F.R. 403.12 (b)(4).

B. The report shall include a record of the concentration (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations and shall also include any additional information required by this chapter or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the city or by this chapter, using methodologies in 40 C.F.R. Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

C. Any user subject to equivalent mass or concentration limits established by the city or by unit production limits specified in the applicable categorical standards shall report production data as outlined in § 13.16.092.

D. If the city calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

E. Flows shall be reported on the basis of actual measurements, provided, however, that the city may accept reports of average and minimum flows estimated by verifiable techniques if the city determines that an actual measurement is not feasible.

F. Discharges sampled shall be representative of the user's daily operations and samples shall be taken in accordance with the requirements specified in §§ 13.16.090 *et seq.*

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

H. The city may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the city agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the city for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The city is under no obligation to perform periodic compliance monitoring for a user.

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

1. In the event an industrial user's monitoring results indicate a violation has occurred, the industrial user shall immediately (within 24 hours of becoming aware of the violation) notify the Public Works Manager and shall re-sample its discharge. The industrial user shall report the results of the repeated sampling within 30 days of discovering the first violation.

2. The reports shall indicate the time, date, persons, location of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of the normal work cycles and expected pollutant discharges to the city sewer

system. All sampling and analysis protocol shall be in accordance with 40 C.F.R. Part 136.

3. The Public Works Manager may require reporting by dischargers that are not required to have an industrial discharge permit if information or data is needed to establish a sewer charge, determine the treat ability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

4. Reporting requirements for industrial users not subject to categorical pretreatment standards will be according to the requirements established in 40 C.F.R. 403.12 (h) and § 13.16.093.

J. All periodic compliance reports must be signed and certified in accordance with § 13.16.061. (Ord. 1292 § 6.4, passed 9-3-2008)

§ 13.16.094 Report of changed conditions.

Each industrial user shall notify the Public Works Manager of any planned significant changes to the industrial user's operations or system, which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. Notification of any changes in the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 C.F.R. 403.12(p) must also be reported.

A. The Public Works Manager 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 § 13.16.060.

B. The Public Works Manager may issue a wastewater permit under § 13.16.062 or modify an existing wastewater permit under § 13.16.078.

C. No industrial user shall implement the planned changed condition(s) until and unless the Public Works Manager has responded to the industrial user's notice.

D. For purposes of this requirement, flow or loading increases of 20% or greater and the discharge of any previously unreported pollutant shall be deemed significant.

(Ord. 1292 § 6.5, passed 9-3-2008)

§ 13.16.095 Reports of potential problems.

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

B. Within 5 days following an accidental discharge, the user shall, unless waived by the Public Works Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the system, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter.

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

D. Significant industrial users are required to notify the Public Works Manager immediately of any changes at its facility affecting the potential for a slug discharge. Failure to notify the city of potential problem discharges shall be deemed a separate violation of this chapter.

(Ord. 1292 § 6.6, passed 9-3-2008)

§ 13.16.096 Reports from unpermitted users.

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater permit shall provide appropriate reports to the city as the Public Works Manager may require.

(Ord. 1292 § 6.7, passed 9-3-2008)

§ 13.16.097 Sample collection.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in division 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 Public Works Manager. 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 C.F.R. 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 §§ 13.16.090 and 13.16.092 [40 C.F.R. 403.12(b) and (d)], a minimum of 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 Public Works Manager may authorize a lower minimum. For the reports required by division § 13.16.093 (40 C.F.R. 403.12(e) and 403.12(h)), the industrial user is required to collect

the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

D. Samples that are taken by city personnel for the purposes of determining compliance with the requirements of this chapter may be split with the discharger if requested (or a duplicate sample provided in the instance of fats, oils and greases) if requested before or at the time of sampling.

E. The Public Works Manager may require a discharger to install and maintain at the discharger's expense a suitable manhole in the discharger's branch sewer or other suitable monitoring access to allow observation, sampling and measurement of all industrial wastes being discharged into the city sewer system. It shall be constructed in accordance with plans approved by the Public Works Manager and shall be designed so that flow measuring and sampling equipment may be conveniently installed. Access to the manhole or monitoring access shall be available to city representatives at all times.

(Ord. 1292 § 6.8, passed 9-3-2008)

§ 13.16.098 Analytical requirements.

All sample analyses shall be performed in accordance with the procedures set forth in 40 C.F.R., Part 136 and any amendments thereto or with any other test procedures approved by the Administrator of The Environmental Protection Agency. If there are no approved test procedures for a particular pollutant, then analyses shall be performed using other validated procedures approved by the Public Works Manager and, if the discharge is subject to a categorical pretreatment standard, by the EPA Administrator.

(Ord. 1292 § 6.9, passed 9-3-2008)

§ 13.16.099 Monitoring charges.

The Public Works Manager may recover the city's expenses incurred in collecting and analyzing samples of the industrial user's discharge by adding the city's expenses to the industrial user's sewer charges.

(Ord. 1292 § 6.10, passed 9-3-2008)

§ 13.16.100 Timing.

Written reports shall be deemed to have been transmitted at the time of deposit, postage prepaid, into a mail facility services by the United States Postal Service.

(Ord. 1292 § 6.11, passed 9-3-2008)

§ 13.16.101 Record keeping.

Industrial users shall retain, and make available for inspection, and copying, all records and information required to be retained under 40 C.F.R. 403.12(o), (including documentation associated with Best Management Practices). These records shall remain available for a period of at least 3 years. This period shall be automatically extended for the duration of any litigation concerning compliance with this chapter, or where the industrial user has been specifically notified of a longer retention period by the Public Works Manager, DEQ or EPA.

(Ord. 1292 § 6.12, passed 9-3-2008)

§ 13.16.102 Reporting of additional monitoring.

If an industrial user subject to the reporting requirements of 40 C.F.R. 403.12(e) or (h), which requires submission of periodic compliance reports, monitors any pollutant more frequently than required by the city, using the procedures prescribed in 40 C.F.R. Part 136, the results of this monitoring shall be included in the report, as required by 40 C.F.R. 403.12(g)(5).

(Ord. 1292 § 6.13, passed 9-3-2008)

§ 13.16.103 Notification of significant production change.

An industrial user operating under a waste discharge permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the Public Works Manager 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 Public Works Manager of such anticipated change shall 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.

(Ord. 1292 § 6.14, passed 9-3-2008)

§ 13.16.104 Hazardous waste notification.

A. Any user who commences the discharge of hazardous waste shall notify the city, the EPA Regional Waste Management Division Director, of any discharge into the municipal wastewater system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the municipal wastewater system, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 C.F.R. 403.12 (j) and § 13.16.094 of this chapter. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 C.F.R. 403.12 (b), (d), (e), and §§ 13.16.090, 13.16.092, and 13.16.093.

B. Dischargers are exempt from the requirements of this division A., during a calendar month in which they discharge no more than 15 kilograms of hazardous waste, unless the wastes are

acute hazardous waste as specified in 40 C.F.R. 261.30 (d) and 261.33 (e). Discharge of more than 15 kilograms of non-acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 C.F.R. 261.30 (d) and 261.33 (e), requires a one - time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under Section 3001 of the RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Division Director, and DEQ Solid and Hazardous Waste Division Director, of the discharge of such substance within 90 days of the effective date of such regulations.

D. In the case of any notification made under this Section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued hereunder, or any applicable federal or state law.
(Ord. 1292 § 6.15, passed 9-3-2008)

COMPLIANCE

§ 13.16.115 Inspection and sampling.

