

**ORDINANCE NO. 600-94-O**

**AN ORDINANCE REVISING THE PUBLIC WORKS PORTION  
OF THE TROUTDALE MUNICIPAL CODE, CHAPTER 12,  
CHAPTER 13, AND SECTION 15.28 OF CHAPTER 15.**

**WHEREAS**, ordinances pertaining to public works of the City are found in various places within Chapters 12, 13, and 15 of the Troutdale Municipal Code; and

**WHEREAS**, those ordinances are at times conflicting with each other or provide a level of detail more appropriate to a resolution rather than an ordinance; and

**WHEREAS**, a general review and update of this portion of the Troutdale Municipal Code at this time is appropriate for the efficient accomplishment of public works functions.

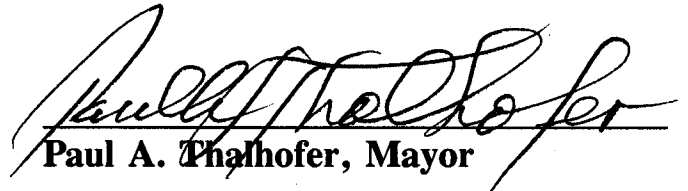
**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL  
OF THE CITY OF TROUTDALE THAT:**

1. Sections 12.24.040 through 12.24.110 of the Troutdale Municipal Code are hereby redesignated as Sections 15.30.010 through 15.30.080 respectively.
2. Title 13 of the Troutdale Municipal Code is hereby repealed.
3. A new Title 13 of the Troutdale Municipal Code is hereby created and entitled "Street Trees, Parks and Recreation Areas."
4. Chapter 12.32, Street Trees, is hereby redesignated as Chapter 13.10.
5. Chapter 12.36, Park and Recreation Areas, is hereby redesignated as Chapter 13.20.
6. The remainder of Title 12 of the Troutdale Municipal Code is hereby repealed.
7. Chapter 15.28 of the Troutdale Municipal Code is hereby repealed.
8. Ordinance No. 572, 574, 594, and 596 are hereby repealed.

9. There is hereby added to the Troutdale Municipal Code a new Title 12 entitled "Public Works", which is to read as indicated on Attachment A, which is made a part hereof.

PASSED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE  
THIS 25TH DAY OF JANUARY, 1994.

YEAS: 5  
NAYS: 0  
ABSTAINED: 0

  
Paul A. Thalhofer, Mayor

Dated: January 25, 1994

ATTEST:

  
Valerie J. Raglione, CMC  
City Recorder

**TITLE 12**  
**PUBLIC WORKS**

**CHAPTERS:**

- 12.01        GENERAL**
- 12.02        SYSTEM DEVELOPMENT CHARGES**
- 12.03        WATER SYSTEM**
- 12.04        SANITARY SEWER SYSTEM**
- 12.05        STREETS AND SIDEWALKS**
- 12.06        STORM SEWER SYSTEM**
- 12.07        PRE-TREATMENT PROGRAM**
- 12.08        PUBLIC IMPROVEMENTS**
- 12.09        EROSION CONTROL**
- 12.10        SOLID WASTE**
- 12.11        UNDERGROUNDING UTILITIES**

# CHAPTER 12.01

## GENERAL

### SECTIONS:

- 12.01.010 Applicability
- 12.01.020 Definitions
- 12.01.030 Ownership and Responsibility
- 12.01.040 Number of Connections
- 12.01.050 Liability
- 12.01.060 Access
- 12.01.070 Prohibited Activities
- 12.01.080 Violations
- 12.01.090 Enforcement
- 12.01.100 Appeals
- 12.01.110 Extension of Service
- 12.01.120 Public Works Standards

#### 12.01.010 Applicability

The provisions of this chapter shall apply to all public services authorized under this Title 12 of the Troutdale Municipal Code.

#### 12.01.020 Definitions

Unless the context suggests otherwise, as used in this Title 12, these terms and phrases mean as follows:

**Account Holder.** The person who requests water and/or sanitary sewer service from the City and is billed for such service.

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

**Capital Improvement Plan (CIP).** A plan prepared by or for the City identifying proposed additions or modifications to public works facilities.

**City.** The City of Troutdale.

**DEQ.** The State of Oregon's Department of Environmental Quality.

**Director.** The Public Works Director of the City of Troutdale or the Director's designate.

**EPA.** The United States Environmental Protection Agency.

**Equivalent Residential Unit (ERU).** A unit of wastewater which incurs the same costs for operation and maintenance as the average volume of domestic wastes discharged from a single-family residence in the wastewater treatment service area.

**Grease.** Animal, mineral, or vegetable derived oil or grease.

**Medical Wastes.** Isolation wastes, infectious agents, human blood and blood product, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**NPDES Permit.** A National Pollutant Discharge Elimination System permit issued by EPA or by another agency on behalf of EPA.

**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.

**Public Works Facility.** Any element of a water system, sanitary sewer system, storm sewer system, or street system.

**Public Works Permit.** A permit issued by the City authorizing work within a public right-of-way or connection to a public works facility.

**Sanitary Sewer System.** All City-owned facilities utilized in the collection, treatment, and disposal of waste water, including sanitary sewer mains, pump stations, manholes, and the wastewater treatment plant, but excluding privately-owned sanitary sewer laterals.

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

**Solid Waste.** All putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, wastepaper, and cardboard; residential, commercial, industrial, demolition, and construction wastes;

discarded home and industrial appliances; vegetable and animal solid and semi-solid wastes; dead animals; and other wastes.

**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 Sewer System.** All City-owned facilities utilized in the collection, treatment, and disposal of storm water, including catch basins, pipes, ditches, culverts, and manholes.

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

**Street System.** All City-owned facilities contained within a City right-of-way, including travel lanes, bicycle lanes or paths, parking lanes, and sidewalks.

**Water System.** All City-owned facilities utilized in the production, storage, treatment, and distribution of potable water, including wells, reservoirs, stand pipes, water mains, sampling stations, and meters, but excluding privately-owned service lines.

**12.01.030 Ownership and Responsibility**

The City is not required to operate, maintain, or repair private property connected to public works facilities.

**12.01.040 Number of Connections**

There shall be no more than one tax lot served by the same water meter or sanitary sewer lateral.

**12.01.050 Liability**

- A. The account holder is liable for any damage to public works facilities located on property occupied by the account holder, which damage is caused by the user, other occupants, or agents of the account holder.
- B. The City shall not be liable for damage resulting from the interruption in service, changes in pressure, or lack of service of any public works.
- C. The City shall not be liable for the cost of changing, relocating, or upsizing any public works facility due to a change in size, location, or usage of any private facility.

**12.01.060 Access**

**The Director or his designated representative shall have access at all reasonable hours to any and all parts of structures and premises serviced by public works for the purpose of inspecting connections, determining the condition of fixtures, reading or servicing meters, determining the source or nature of any substance placed in the sanitary or storm sewer, and to correct or eliminate hazards to the public.**

**12.01.070 Prohibited Activities**

- A. It shall be unlawful to connect to a City water main, sanitary sewer line, storm sewer line, or street without applying for and receiving a Public Works Permit.**
- B. It shall be unlawful to connect to a City water main, sanitary sewer line, storm sewer line, or street without paying the applicable fees and charges.**
- C. It shall be unlawful to damage, destroy, remove, alter, or otherwise tamper with any component of the City water system, sanitary sewer system, or storm sewer system.**
- D. It shall be unlawful to cut, break, or otherwise alter the pavement of a City street or sidewalk, for the purpose of installing or repairing utilities or otherwise, without receiving an "Approval for Street Cut" and a Public Works Permit.**

**12.01.080 Violations**

- A. In addition to the specific remedies stated elsewhere in the Code, any person, firm, or corporation found guilty of violating any provision of Title 12 of the Code shall be subject to a fine not to exceed \$1,000 per violation. Each day in which the unlawful act is caused or permitted shall be a violation.**
- B. Any person, firm, or corporation found guilty of violating any provision of this Title 12 shall also reimburse the City of Troutdale for actual costs incurred by the City for administrative costs of investigation, adjudication, and collection, including legal fees, and the costs of cleanup and repair, if any.**
- C. Fines and costs are payable as directed by the Municipal Court Judge. Fines and costs under this Ordinance are a debt owing to the City and may be collected in the same manner as any other debt allowed by law.**