Authorized city representatives may inspect and monitor any non-residential user of city water and/or sewer services to determine compliance with the requirements of this chapter. The discharger shall allow the city or its authorized representatives to enter upon the premises of the discharger at all reasonable hours, for the purpose of inspection, sampling, records examination, record copying, and photographic documentation. The city shall also have the right to set up on the discharger's property such devices as are necessary to conduct sampling,

inspection, compliance monitoring and/or metering operations. The right of entry includes, but is not limited to, access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting or otherwise handling waste, and storing records, reports or documents relating to the treatment, sampling or discharge of waste.

A. Where a user has security measures in force, which require proper identification and clearance before entry into their premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, state, and U.S. EPA will be permitted to enter, without delay, for the purposes of performing their official duties.

B. The entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the Public Works Manager;

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

D. Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or oral request of the Public Works Manager and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.

E. Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this chapter.
(Ord. 1292 § 7.1, passed 9-3-2008)

§ 13.16.116 Search warrants.

If the Public Works Manager or designate has been refused access to a building, structure or property or any part thereof, and if the Public Works Manager has probable cause to believe that there may be a violation to this chapter, or that there is a need to

inspect as part of a routine inspection program of the city designed to protect the overall public health, safety and welfare of the community, the Public Works Manager shall contact the City Attorney who may then apply for an administrative search warrant from a court of competent jurisdiction.
(Ord. 1292 § 7.2, passed 9-3-2008)

CONFIDENTIAL INFORMATION

§ 13.16.130 Confidential information.

Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from city inspections 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 C.F.R. 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

B. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to this chapter, the national pollutant discharge elimination system (NPDES) program, and in enforcement proceedings involving the person furnishing the report.

(Ord. 1292 § 8, passed 9-3-2008)

PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

§ 13.16.140 Publication of users in significant noncompliance.

The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other Industrial User that violates divisions C., D. or H. of this section and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken for the same pollutant parameter taken during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in §§ 13.16.015 *et seq.*;

B. Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a 6-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by §§ 13.16.015 *et seq.* multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a pretreatment standard or requirement as defined by §§ 13.16.015 *et seq.* (daily maximum, long term average, instantaneous limit, or narrative standard) that the Public Works Manager determines has caused, alone or in combination with other discharges, Interference or pass through, including endangering the health of POTW personnel or the general public;

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Public Works Manager's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, 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(s), which may include a violation of best management practices, which the Public Works Manager determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. 1292 § 9, passed 9-3-2008)

ADMINISTRATIVE ENFORCEMENT REMEDIES

§ 13.16.150 General.

A. This subchapter authorizes the development and implementation of an enforcement response plan, industrial sampling/inspection procedures manual, and any modifications or revisions thereof. Administration of fines for noncompliance shall be contained in the city's enforcement response procedure. These procedures shall also establish a general guideline for establishment of a fine schedule.

The Public Works Manager is hereby authorized to adopt rules, procedures and forms to implement the provisions of this chapter.

B. Any discharger that fails to comply with the requirements of this chapter and any rules adopted hereunder or provisions of its industrial waste discharge permit may be subject to enforcement actions as prescribed below in addition to those developed by the Public Works Manager.

(Ord. 1292 § 10, passed 9-3-2008)

§ 13.16.151 Industrial user violation process.

Whenever the Public Works Manager determines that a violation of this chapter, any permit issued

hereunder, or any order issued by the city pursuant to this chapter, has occurred or is taking place, it may initiate enforcement action as provided in this subchapter. In addition, any enforcement action or remedy provided in state or federal law may be employed. If the Public Works Manager believes a violation has occurred or is occurring, a representative of the city shall make a reasonable effort to notify the user of the violation. All violations including the first violation shall receive a written notice of violation, and may also incur a monetary penalty.

A. All written notices of violations shall describe the violation and any potential penalty (monetary or additional pretreatment). The written notice may further require that a response to the violation be submitted to the city within a 10 day time period.

B. If a written notice of violation requires submittal of a response, the response shall include an explanation of the cause of the violation, a plan for its satisfactory correction and prevention of future such violations, and specific corrective or preventive actions. Submission of this plan in no way relieves the user of liability for an Notice of violation. Nothing in this section shall limit the authority of the Public Works Manager to initiate emergency action or other enforcement action without first issuing a notice of violation.

(Ord. 1292 § 10.1, passed 9-3-2008)

§ 13.16.152 Violation.

A. A violation of limitations established under this chapter, any applicable federal, state or pretreatment standards, or specific requirements of a discharge permit shall constitute a violation of this chapter and shall be cause for enforcement action by the city, including but not limited to levying of administrative penalties as described in this subchapter regardless of the intent of the user. Each day of a continuing violation shall constitute a separate offense for purposes of computing the applicable penalty.

B. Whenever the Public Works Manager finds that any IU has violated or is violating this chapter, a

wastewater permit or order issued hereunder, or any other pretreatment requirement, the Public Works Manager shall cause to be served upon said IU a written notice of violation. The notice of violation shall be delivered to the user's premises or be sent by certified mail to the address of the permit holder on record with the city.

(Ord. 1292 § 10.2, passed 9-3-2008)

§ 13.16.153 Violation of permit parameters.

A. For the maximum daily allowable concentration, if the concentration of any single sample (whether grab or a sample within a series) exceed the limitations, a violation will have occurred.

B. For the monthly average allowable concentration, if the average of all sample(s) (grab or composite) taken exceeds the limitation, a violation will have occurred. One sample collected may constitute a monthly average violation.

(Ord. 1292 § 10.3, passed 9-3-2008)

§ 13.16.154 Additional violation parameters.

A violation of this chapter shall also be deemed to occur:

A. For noncompliance with any special reporting requirements established by permit, written request of the city, or as specified by federal pretreatment standards (40 C.F.R. 403.12).

B. Pollutants prohibited by this chapter are discharged into the system.

C. Failure to apply for and obtain a permit prior to discharge of industrial wastewater into the system.

(Ord. 1292 § 10.4, passed 9-3-2008)

§ 13.16.155 IU notice to city of violation.

If sampling performed by an industrial user indicates a violation, the industrial user shall notify the Public Works Manager or designate within 24 hours of becoming aware of the violation. The user shall also resample and report the results within 30 days of becoming aware of violation pursuant to 40 C.F.R. 403.12(g)(2). Resampling must continue until it is evident that the discharge is within compliance.

(Ord. 1292 § 10.5, passed 9-3-2008)

§ 13.16.156 Consent orders.

The Public Works Manager may enter into consent orders, assurance of voluntary compliance, or other similar documents establishing an agreement with an IU not in compliance with any permit parameter or provision of this chapter. Such orders will include specific action to be taken by the IU to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders and upon issuance, such orders shall be judicially enforceable. Use of a consent order shall not be a bar against, or prerequisite for, taking any other action against the user.

(Ord. 1292 § 10.6, passed 9-3-2008)

§ 13.16.157 Show cause hearing.

A. The Public Works Manager may order any user, which causes or contributes to violation(s) of this chapter, wastewater permits, order issued hereunder, or any other pretreatment requirement, to appear before the Public Works Manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the IU specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and an order that the IU show cause why this proposed enforcement action should not be taken.

B. The notice of the hearing shall be served personally or by registered mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the IU. Whether or not the IU appears at the hearing, the Public Works Manager may pursue enforcement action following the hearing date. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(Ord. 1292 § 10.7, passed 9-3-2008)

§ 13.16.158 Compliance orders.

A. When the Public Works Manager finds that an IU has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement, an order may be issued to

the IU directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer.

B. In addition to such compliance orders, the Public Works Manager may require additional self-monitoring for at least 90 days after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control. Issuance of a compliance order shall not be a bar against, or prerequisite for, taking any other action against the user.