- D. The City may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any written settlement of the Public Works Department or final order of the Municipal Court Judge, including, but not limited to, its suit or action to obtain judgment for any civil penalty imposed by an order of the Municipal Court Judge pursuant to Section 12.01.080(A) and/or any assessment for costs imposed pursuant to Section 12.01.080(B).
- E. Fines collected pursuant to the provisions of this Section of the Code shall be credited to the General Fund. Costs collected pursuant to the provisions of this Section of the Code shall be credited to the fund that sustained the cost.

**12.01.090 Enforcement**

- A. Enforcement of the policies set forth in this Title 12 shall be the exclusive responsibility of the Director, who shall:
  - 1. Investigate alleged violations.
  - 2. Issue complaints.
  - 3. Reach a written settlement, if appropriate, with the violator.
  - 4. Represent the City of Troutdale before the Municipal Court.
- B. A proceeding may be initiated in Municipal Court by the filing of a complaint with the Police Department which contains the following:
  - 1. The applicable section of the Municipal Code.
  - 2. The name and address of the respondent.
  - 3. The location and nature of the violation.
  - 4. The signature of the complainant.
- C. The Police Department shall cause notice of the hearing to be given to the respondent(s) either personally or by certified or registered United States mail by issuing a "Citation To Appear in Court". The citation shall contain a statement of the time, date, and place of the hearing, and a copy of the complaint shall be attached to the notice. The City shall, by separate document served with the citation, notify the respondent that he/she may be represented by a retained attorney provided that ten working days' written notice of such representation is received by the City.
- D. If the respondent alleged to have committed the violation fails to appear at a hearing as provided herein, the Municipal Court shall order a citation to be issued for failure to appear.



- E. Unless precluded by law, informal disposition of any proceeding may be made between the Public Works Department and respondent, with or without a hearing, by stipulation, consent order, agreed settlement, or default. The Public Works Department shall inform the Municipal Court in writing of any such disposition which occurs after the issuance of a citation.**
- F. The City shall not be represented before the Municipal Court Judge by legal counsel except in preparation of the case or as provided below. A respondent charged with an infraction may be represented by a retained attorney provided that ten working days' written notice of such representation is received by the City so that the City may have Counsel represent it. The Municipal Court Judge may for good cause waive this notice requirement in individual cases or reset the hearing for a later date.**
- G. The City must prove the violation occurred by a preponderance of the admissible evidence.**
- H. The Municipal Court Judge shall have the authority to administer oaths and take testimony of witnesses. Upon the request of either of the parties, or upon his or her own motion, the Municipal Court Judge may issue subpoenas in accordance with the Oregon Rules of Civil Procedure.**
- 1. If the respondent desires that witnesses be ordered to appear by subpoena, respondent shall so request in writing at any time no less than ten (10) days prior to the scheduled hearing.**
  - 2. Subject to the same ten (10) day limitation, the City may also request that certain witnesses be ordered to appear by subpoena.**
  - 3. The Municipal Court Judge may waive the ten (10) day limitation for good cause.**
  - 4. Witnesses ordered to appear by subpoena shall be allowed the same fees and mileage as allowed in civil cases which shall be the responsibility of those requesting the witnesses' appearance.**
  - 5. If a fine is declared in the final order, the order shall also provide that the respondent also pay any witness fees attributable to the hearing.**
- I. The parties shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence on their behalf.**

**J. After due consideration of the evidence and arguments, the Municipal Court Judge shall determine whether the violation alleged in the complaint has been proven by a preponderance of the evidence.**

- 1. When the determination is that the violation has not been proven, an order dismissing the complaint shall be entered.**
- 2. When the determination is that the violation has been proven, or if an answer admitting the violation has been received, an appropriate order shall be entered, including penalty and costs.**
- 3. The final order issued by the Municipal Court Judge shall contain the amount of the fine, costs, and other penalties imposed and instructions regarding payment.**