(Ord. 1292 § 10.8, passed 9-3-2008)

§ 13.16.159 Cease and desist orders.

When the Public Works Manager finds that an industrial user has violated or continued to violate this chapter, any permit or order issued hereunder, or any other pretreatment requirement, the Public Works Manager may issue an order to the industrial user directing them to cease and desist all such violations and directing the user to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(Ord. 1292 § 10.9, passed 9-3-2008)

§ 13.16.160 Administrative fines.

A. When the Public Works Manager 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 requirement, the Public Works Manager may fine such user in an amount not to exceed \$2,500. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or

long-term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of 20% of the unpaid balance, and interest shall accrue thereafter at a rate of 7% per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Public Works Manager to reconsider the fine along with full payment of the fine amount within 15 days of being notified of the fine. Where a request has merit, the Public Works Manager may convene a hearing on the matter. In the event the users appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Public Works Manager may add the cost of preparing administrative enforcement actions, such as notices and orders, to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 1292 § 10.10, passed 9-3-2008)

§ 13.16.161 Emergency suspensions.

The Public Works Manager may immediately suspend an industrial user's discharge and the industrial user's wastewater discharge permit, after informal notice to the industrial user, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Public Works Manager may also immediately suspend an industrial user's discharge and the industrial user's wastewater discharge permit, after notice and opportunity to respond, that threatens to interfere with the operation of the municipal waste water system, or which presents or may present an endangerment to the environment.

A. Any industrial user notified of a suspension of its wastewater permit shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the Public Works Manager shall

take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or endangerment to any individuals. The Public Works Manager shall allow the industrial user to recommence its discharge when the user has demonstrated to the satisfaction of the Public Works Manager that the period of endangerment has passed, unless the termination proceedings set forth in § 13.16.162 are initiated against the user.

B. An industrial user which is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Public Works Manager prior to the date of any show cause or termination hearing under §§ 13.16.156 and 13.16.162.
(Ord. 1292 § 10.11, passed 9-3-2008)

§ 13.16.162 Termination of permit.

A. In addition to those provisions in § 13.16.080, any industrial user which violates the following conditions of this chapter, wastewater permits, or orders issued hereunder is subject to permit termination:

1. Violation of permit conditions.
2. Failure to accurately report the wastewater constituents and characteristics of its discharge.
3. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
5. Slug loads causing interference, pass through, or damage to human health, the environment, or the treatment plant.
6. When the facility serviced by the sanitary sewer service is occupied prior to a certificate of occupancy being issued.
7. When the facility served by the sanitary sewer service does not comply with the provisions of

the city's construction standards for public works facilities.

8. When the facility served by the sanitary sewer service does not comply with a condition of approval issued by the City Council, Planning Commission, or Site and Design Review Committee.

9. When the facility served by the sanitary sewer service is improperly connected to a city utility system or is connected without obtaining the required approvals or without paying the required fees and charges.

10. When a user fails to immediately comply with an administrative order requiring the immediate halting or elimination of discharge.

B. Non-complying industrial users shall be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under § 13.15.156, why the proposed action should not be taken.
(Ord. 1292 § 10.12, passed 9-3-2008)

JUDICIAL ENFORCEMENT REMEDIES

§ 13.16.175 Injunctive relief.

Whenever an industrial user has violated, threatens to violate, or continues to violate the provisions of this chapter, permits or orders issued hereunder, or any other pretreatment requirements, the Public Works Manager may petition the courts for the issuance of a temporary or permanent injunction, as may be appropriate, which restrains or compels the specific performance of the wastewater permit, order, or other requirement imposed by this chapter on activities of the industrial user. Such other action as may be appropriate for legal and/or equitable relief may also be sought by the city. The court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.
(Ord. 1292 § 11.1, passed 9-3-2008)

§ 13.16.176 Civil penalties.

Any industrial user which has violated or continues to violate this chapter, any order or permit

hereunder, or any other pretreatment requirement shall be liable to the city for a maximum civil penalty of \$2,500 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each calendar day during the period of this violation.

A. The court may award reasonable attorney fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

B. In determining the amount of civil penalty, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, corrective actions by the industrial user, economic benefit to the user of noncompliance, the compliance history of the user, and any other factors as justice requires.

C. Where appropriate, the city may accept mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service to the city and the industrial user's expense in undertaking the project is at least 150% of the civil penalty.

(Ord. 1292 § 11.2, passed 9-3-2008)

§ 13.16.177 Criminal prosecution.

Any industrial user who willfully or negligently violates any provisions of the chapter, any orders or permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2,500 per violation per day or imprisonment for not more than 1 year, or both.

A. Any industrial user who knowingly makes any false statement, representations or certification in any application, record, report, plan or other documentation filed or required to be maintained pursuant to the chapter or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than \$2,500 per violation per day or imprisonment for not more than 1 year, or both.

B. In the event of a second conviction, the user shall be punishable by a fine not to exceed \$5,000 per violation per day or imprisonment for not more than 3 years, or both.

(Ord. 1292 § 11.3, passed 9-3-2008)

§ 13.16.178 Remedies nonexclusive.

A. A city enforcement response plan will be developed by the Public Works Manager in accordance with 40 C.F.R. Section 403.8 and submitted to the City Attorney for approval and certification. The Public Works Manager will implement the plan after receiving approval from the City Attorney.

B. The remedies provided for in this chapter are not exclusive. The Public Works Manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will be in accordance with the city's enforcement response plan. However the Public Works Manager may take other action against any user when the circumstances warrant. Further, the Public Works Manager is empowered to take more than one enforcement action against any noncompliant user.

(Ord. 1292 § 11.4, passed 9-3-2008)

SUPPLEMENTAL ENFORCEMENT ACTIONS

§ 13.16.190 Performance bonds.

The Public Works Manager may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this chapter, any orders, or a previous permit issued hereunder unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the Public Works Manager to be necessary to achieve consistent compliance.

(Ord. 1292 § 12.1, passed 9-3-2008)

§ 13.16.191 Liability insurance.

The Public Works Manager may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this chapter, any

orders, or a previous permit issued hereunder, unless the industrial user first submits proof that it has obtained financial assurance sufficient to restore or repair damage to the municipal wastewater system caused by its discharge.

(Ord. 1292 § 12.2, passed 9-3-2008)

§ 13.16.192 Water supply severance.

When an industrial user has violated the provisions of this chapter, orders, or permits issued hereunder, the Public Works Manager may sever water service to the industrial user and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(Ord. 1292 § 12.3, passed 9-3-2008)

§ 13.16.193 Public nuisance.

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

(Ord. 1292 § 12.4, passed 9-3-2008)

§ 13.16.194 Contractor listing.

Subject to other applicable law, industrial users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive contract awards for the sale of goods or services to the city.

(Ord. 1292 § 12.5, passed 9-3-2008)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 13.16.210 Affirmative defenses.

A user shall have an affirmative defenses in any action brought against it alleging a violation of the general prohibitions, specific prohibitions and this

chapter, where the user can demonstrate the requirements established in 40 C.F.R. 403.5 (a)(2). (Ord. 1292 § 13.1, passed 9-3-2008)

§ 13.16.211 Upset.

A. For the purpose of this section, "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. An upset shall be an affirmative defense to an enforcement action brought for noncompliance with categorical pretreatment standards and requirement if the following conditions are met:

C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. The user can identify the cause of the upset.

2. The facility was operating in a prudent and workman-like manner at the time of the upset and was in compliance with applicable O&M procedures; and

3. The user submits the following information to the Public Works Manager within 24 hours of becoming aware of the upset. If this report is given orally, the user must also submit a written report containing such information within 5 days unless waived by the Public Works Manager:

- a. A description of the discharge and its causes of noncompliance;

- b. The period of noncompliance including exact dates and time or, if not corrected, the anticipated time the noncompliance is expected to continue;

- c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have burden of proof.

5. Users will have the opportunity for judicial determination on any claim of upset only in an enforcement action for noncompliance with categorical pretreatment standards.

6. User shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its 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.

(Ord. 1292 § 13.2, passed 9-3-2008)

§ 13.16.212 Prohibited discharge standards.

An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in § 13.16.015A. or the specific prohibitions in § 13.16.015 B.2. B.3., B.5. through B.11., and B.13. through B.20. if it can prove that it did not know or have reasons to know that its discharge, alone or in conjunction with discharges from other sources would cause pass through or interference and that either:

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

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

(Ord. 1292 § 13.3, passed 9-3-2008)

§ 13.16.213 Bypass.

A. For the purposes of this subchapter:

"Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions A., B. and C. of this section.

1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Public Works Manager, at least 10 days before the date of the bypass, if possible.

2. A user shall submit oral notice to the Public Works Manager of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Public Works Manager may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

3. Bypass is prohibited, and the Public Works Manager may take an enforcement action against a user for bypass, unless

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance

during normal periods of equipment downtime. This condition is not satisfied if adequate backup 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; and

c. The user submitted notices required under division 3. of this section.

C. The Public Works Manager may approve an anticipated bypass, after considering its adverse effects; if the Public Works Manager determines that it will meet the three conditions listed in division B. of this section.

(Ord. 1292 § 13.4, passed 9-3-2008)

MISCELLANEOUS PROVISIONS

§ 13.16.230 Pretreatment charges and fees.

The city may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the city's Pretreatment Program which may include:

A. Fees for permit applications including the cost of processing such applications;

B. Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by industrial users;

C. Fees for reviewing and responding to accidental discharge procedures and construction;

D. Fees for filing appeals;

E. Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines and penalties chargeable by the city.

(Ord. 1292 § 14.1, passed 9-3-2008)

§ 13.16.231 Sewer connection charges levied and imposed.

A. What is a connection charge? All sewer connection charges and any other development-related charges shall be imposed in accordance with the city's most current systems development ordinance and implementing resolutions.

B. What the connection charge is based on. The service connection charge is levied upon a property based upon the existing or intended use of the property at the time of application for connection. If the property is improved, expanded, subdivided or otherwise modified so as to increase the connection charge due from that property, a service connection charge shall be levied for the modified portion of the property based upon connection charges in effect at the time of modification.

C. Abutting a Right-of-Way with Sanitary Service. Any dwelling that is on property abutting any street, alley or right-of-way in which there is located a sanitary sewer of the city and, that by reason of ordinance, resolution or motion duly adopted by the City Council, is not required to connect to the sewage system, shall not be subject to the sewer connection charges provided by this chapter.

(Ord. 1292 § 14.2, passed 9-3-2008)

§ 13.16.232 Rates for connection charges.

The City Council shall by resolution, establish appropriate rates and methodologies to be charged for connecting to the city sewer system. Such rates shall differentiate between various types of users or activities with discharge into the sewage system.

(Ord. 1292 § 14.3, passed 9-3-2008)

§ 13.16.233 Fees for sewer service levied and imposed.

A. Rates. All users of the city's sewage system shall pay to the city the rates for sewer service as provided by this chapter.

B. Abutting a Row with Service. Any dwelling that is on property abutting any street, alley or right-of-way in which there is located a sanitary sewer of the city and that, by reason of ordinance, resolution or motion duly adopted by the City Council, is not required to connect to the sewage system, shall not be subject to the sewer service charges provided by this chapter.

C. When Levied (existing). When sewer service is initially provided to existing dwellings, said sewer service charge shall first be levied for the month

following the first month in which dwellings are permitted to be connected to the sewer.

D. When Levied (new). When new dwellings are served by the sewage system, said sewer service charge shall first be levied for the month following the first month in which the dwelling is occupied or utilized by personnel not associated with the construction of the dwelling.

E. Based on Availability. Sewer service charges are to be levied and imposed based upon the availability of sewer service, and are not dependent upon the owner's schedule for connecting to the sewer system after said system is available.

F. Minimum Service. The minimum service for an individually billed service shall be equal to the charge for a residential service.

G. Who is Billed. Sewer service charges shall be billed to any dwelling showing connection to the city sewer and either water use or electric power use.

H. Property Owner Responsibility. Sewer service charges may be billed to an occupant; however, the property owner shall be ultimately responsible for all sewer service charges to his property.

(Ord. 1292 § 14.4, passed 9-3-2008)

§ 13.16.234 Severability and conflicts with other ordinances.

A. If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

B. To the extent that an inconsistency exists between the terms of this chapter and another existing ordinance, this chapter shall be deemed to preempt the other ordinance and the terms of this chapter shall control.

(Ord. 1292 § 14.5, passed 9-3-2008)

§ 13.16.235 Emergency clause.

This chapter being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this chapter shall take effect immediately after final reading and enactment by the City Council.

(Ord. 1292 § 14.6, passed 9-3-2008)

CHAPTER 13.20: IMPLEMENTATION

Section

13.20.010	Denial of connection.
13.20.020	Issuance of stop work order.
13.20.030	Delinquency.
13.20.040	Discontinuance of service.
13.20.050	Restoration of service.
13.20.060	Ownership and occupancy.
13.20.070	Lien.
13.20.080	Special agreements.
13.20.090	Disbursement.
13.20.100	Right of revision.

§ 13.20.010 Denial of connection.

No local government agency or person shall connect a sewer to the city sewerage system unless the agency or person shall then be in compliance with all of these rules and regulations.

§ 13.20.020 Issuance of stop work order.

If any local government agency or person shall construct a public sewer, private sewer or building sewer in violation of these rules and regulations, the city may issue an order to the agency or person to stop work in progress which is not in compliance with these rules and regulations, or the city may issue an order to correct work which has been performed. The agency or person shall forthwith take action as may be necessary to comply with the order and with these rules and regulations, all at the expense of the agency or person.

§ 13.20.030 Delinquency.

Sewer service charges or connection charges levied in accordance with the rules and regulations shall be a debt due to the city and shall be a lien upon property. If this debt is not paid within 30 days after it shall be due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the city against the property owner, the person or both.

§ 13.20.040 Discontinuance of service.

A. In the event of failure to pay sewer service charges, connection fees, industrial pretreatment compliance monitoring analysis, any administrative or civil fines assessed by the city or court after they become delinquent, failure to cease discharging to the sewer substances prohibited by any rules and regulations of the city, or failure to have flow monitoring or sampling devices in proper operating condition for more than 7 days, the city shall have the right to remove or close sewer connections and enter the property for accomplishing that purpose.

B. The expense of the removal or closing, as well as the expense of restoring service, shall likewise be a debt due to the city and a lien upon the property, and may be recovered by civil action in the name of the city against the property owner, the person or both.

C. If past due sewer service charges or connection fees are placed in the hands of the City Attorney for collection, the property owner, the person or both shall be liable for the city's reasonable attorneys' fees and collection costs in the recovery of the sewer charges, both at trial and appeal.

§ 13.20.050 Restoration of service.

Sewer service shall not be restored until all charges, including the expense of removal, closing and restoration shall have been paid and the cause for discontinuance of service corrected.

§ 13.20.060 Ownership and occupancy.

Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

§ 13.20.070 Lien.

A. All sewage service rental charges shall be a lien against the property served from and after the date of billing and entry on the ledger record of the Sewer Department, and the ledger record shall be made accessible for inspection by anyone interested in ascertaining the amount of the charges against the property.