**K. Review:**

- 1. Any motion to reconsider the final order of the Municipal Court Judge must be filed within ten (10) days of the original order.**
- 2. A respondent may appeal a final adverse ruling by Writ of Review as provided in ORS 34.010 through 34.100.**

**12.01.100 Appeals**

**An appeal from a decision made by the Director concerning any administrative determination made under this Title 12 may be appealed to the City Administrator, provided that the appeal is submitted in writing no more than 30 days after the decision is made by the Director. The appeal must state the particular matter in dispute, the reasons for differing with the Director, and the specific relief sought.**

**12.01.110 Extension of Service**

**The Council may extend public works services outside the corporate limits of the City in accordance with State law.**

**12.01.120 Public Works Standards**

**The City hereby adopts the latest version of the American Public Works Association "Standard Specifications for Public Works Construction" for use on all public works in the City. The Council, by Resolution, may adopt local construction standards which clarify, modify, or expand upon the APWA standards.**

## CHAPTER 12.02

### SYSTEM DEVELOPMENT CHARGES

#### SECTIONS:

- 12.02.010 Title
- 12.02.020 Intent and Scope
- 12.02.030 System Development Charges Established
- 12.02.040 Methodology
- 12.02.050 Compliance with State Law
- 12.02.060 Collection of Charge
- 12.02.070 Exemptions
- 12.02.080 Credits
- 12.02.090 Appeal Procedures
- 12.02.100 Prohibited Connections

#### 12.02.010 Title

This chapter of the Troutdale Municipal Code shall be entitled "System Development Charges".

#### 12.02.020 Intent and Scope

- A. Pursuant to the statutes of the State of Oregon and the powers granted in the Charter of the City, the Council finds, declares, and affirms its intent to impose System Development Charges.
- B. The purpose of the system development charge is to impose an equitable share of the public costs of capital improvements upon those developments that create the need for or increase the demands on capital improvements.
- C. The system development charge as imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development. A systems development charge is to be considered in the nature of a charge for service rendered or facilities made available, or a charge for future services to be rendered on facilities to be made available in the future.

#### 12.02.030 System Development Charges Established

- A. Unless otherwise exempted by the provisions of this chapter or other local or state law, a systems development charge is hereby imposed upon all new

development within the City, and all new development outside the boundary of the City that connects to or otherwise uses the sanitary sewer system, storm drainage system, water system, street system, or park and recreation system of the City.

- B. Systems development charges for each type of capital improvement may be created through application of the methodologies described in this chapter. The amounts of each system development charge shall be adopted initially by Council resolution. Changes in the amounts shall also be adopted by resolution, excepting those changes resulting solely from inflationary cost impacts. Inflationary cost impacts shall be measured and calculated each March 1st by the City Administrator and charged accordingly. Such calculations will be based upon Pacific Northwest Construction cost changes in the Engineering News Record Construction Cost Index (ENR Index) as represented by the City of Seattle, Washington, or any successor index to this measurement. All calculations shall be carried out to the hundredths place. A final product ending in .49 or less shall be rounded down to the nearest dollar, .50 or more up to the next dollar.**

#### **12.02.040 Methodology**

- A. The methodology used to establish a reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors. The methodology shall promote the objective that future systems users shall contribute an equitable share of the cost of then existing facilities.**
- B. The methodology used to establish the public improvement charge shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and shall provide for a credit against the public improvement charge for the construction of any qualified public improvement.**
- C. The methodology may also provide for a credit as authorized in this chapter.**
- D. Except when authorized in the methodology adopted under 12.02.040(A), the fees required by this chapter which are assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision, are separate from and in addition to the systems development charge and shall not be used as a credit against such charge.**
- E. The methodologies used to establish the systems development charge shall be adopted by resolution of Council. The specific systems development charge may be adopted and amended concurrent with the establishment or revision**

of the systems development charge methodology. The City Administrator shall review the methodologies established under this section periodically and shall recommend amendments, if and as needed, to the Council for its action.

- F. The formulas and calculations used to compute specific SDC's are based upon averages and typical conditions. Whenever the impact of individual developments present special or unique situations, such that the calculated fee is grossly disproportionate to the actual impact of the development, alternative fee calculations may be approved or required by the City Administrator under prescribed administrative procedures. All data submitted to support alternate calculations under this provision shall be specific to the site and development under consideration. Major or unique developments may require special analyses to determine alternatives to the standard methodology.
- G. Written notice of the hearing on adoption or amendment of a methodology shall be given to persons requesting notification. The notice shall be mailed at least 45 days prior to the first hearing to adopt or amend a system development charge. The methodology shall be available at least 30 days prior to this hearing. The names of persons requesting notification shall be maintained by the City Recorder on a list.

#### **12.02.050 Compliance with State Law**

- A. The revenues received from the systems development charges shall be budgeted and expended as provided by state law. Such revenues and expenditures shall be accounted for as required by state law. Their reporting shall be included in the City's Comprehensive Annual Financial Report required by ORS Chapter 294.
- B. The capital plan for capital improvements required by state law as the basis for expending the public improvement charge component of systems development charge revenues shall be the Troutdale Capital Improvements Plan (CIP), adopted facilities plans, or the capital improvement plan of any other governmental entity with which the City has cooperative agreement for the financing of commonly-used public improvements by the collection of system charges, provided such plans of other governmental entities conform with State Law and are consistent with the City's CIP and the City's Comprehensive Plan.

#### **12.02.060 Collection of Charge**

- A. The systems development charge is payable upon, and as a condition of, issuance of:
  - 1. A permit for new construction;

2. A permit for the renovation, rehabilitation, alteration or modification of a structure or use; or
  3. A public works permit allowing connection to the water, sanitary sewer or storm drainage system(s).
- B. If development is commenced or connection is made to the water system, sanitary sewer system or storm sewer system without an appropriate permit, the systems development charge is immediately payable upon the earliest date that a permit was required, and it will be unlawful for anyone to continue with the construction or use constituting a development until the charge has been paid or payment secured to the satisfaction of the City Administrator.

**12.02.070 Exemptions**

- A. The following are exempt from the systems development charge imposed in this chapter:
1. Development which legally existed on February 28, 1992. ERU values will be calculated for pre-existing uses as they were legally established on the effective date of this ordinance.
  2. Any change in use, conversion, reconstruction or rehabilitation, alteration, addition or replacement that does not increase the use of capital improvements.
- B. SDC's will be imposed upon any change in use, conversion, reconstruction, rehabilitation, alteration, addition or replacement which does increase the use of capital facilities. The SDC will be based only upon the increased impact on the use of public facilities.

**1202.080 Credits**

- A. As used in this section, the word "contiguous" means that part of a public way which abuts the development parcel.
- B. An applicant for a building permit is eligible for credit against the SDC for constructing a qualified capital improvement. A qualified capital improvement means one that meets all of the following criteria:
1. Required as a condition of development approval by the Planning Commission or City Council; and
  2. Identified in an Adopted Capital Improvement Plan; and

3.
  - (a) Not located within or contiguous to the property or parcel that is subject to development approval; or
  - (b) Located in whole or in part on, or contiguous to, property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
  - (c) This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under subsection (3)(b) of this section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project.
- C. Applying the adopted methodology, the City Administrator may grant a credit against the public improvement charge for a capital improvement provided as part of the development that reduces the development's demand upon existing capital improvements or the need for further capital improvements or that would otherwise have to be constructed at City expense under the then-existing Council policies.
- D. When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project.
- E. All credit requests must be in writing and filed with the City Administrator not less than 90 days after acceptance of the improvement. Improvement acceptance shall be in accordance with the usual and customary practices, procedures and standards of the City of Troutdale. The amount of any credit shall be determined by the City Administrator and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the City Administrator that the contract amounts exceed prevailing market rate for a similar project, the credit shall be based upon market rates. The City Administrator shall provide the applicant with a credit on a form provided by the City. The credit shall state the actual dollar amount that may be applied against any SDC imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.
- F. Credits shall be apportioned against the property which was subject to the requirement to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the

**City Administrator**, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the Department of Community Development and a copy shall be forwarded to the Finance Director.