B. The City Council may use additional means of collection as may be provided by the laws of the state or permitted by the Charter and ordinances of the city.

§ 13.20.080 Special agreements.

A. No statement contained in this chapter shall be construed as prohibiting any special agreement or arrangement between the city and any person, whereby an industrial waste of unusual strength or character may be admitted to the sewage disposal works, either before or after pretreatment; provided that there is no impairment of the functioning of the wastewater treatment system by reason of the admission of the wastes, and no extra costs are incurred by the city without recompense by the person.

B. If any waters or wastes are discharged, or are proposed to be discharged to the city sewers, which waters contain the substances or possess the characteristics enumerated in this title and which, in the judgment of the Superintendent of Public Works, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or otherwise create a hazard to life or constitute a public nuisance, the city may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewer, including a minimum of 2 hours of settling for wastes containing soil, dirt and/or sand;
3. Require control over the quantities and rates of discharge by constructing equalization basins or by other appropriate methods; or
4. Require payment to cover the added cost of handling and treating the wastes not covered by the existing sewer charges.

C. If the Superintendent of Public Works permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city and subject to the requirements of all applicable costs, ordinances and laws.

§ 13.20.090 Disbursement.

The City Council, by resolution or motion duly adopted, may from time to time direct the transfer of funds from the Sewer Fund to all or any of the following:

A. Construction. The account or accounts for the construction, operation or maintenance of the sewage system.

B. Principal and Interest. The account or accounts for the payment of principal and interest on maturing bonds.

C. Reserve Fund. The account or accounts established for the Sewer Reserve Fund.

§ 13.20.100 Right of revision.

The city reserves the right to amend this title to provide for more stringent limitations or requirements on dischargers to the POTW where deemed necessary to comply with the objectives set forth in this title.

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place on the building setting forth the assigned number, the reasons why the installation of the number does not conform to this chapter, and that proper corrections are to be made within 30 days from the date of the notice.

§ 15.08.060 Installation by city.

If a property owner fails or neglects to properly install an assigned building number within the time required by this chapter, or to correct an improperly installed number, then after notice thereof is given, as provided in § 15.08.050, the City Superintendent shall cause the number to be installed by city work force; and the sum of \$50 for the costs of the installation shall be added to the property owner's next ensuing utility bill, and shall be collected as a part of the bill.

CHAPTER 15.12: FLOOD HAZARD PROTECTION

Sections:

- 15.12.010 Purpose.
- 15.12.020 Findings and objectives.
- 15.12.030 Definitions.
- 15.12.040 Applicability.
- 15.12.050 Basis for establishing the areas of special flood hazard.
- 15.12.060 Penalties for noncompliance.
- 15.12.070 Abrogation and greater restrictions.
- 15.12.080 Interpretation.
- 15.12.090 Warning and disclaimer of liability.
- 15.12.100 Designation of the local administrator.
- 15.12.110 Duties and responsibilities of the local administrator.
- 15.12.120 Development permit required.
- 15.12.130 Variance and appeal procedure.
- 15.12.140 Provisions for flood hazard protection, generally.
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- 15.12.170 Floodways.
- 15.12.180 Standards for shallow flooding areas (AO Zones).
- 15.12.190 Critical facility.

§ 15.12.010 Purpose.

The state has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health; and
 - B. Minimize expenditure of public money and costly flood control projects; and
 - C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; and
 - D. Minimize prolonged business interruptions; and
 - E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard; and
 - F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas; and
 - G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
 - H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (Ord. 1279, passed 6-18-2008)

§ 15.12.020 Findings and objectives.

A. Flood hazard areas are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. In order to accomplish its purposes, this chapter includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage;

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas;

6. Coordinating and supplementing the provisions of the state building code with local provisions.

(Ord. 1279, passed 6-18-2008)

§ 15.12.030 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Appeal means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

Area of shallow flooding means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to

3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

Area of special flood hazard means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

Base flood means the flood having a 1% chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on maps always includes the letters A or V.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Below-grade crawl space means an enclosed area below the base flood elevation in which the interior grade is not more than 2 feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or

drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Elevated building means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

Flood insurance rate map (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

New construction means structures for which the "start of construction" commenced on or after June 17, 2008.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

Recreational vehicle means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of

permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State building code means the combined specialty codes.

Structure means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local

health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

Water dependent means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

(Ord. 1279, passed 6-18-2008)

§ 15.12.040 Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city.

(Ord. 1279, passed 6-18-2008)

§ 15.12.050 Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Clackamas County, Oregon and Incorporated Areas," dated June 17, 2008, with accompanying Flood Insurance Rate Maps, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the city. The best available information for flood hazard area identification as outlined in § 15.12.110.B shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under § 15.12.110.B.

(Ord. 1279, passed 6-18-2008)

§ 15.12.060 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with

any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. 1279, passed 6-18-2008)

§ 15.12.070 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter the code, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. 1279, passed 6-18-2008)

§ 15.12.080 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
 - B. Liberally construed in favor of the governing body; and
 - C. Deemed neither to limit or repeal any other powers granted under state statutes and rules, including the state building code.
- (Ord. 1279, passed 6-18-2008)

§ 15.12.090 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
(Ord. 1279, passed 6-18-2008)

§ 15.12.100 Designation of the local administrator.

The city Building Official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.
(Ord. 1279, passed 6-18-2008)

§ 15.12.110 Duties and responsibilities of the local administrator.

Duties of the Building Official shall include, but not be limited to:

A. Permit review.

1. Review all development permits to determine that the permit requirements and conditions of this chapter have been satisfied.

2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of § 15.12.170.A are met.

B. Use of other base flood data (in A and V zones). When base flood elevation data has not been provided (A and V zones) in accordance with § 15.12.050, the Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer §§ 15.12.150 and 15.12.170.

C. Information to be obtained and maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in § 15.12.110.B above, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.

2. For all new or substantially improved floodproofed structures where base flood elevation

data is provided through the Flood Insurance Study, FIRM, or as required in § 15.12.110.B:

- a. Verify and record the actual elevation (in relation to mean sea level), and
- b. Maintain the floodproofing certifications required in § 15.12.120.B.3.

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of watercourses.

1. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 15.12.130. (Ord. 1279, passed 6-18-2008)

§ 15.12.120 Development permit required.

A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 15.12.050. The permit shall be for all structures including manufactured homes, and for all development including fill and other activities.

B. Application for a development permit shall be made on forms furnished by the city Building Official, and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

2. Elevation in relation to mean sea level of floodproofing in any structure;

3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 15.12.150.B; and

4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(Ord. 1279, passed 6-18-2008)

§ 15.12.130 Variance and appeal procedure.

A. **Appeal board.** The Planning Commission is established as an appeal board and shall hear and decide appeals and requests for variances from the requirements of this chapter. In review of such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the

flood waters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

B. Appeal. Those aggrieved by a decision of the Building Official may appeal such decision to the Planning Commission as provided herein. The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made in the enforcement or administration of this chapter.

C. Variance. The Planning Commission shall hear and decide variances. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property, they are not personal in nature, and do not pertain to the structure, its inhabitants, economic, or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

1. Approval criteria. Variances shall only be issued upon:

- a. A showing of good and sufficient cause;
- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in § 15.12.130.A, or conflict with existing local laws or ordinances.

2. Conditions for variances.

a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base

flood level, providing items in § 15.12.130.A have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential and otherwise complies with §§ 15.12.140.A and 15.12.140.B.

b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties without regard to the procedures set forth in this section.

c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. Upon consideration of the factors in § 15.12.130.A, and the purposes of this chapter, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

4. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

D. The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 1279, passed 6-18-2008)

§ 15.12.140 Provisions for flood hazard protection, generally.