- G.** Any credits are assignable; however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based or any partitioned or subdivided parcel or lots of such property to which the credit has been apportioned. Credits shall only apply against system development charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought and shall not be a basis for any refund.
- H.** Any credit request must be submitted before the issuance of a building permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a building permit.
- I.** Credits shall not be allowed more than ten years after the acceptance of the applicable improvement by the appropriate jurisdiction. No extension of this deadline shall be granted or authorized.
- J.** Sewer reservations purchased under previously imposed ordinances by the City will be recognized. The total sewer SDC imposed for these connections shall be \$1,250.00.

**12.02.090 Appeal Procedures**

- A.** As used in this section, "working day" means a day when the general offices of the City are open to transact business with the public.
- B.** A person aggrieved by a decision required or permitted to be made by the City Administrator or his/her designee under this chapter or a person challenging the propriety of an expenditure of systems development charge revenues may appeal the decision or the expenditure by filing a written request with the City Recorder for consideration by the City Council. Such appeal shall describe with particularity the decision or the expenditure from which the person appeals and shall comply with paragraph D below.
- C.** An appeal of an expenditure must be filed within two years of the date of alleged improper expenditure. Appeals of any other decision must be filed within ten (10) working days of the date of the decision.
- D.** The appeal shall state:
  - 1.** The name and address of the appellant;



2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination should be.

An appellant who fails to file such a statement within the time permitted waives his/her objections, and his/her appeal shall be dismissed.

- E. The Council shall order an investigation and direct that within 60 days of receipt of the petition that a written report be filed by the director recommending appropriate action. Within 30 days of receipt of said report, the Council shall conduct a hearing to determine whether the expenditure was proper. At least 10 working days advance notice of the hearing, including a copy of the report, shall be mailed to the petitioner. Petitioner shall have a reasonable opportunity to present their position at the hearing.
- F. The petitioner shall have the burden of proof. Evidence and argument shall be limited to grounds specified in the petition. The Council shall issue a written decision stating the basis for its conclusion and directing appropriate action be taken.
- G. Review of the Council decision shall be provided as in ORS 34.010.
- H. The City Council shall render its decision within 15 days after the hearing date and the decision of the Council shall be final. The decision shall be in writing but written findings shall not be made or required unless the Council, in its discretion, elects to make Findings for precedential purposes. Any legal action contesting the Council's decision on the appeal shall be filed within 60 days of the Council's decision.

#### **12.02.100 Prohibited Connections**

It shall be unlawful for any person to connect any premises for service, or cause the same to be connected, to any sanitary sewer, water system, or storm sewer system of the City unless the appropriate systems development charge has been paid or payment has been secured as provided in this Code.

# CHAPTER 12.03

## WATER SYSTEM

### SECTIONS:

- 12.03.010 Title
- 12.03.020 Intent and Scope
- 12.03.030 Establishment of a Water Utility Fee
- 12.03.040 Use of Water Utility Fee
- 12.03.050 Calculation of Water Utility Fee
- 12.03.060 Billings and Collection
- 12.03.070 Administration

- 12.03.010 Title

This chapter of the Troutdale Municipal Code shall be entitled "Water System".

- 12.03.020 Intent and Scope

- A. Pursuant to the statutes of the State of Oregon and the powers granted in the Charter of the City, the Council declares its intent to acquire, own, construct, reconstruct, improve, equip, maintain, and repair a water system within the City limits, and outside the City limits when consistent with City policy, intergovernmental agreements, and State law.
- B. The Council hereby finds, determines, and declares the necessity of providing for the City's water system by the formation of a Water Utility.
- C. It is unlawful to take water from the public water system of the City without prior authorization or without obtaining the proper permits and payment of the appropriate fees and charges.
- D. The owner of any house, building, or other structure used for human occupancy, employment, recreation, or other purpose erected within the City and abutting on any public right-of-way in which there is located a public water main is required, at his/her expense, to install suitable facilities to connect the structure to such water system within ninety days after receipt of notice to do so, provided that the structure is within three hundred feet of said water main.