In all areas of special flood hazards the following standards are required to be met:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

B. AH Zone drainage.

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

C. Construction materials and methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

E. Subdivision.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

F. Review of building permits.

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source as detailed in § 15.12.110.B, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above grade in these zones may result in higher insurance rates.

(Ord. 1279, passed 6-18-2008)

§ 15.12.150 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in §§ 15.12.050 or 15.12.110.B, the following standards are required to be met:

A. Residential construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either certified by a

registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of 2 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than 1 foot above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the official.

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in § 15.12.150.A.2.

5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as 1 foot below).

C. Manufactured homes.

1. All manufactured homes to be placed or substantially improved on sites that are:

a. Outside of a manufactured home park or subdivision, or

b. In a new manufactured home park or subdivision, or

c. In an expansion to an existing manufactured home park or subdivision, or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

e. Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a minimum of 1 foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

a. The lowest floor of the manufactured home is elevated to a minimum of 1 foot above the base flood elevation; or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

D. Recreational vehicles. Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days.

2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meet the requirements of § 15.12.150.C and the elevation and anchoring requirements for manufactured homes.

E. Below-grade crawl spaces.

Below-grade crawlspaces are allowed subject to the

following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas.

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in § 15.12.150.E.2 below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.

2. The crawlspace is an enclosed area below the base flood elevation and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than 1 foot above the lowest adjacent exterior grade.

3. Portions of the building below the base flood elevation must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the base flood elevation. The recommended construction practice is to elevate the bottom of joists and all insulation above the base flood elevation.

4. Any building utility systems within the crawlspace must be elevated above base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork in particular must either be placed above the base flood elevation or sealed from floodwaters.

5. The interior grade of a crawlspace below the base flood elevation must not be more than 2 feet below the lowest adjacent exterior grade.

6. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point. The height

limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

7. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

8. The velocity of floodwaters at the site should not exceed 5 feet per second for any crawlspace. For velocities in excess of 5 feet per second, other foundation types should be used.

9. For more detailed information refer to FEMA Technical Bulletin 11-01.
(Ord. 1279, passed 6-18-2008)

§ 15.12.160 Before regulatory floodway.

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the community.

(Ord. 1279, passed 6-18-2008)

§ 15.12.170 Floodways.

Located within areas of special flood hazard established in § 15.12.050 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered

professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If § 15.12.170.A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 15.12.140 through 15.12.190.

C. New installation of manufactured dwellings are prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to 1 of the following conditions:

1. If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or

2. A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:

- a. As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;

- b. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished flood elevated a minimum of 18 inches (46 cm) above the base flood elevation as identified on the FIRM;

- c. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;

- d. The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties; and

- e. The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances. (Ord. 1279, passed 6-18-2008)

§ 15.12.180 Standards for shallow flooding areas (AO Zones).

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

A. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of 1 foot above the depth number specified on the FIRM (at least 2 feet if no depth number is specified).

B. New construction and substantial improvements of nonresidential structures within AO zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, 1 foot or more above the depth number specified on the FIRM (at least 2 feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and the structural components having the capability of resisting hydrostatic and

hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in § 15.12.150.B.3.

C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. Recreational vehicles placed on sites within AO zones on the community's FIRM must either:

1. Be on the site for fewer than 180 consecutive days,

2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meet the requirements of § 15.12.180 and the elevation and anchoring requirements for manufactured homes.

(Ord. 1279, passed 6-18-2008)

§ 15.12.190 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest flood elevated 3 feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 1279, passed 6-18-2008)

CHAPTER 15.16: ABATEMENT OF DANGEROUS BUILDINGS

Section

15.16.010	Definitions.
15.16.020	Nuisance declared.
15.16.030	Initial action.
15.16.040	Mailed notice.
15.16.050	Published and posted notices.
15.16.060	Hearing.
15.16.070	Council orders; notice.
15.16.080	Abatement by the city.
15.16.090	Assessment.
15.16.100	Summary abatement.
15.16.110	Errors in procedure.
15.16.120	Penalty.

§ 15.16.010 Definitions.

For the purposes of this chapter, any building or structure which has any or all of the conditions or defects described in this section shall be deemed to be a dangerous building, provided that the conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

Dangerous Buildings. An instance of a dangerous building is:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not arranged as to provide safe and adequate means of exit in case of fire or panic;

2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than 1.5 times the working stress or stress allowed in the building code for new buildings of similar structure, purpose or location;

4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to the extent that the structure's strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location;

5. Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property;

6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of 1/2 of that specified in the building code for new buildings of similar structure, purpose or location, without exceeding the working stresses permitted in the building code for those buildings;

7. Whenever any portion thereof has wracked, warped, buckled or settled to the extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

8. Whenever the building or structure, or any portion thereof is likely to partially or completely collapse because of:

a. Dilapidation, deterioration or decay;

b. Faulty construction;

c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building;

d. The deterioration, decay or inadequacy of its foundation; or

e. Any other cause.

9. Whenever, for any reason, the building, structure or any portion thereof is manifestly unsafe for the purpose for which it is being used;

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to the extent that a plumb line passing through the center of gravity does not fall inside the middle 1/3 of the base;

11. Whenever the building or structure, exclusive of the foundation, shows 33% or more

damage or deterioration of its supporting member or members, or 50% damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings;

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children; such that it constitutes a dangerous condition to children who, because of their inability to appreciate the danger associated with the condition, may reasonably be expected to be attracted to the dangerous condition;

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by the building regulations of the city, or of any law or ordinance of the city relating to the condition, location or structure of buildings;

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the following characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location:

a. Strength;

b. Fire-resisting qualities or characteristics; or

c. Weather-resisting qualities.

15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Health Officer to be

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15:10H

REFERENCES TO OREGON REVISED STATUTES

<i>O.R.S. Section</i>	<i>Code Section</i>
8.665	12.24.050
Ch. 10	1.16.030
10.050	1.16.070
30.315	8.20.110
Ch. 34	13.16.077
34.010 to 34.100	4.04.100, 12.24.060
Ch. 88	2.40.090
Ch. 131 through 133	9.04.020
133.005(1)	9.50.020
133.005(3)	12.24.060
133.455	9.50.040
Ch. 135 through 138	9.04.020
Ch. 153	9.04.020, 9.32.070, 10.04.010, 12.24.050
Ch. 156 through 157	9.04.020
Ch. 162 through 167	9.04.010
Ch. 163	5.16.060
Ch. 164	5.16.060
164.805(2)	6.08.040
Ch. 165	5.16.060
Ch. 166	5.16.060
Ch. 174	1.04.080
190.240	12.36.030
Ch. 197	4.32.010
197.015	3.30.060
199.430	2.40.010
199.460 to 199.534	2.40.010
Ch. 223	4.12.080, 4.20.110, 4.24.220, 13.12.030
223.205 through 223.300	4.04.120
223.297 to 223.314	4.20.150
223.405 through 223.490	4.04.180
223.505 through 223.595	12.16.05
223.510 through 223.595	15.16.090
267.380	3.24.010, 3.24.080
267.385	3.24.160
Ch. 279	2.16.010
283.140	12.36.030
Ch. 316	3.24.010
319.210	3.40.140
319.280 through 319.320	3.40.200

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<i>O.R.S. Section</i>	<i>Code Section</i>
357.400 through 357.621	2.20.010
390.005 through 390.124	12.24.010
Ch. 401	2.52.040, 2.52.080
401.025	12.36.030
Ch. 426	9.12.010, 9.50.020, 9.50.040
Ch. 446	3.20.130
446.003(26)	3.20.130
457.010	2.68.010
457.045(3)	2.68.030
Ch. 471	5.16.020, 5.16.050, 9.04.010
Ch. 475	9.04.010
475.035	9.32.020
527.620	8.14.030
Ch. 619	10.04.100
Ch. 674	4.32.020
Ch. 743	10.04.010
759.005(1)	12.36.030
759.010	12.36.030
806.010	10.12.010, 10.12.030
806.080	10.12.010

PRIOR ORDINANCE LIST AND DISPOSITION TABLE

<i>Ord. No.</i>	<i>Subject, Code Section/Disposition</i>
706	Purchase contract (Special)
707	Reroofing contract (Special)
708	Paving contract (Special)
709	Street improvements (Special)
710	City forester and street trees; repeals Ord. 512 (Voided)
711	Rezone (Special)
712	Building setback review applications (Rejected)
713	Building and fire safety standards adopted; repeals Ords. 336 and 684 (Repealed by 734)
714	Purchase contract (Special)
715	Street vacation (Special)
716	Purchase contract (Special)
717	Election to receive state revenues (Special)
718	Purchase contract (Special)
719	Criminal procedure code adopted; repeals Ords. 552 and 615 (Repealed by 763)
720	Traffic regulations; repeals Ord. 553 (Repealed by 764)
721	Municipal court juries and jury list; repeals Ord. 589 (1.16)
722	Adds § 10.8.70 to and amends §§ 10.1.20, 10.3.18, 10.3.20, 10.3.21, 10.3.24, 10.3.25, 10.3.26, 10.3.28, 10.3.31 and 10.8.20 of Ord. 690, zoning (Repealed by 740)
723	Award of contract (Special)
724	Repeals § 12 of Ord. 668, franchise grant to Canby Telephone Association (Repealer)
725	Cable television communications systems (5.08) (Repealed by 1018)
726	Street paving (Special)
727	Sewage collection and treatment system; repeals Ords. 566, 618 and 679 (Repealed by 835)
728	Annexation and boundary change fees; repeals Ords. 579 and 616 (2.40)
729	Authorizes changes to certain contract (Special)
730	Election to receive state revenues (Special)
731	Adds § 10.10(J) and (K); and amends §§ 7.3(B), 10.5(C), 10.6(B), 10.10(I) and 12.2; repeals § 12.4 and renumbers §§ 12.5 and 12.6 to be §§ 12.4 and 12.5, and amends § 12.5(A) of Ord. 725, cable television communications systems (5.08)
732	Franchise grant to Canby Telephone Association, cable communications (Special)
733	Dog control (Repealed by 766)
734	Building and fire safety standards adopted; repeals Ord. 713 (Repealed by 790)
735	Street trees (Repealed by 852)
736	Consent to financing agreement for cable television franchise (Special)
737	Financing for public improvements (4.12)
738	Rezone (Special)
739	Rezone (Special)

Canby - Parallel References

<i>Ord. No.</i>	<i>Subject, Code Section/Disposition</i>
740	Land development and planning; repeals Ords. 690 and 772 (16.02, 16.04, 16.06, 16.08, 16.10, 16.12, 16.14, 16.16, 16.18, 16.20, 16.22, 16.24, 16.26, 16.28, 16.30, 16.32, 16.34, 16.36, 16.38, 16.40, 16.42, 16.44, 16.46, 16.48, 16.50, 16.52, 16.54, 16.56, 16.58, 16.60, 16.62, 16.64, 16.66, 16.68, 16.70, 16.72, 16.74, 16.76, 16.78, 16.80, 16.82, 16.84, 16.86, 16.88) (§ 16.42.130 repealed by 1002)
741	Rezone (Special)
742	Rezone (Special)
743	Contract review board established; repeals Ord. 600 (2.16) (Repealed by 1170)
744	City surveyor (2.12)
745	Flood hazards and flood control (Repealed by 1279)
746	Election to receive state revenue (Special)
747	Rezone (Special)
748	Makes various changes to official zoning map (Special)
749	Amends §§ 10.3.31(A), 10.3.85(D) and (F) of Ord. 740, land development and planning (16.32, 16.54)
750	Drug paraphernalia (9.32)
751	Business licenses; repeals Ords. 439 and 484 (5.04)
752	Amends §§ 11(A) and 13(B) of Ord. 732, CATV franchise (Special)
753	Authorizes purchase of property for municipal building (Special)
754	Public library and library board; repeals Ord. 596 (2.20)
755	Street improvements (Special)
756	Construction finance agreement (Special)
757	Emergency assistance alarms (8.20)
758	Upgrading of traffic signals (Special)
759	Sewer plant lab construction (Special)
760	Abandoned vehicles; repeals Ords. 410 and 475 (10.08)
761	Uniform fire code; repeals Ord. 688 (8.16)
762	General provisions (1.04)
763	Criminal code; repeals Ord. 719 (9.04, 9.08, 9.12, 9.16, 9.20, 9.24, 9.28)
764	Traffic regulations; repeals Ord. 720 (10.04)
765	General penalty (1.08)
766	Dog control; repeals Ords. 567 and 733 (6.12)
767	Amends § 3 of Ord. 306, chief of police; § 7 of Ord. 380, initiative petitions; § 10 of Ord. 393, appeal of assessments; § 12 of Ord. 401, garbage collection; § 1(7) of Ord. 418, concessions in parks; § 15 of Ord. 465, advertisements; and § 1(11) of Ord. 620, evidentiary hearings (1.12, 2.08, 2.28, 4.04, 8.04, 8.12, 12.24)
768	Repeals Ord. 362, § 14 of Ord. 465, Ord. 512 and §§ 4 and 5 of Ord. 572 (Repealer)
769	Rezone (Special)
770	Election to receive state revenues (Special)
771	Creates separate accounts for certain municipal funds (3.12)
772	Official custodians for certain municipal funds (3.12)
773	Authorizes purchase of equipment (Special)
774	Authorizes contract for architectural services (Special)

Prior Ordinance List and Disposition Table

<i>Ord. No.</i>	<i>Subject, Code Section/Disposition</i>
775	Canby adult center (2.48) (§§ 2.48.040 through 2.48.080 repealed by 1015)
776	Emergency preparedness (2.52)
777	Canby swim center (2.56)
778	Code adoption (1.01) (Repealed by 990)
779	Authorizes contract for communication equipment (Special)
780	Authorizes contract for engineering services; repeals Ord. 584 (Special)
781	Authorizes contract for engineering services; repeals Ord. 584 (Special)
782	Residency requirements officers and employees (2.60) (Repealed by 1125)
783	Authorizes a contract for renovation of the Koehler Building (Special)
784	Amends § 10.04.010A and C, traffic (10.04)
785	Rezone (Special)
786	Authorizes contract for architectural services (Special)
787	Election to receive state revenues (Special)
788	Grants nonexclusive gas utility franchise; repeals Ord. 496 (Not codified) (Amended by 1001)
789	Rezone (Special)
790	Repeals and replaces Ch. 15.04, building code (15.04) (Repealed by 1085)
791	Amends §§ 8.16.010, 8.16.060 and 8.16.080, fire prevention (8.16)
792	Abatement of dangerous buildings (15.16)
793	Solid waste franchise; repeals Ord. 401 (Not codified)
794	Rezone (Special)
795	Authorizes truck purchase (Special)
796	Authorizes agreement for road improvement (Special)
797	Authorizes agreement for construction of a shop facility (Special)
798	Adds §§ 10.04.075, 10.04.085, 10.04.095, 10.04.105, 10.04.115 and 10.04.125; amends §§ 10.04.070, 10.04.080, 10.04.090, 10.04.100, 10.04.110 and 10.04.120, traffic code (10.04)
799	Authorizes purchase of police department vehicles (Special)
800	Sidewalk vending (5.12)
801	Street vacation (Special)
802	Changes name of Ch. 16.44 to "Mobile Homes and Trailers"; amends §§ 16.22.010(1), 16.26.030(F)(2), 16.28.030(F)(2), 16.30.030(F)(2), 16.42.030 and 16.44.010 and Table 16.44.100, planning and zoning (16.22, 16.26, 16.28, 16.30, 16.42, 16.44)
803	Election to receive state revenue (Special)
804	Adds §§ 16.04.385, 16.04.387, 16.40.014, 16.40.016, 16.40.018, 16.40.050 and 16.88.150(E), planning and zoning; amends §§ 15.12.010 - 15.12.090, 15.12.110 and 15.12.150 - 15.12.180 and repeals § 15.12.120, buildings and construction (15.12, 16.04, 16.40, 16.88) (§ 16.88.150 deleted by 1080; Ch. 15.12 repealed by 1279)
805	Adds §§ 16.04.666 and 16.52.035; amends §§ 16.22.010(1), 16.52.010 - 16.52.030, 16.52.040 - 16.52.070 and 16.88.150(D), planning and zoning (16.04, 16.22, 16.52, 16.88) (§ 16.88.150 deleted by 1080)
806	Authorizes purchase of police department vehicle (Special)