**12.03.030 Establishment of a Water Utility Fee**

There is hereby established a Water Utility Fee to be paid by each user of the water system. Such fee may include charges for water consumption, standby fire service, installation of new or changed service, standpipe service, and hydrant meter usage. Such fees shall not be imposed in amounts greater than that which is necessary, in the judgment of the Council, to provide sufficient funds to properly acquire, construct, equip, operate, maintain, and repair the City's water system. The Council, by resolution, shall establish the amount of the fee and may, from time to time, by resolution change the amount of the fee.

**12.03.040 Use of Water Utility Fee**

There is hereby established a Water Fund, and all water utility fees collected by the City shall be paid into the Water Fund. Such revenues shall be used for the acquisition, construction, operation, maintenance, and repair (to include renewal, replacement, and improvement) of the City's water system. To the extent that the fees collected may not be sufficient to properly meet the expenses of the water system, the cost of same may be paid from other City funds as may be determined by the Council, but the Council may order the reimbursement of such funds if additional water funds are collected thereafter. The fees collected by virtue of this chapter shall not be used for general or other governmental purposes of the City except to pay for the equitable share of the cost of accounting, management, and other administrative costs attributable to the water system.

**12.03.050 Calculation of Water Utility Fee**

The monthly water utility fee shall be the sum of the charges for water consumption, standby fire service, installation of new or changed services, standpipe service, and hydrant meter usage, as applicable.

**12.03.060 Billings and Collection**

- A. The Water Utility Fee shall be billed and collected with the monthly City utility bill. The bill becomes due and payable twenty calendar days after the end of the billing month.
- B. Partial payments on utility bills shall be allocated on a pro-rated basis to each utility balance due.
- C. If a utility bill is not paid in full thirty days after the end of the billing month, the bill becomes delinquent and water service to that account shall be terminated by the City after providing a fifteen day written notice. It shall not be resumed until all fees and charges are brought current or until the user enters into a payment plan agreement with the Finance Director.

- D. Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the City.**

**12.03.070 Administration**

- A. The Public Works Director shall be responsible for the administration of this chapter (except for the billing and collection of funds), to include the development of administrative procedures, maintenance programs, capital improvements, operations and maintenance standards, and related activities.**
- B. The Finance Director shall be responsible for the billing and collection of funds.**

## CHAPTER 12.04

### SANITARY SEWER SYSTEM

#### SECTIONS:

- 12.04.010 Title
- 12.04.020 Intent and Scope
- 12.04.030 Establishment of a Sanitary Sewer Utility Fee
- 12.04.040 Use of Sanitary Sewer Utility Fee
- 12.04.050 Calculation of Sanitary Sewer Utility Fee
- 12.04.060 Billings and Collection
- 12.04.070 Administration

- 12.04.010 Title

This chapter of the Troutdale Municipal Code shall be entitled "Sanitary Sewer System".

- 12.04.020 Intent and Scope

- A. Pursuant to the statutes of the State of Oregon and the powers granted in the Charter of the City, the Council declares its intent to acquire, own, construct, reconstruct, improve, equip, maintain, and repair a sanitary sewer system within the City limits, and outside the City limits when consistent with City policy, intergovernmental agreements, and State law.
- B. The Council hereby finds, determines, and declares the necessity of providing for the City's sanitary sewer system by the formation of a sanitary sewer utility.
- C. It is unlawful for any person to place, deposit, or permit to be deposited upon public or private property within the City any human or animal excrement, garbage or other waste which may be injurious to the health, safety, or well-being of the residents of the City.
- D. The owner of any house, building, or other structure used for human occupancy, employment, recreation, or other purpose erected within the City and abutting on any public right-of-way in which there is located a public sanitary sewer is required, at his/her expense, to install suitable facilities to connect the structure to such sewer system within ninety days after receipt of notice to do so, provided that the structure is within three hundred feet of said sanitary sewer.