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<i>Ord. No.</i>	<i>Subject, Code Section/Disposition</i>
807	Authorizes purchase of real property for park expansion (Special)
808	Amends §§ 2.40.090 and 2.40.110; repeals §§ 2.40.060 - 2.40.080 and 2.40.100, annexation and boundary change fees and charges (2.40)
809	Authorizes agreement for paving of a shop facility (Special)
810	Authorizes agreement for street improvement engineering services (Special)
811	Rezone (Special)
812	Amends § 12.28.090, cemetery reserve fund (12.28)
813	Rezone (Special)
814	Rezone (Special)
815	Rezone (Special)
816	Authorizes purchase of real property for library development (Special)
817	Rezone (Special)
818	Election to receive state revenues (Special)
819	Authorizes agreement for sewer line construction (Special)
820	Authorizes agreement for street repaving (Special)
821	Authorizes agreement for sewer main construction engineering services (Special)
822	Alley vacation (Special)
823	Authorizes purchase of truck crane (Special)
824	Authorizes purchase of trailer-mounted sewer cleaner (Special)
825	Rezone (Special)
826	Authorizes purchase of dump bed hot box (Special)
827	Rezone (Special)
828	Election to receive state revenues (Special)
829	Adds (D) to and amends (B) of § 15.04.010, buildings and construction (15.04) (Repealed by 1085)
830	Amends §§ 16.04.240(E), 16.04.550, 16.04.670, 16.24.030(F)(1), 16.26.030(F)(1), 16.28.010(D), 16.28.030(C)(1) and (F)(1), 16.30.030(C)(1) and (F)(1), 16.32.030(C)(1) and (F)(1), and Ch. 16.42, planning and zoning (16.04, 16.24, 16.26, 16.28, 16.30, 16.32, 16.42)
831	Compensation for mayor and council; repeals Ords. 594 and 693 (2.32) (Repealed by 989)
832	Rezone (Special)
833	Rezone (Special)
834	Authorizes agreement for construction of mausoleum (Special)
835	Sewer system; repeals Ords. 566, 618, 679 and 727 (Repealed by 868)
836	Amends § 2.24.010, retention of records (2.24)
837	Authorizes agreement for architectural services for remodeling of certain building (Special)
838	Adds (D) to and amends (A) of § 10.04.010, traffic code (10.04)
839	Amends §§ 9.04.010(A), 9.04.020(A) and 9.32.040(A) and (D), public peace, morals and welfare (9.04, 9.32)
840	Authorizes contract for engineering services (Special)
841	Authorizes purchase of dump truck (Special)

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
975	8-20-1997	8.04.120
—	11-4-1997	Charter, Chapter 1
982	1-7-1997	4.24.010 - 4.24.080
984	2-18-1998	4.24.010
989	4-1-1998	2.32.010 - 2.32.030
992	5-6-1998	2.48.020, 2.48.030, 2.48.090
996	6-17-1998	T.S.O. I
1000	7-15-1998	T.S.O. I
1001	7-15-1998	T.S.O. I
1005	8-19-1998	4.12.080
1012	12-2-1998	T.S.O. I
1014	1-20-1999	T.S.O. I
1017	4-7-1999	T.S.O. I
1032	10-6-1999	2.68.010 - 2.68.050
1035	11-3-1999	12.08.010 - 12.08.200
1036	11-3-1999	12.36.010 - 12.36.090
1031	11-24-1999	4.28.010
1040	11-17-1999	T.S.O. I
1053	7-19-2000	T.S.O. I10549-6-200012.20.010 - 12.20.070
1081	11-21-2001	3.24.010 - 3.24.250
1082	11-21-2001	12.40.010 - 12.40.080
1085	1-2-2002	15.04.010 - 15.04.050
1091	2-20-2002	4.04.110
1093	3-20-2002	2.36.010
1108	1-8-2003	15.20.010 - 15.20.280
1109	11-20-2002	2.70.010 - 2.70.050
1110	2-5-2003	12.24.060, 12.24.065
1113	2-19-2003	4.24.150 - 4.24.240
1133	2-18-2004	2.56.020 - 2.56.080
1136	4-21-2004	2.64.020, 2.64.030
1137	4-21-2004	2.20.030, 2.20.040
1151	8-18-2004	13.08.150
1160	10-20-2004	4.24.200, 4.24.220
1165	12-1-2004	4.32.010 - 4.32.090
1166	1-5-2005	9.44.010, 9.44.060 - 9.44.110
1169	2-2-2005	T.S.O. I
1170	2-16-2005	2.16.010 - 2.16.030

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1200	2-15-2006	Adopting Ordinance
1208	6-7-2006	T.S.O. I
1219	9-6-2006	4.24.220
1261	1-2-2008	3.40.020 - 3.40.270
1262	1-16-2008	3.30.010 - 3.30.110
1279	6-18-2008	15.12.010 - 15.12.190
1282	7-2-2008	12.12.035
1292 § 1.1	9-3-2008	13.16.001
1292 § 1.2	9-3-2008	13.16.002
1292 § 1.3	9-3-2008	13.16.003
1292 § 1.4	9-3-2008	13.16.004
1292 § 2.1	9-3-2008	13.16.015
1292 § 2.2	9-3-2008	13.16.016
1292 § 2.3	9-3-2008	13.16.017
1292 § 2.4	9-3-2008	13.16.018
1292 § 2.5	9-3-2008	13.16.019
1292 § 2.6	9-3-2008	13.16.020
1292 § 2.7	9-3-2008	13.16.021
1292 § 2.8	9-3-2008	13.16.022
1292 § 2.9	9-3-2008	13.16.023
1292 § 3.1	9-3-2008	13.16.035
1292 § 3.2	9-3-2008	13.16.036
1292 § 3.3	9-3-2008	13.16.037
1292 § 3.4	9-3-2008	13.16.038
1292 § 3.5	9-3-2008	13.16.039
1292 § 3.6	9-3-2008	13.16.040
1292 § 3.7	9-3-2008	13.16.041
1292 § 3.8	9-3-2008	13.16.042
1292 § 4.1	9-3-2008	13.16.055
1292 § 4.2	9-3-2008	13.16.056
1292 § 4.3	9-3-2008	13.16.057
1292 § 4.4	9-3-2008	13.16.058
1292 § 4.5	9-3-2008	13.16.059
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