**12.04.030 Establishment of Sanitary Sewer Utility Fee**

There is hereby established a Sanitary Sewer Utility Fee to be paid by each user of the sewer system. Such fee may include charges for volume of discharge and for strength of discharge if such discharge creates a greater impact on the treatment system than normal domestic sewage. Such fees shall not be imposed in amounts greater than that which is necessary, in the judgment of the Council, to provide sufficient funds to properly acquire, construct, equip, operate, maintain, and repair the City's sanitary sewer system. The Council, by resolution, shall establish the amount of the fee and may, from time to time, by resolution change the amount of the fee.

**12.04.040 Use of Sanitary Sewer Utility Fee**

There is hereby established a Sewer Fund, and all Sanitary Sewer Utility Fees collected by the City shall be paid into the fund. Such revenues shall be used for the acquisition, construction, operation, maintenance, and repair (to include removal, replacement, and improvement) of the City's sanitary sewer system. To the extent that the fees collected may not be sufficient to properly meet the expenses of the sanitary sewer system, the cost of same may be paid from other City funds as may be determined by the Council, but the Council may order the reimbursement to such fund if additional sanitary sewer funds are collected thereafter. The fees collected by virtue of this chapter shall not be used for general or other governmental purposes of the City except to pay for the equitable share of the cost of accounting, management, and other administrative costs attributable to the sanitary sewer system.

**12.04.050 Calculation of Sanitary Sewer Utility Fee**

The monthly sanitary sewer utility fee shall be the sum of the charges for volume of discharge and strength of discharge to the sanitary sewer system.

**12.04.060 Billings and Collection**

- A. The sanitary sewer utility fee shall be billed and collected with the monthly City utility bill. The bill becomes due and payable twenty calendar days after the end of the billing month.
- B. Partial payments on utility bills shall be allocated on a pro-rated basis to each utility balance due.
- C. If a utility bill is not paid in full thirty days after the end of the billing month, the bill becomes delinquent and water service to that account shall be terminated by the City after providing fifteen days written notice. It shall not be resumed until all fees and charges are brought current or until the user enters into a payment plan agreement with the Finance Director.

- D. Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the City.**

**12.04.070 Administration**

- A. The Public Works Director shall be responsible for the administration of this chapter (except for the billing and collection of funds), to include the development of administrative procedures, maintenance programs, capital improvements, operations and maintenance standards, and related activities.**
- B. The Finance Director shall be responsible for the billing and collection of funds.**

# CHAPTER 12.05

## STREETS AND SIDEWALKS

### SECTIONS:

- 12.05.010 Title
- 12.05.020 Intent and Scope
- 12.05.030 Establishment of a Street Fund
- 12.05.040 Street Classification
- 12.05.050 Street Numbering System
- 12.05.060 Street Prefixes
- 12.05.070 Street Designations
- 12.05.080 Sidewalks

- 12.05.010 Title

This chapter of the Troutdale Municipal Code shall be entitled "Streets and Sidewalks".

- 12.05.020 Intent and Scope

Pursuant to the statutes of the State of Oregon and the powers granted in the Charter of the City, the Council declares its intent to acquire, own, construct, reconstruct, improve, equip, maintain, and repair a street system within the City limits, and outside the City limits when consistent with City policy, intergovernmental agreements, and State law.

- 12.05.030 Establishment of a Street Fund

There is hereby established a Street Fund composed of State gas tax revenues. Such revenues shall be used for the acquisition, construction, operation, maintenance, and repair (to include removal, replacement, and improvements) of the City's street system. To the extent that the fees collected may not be sufficient to properly meet the expenses of the street system, the cost of same may be paid from other City funds as may be determined by the Council, but the Council may order the reimbursement of such funds if additional street funds are collected thereafter. The fees collected by virtue of this chapter shall not be used for general or other governmental purposes of the City except to pay for the equitable share of the cost of accounting, management, and other administrative costs attributable to the street system.



**12.05.040 Street Classification**

- A. Streets within the City which are owned by other jurisdictions, such as the State of Oregon or Multnomah County, shall have the classifications as designated by that jurisdiction.**
- B. City streets shall be designated by resolution of the Council. Neighborhood collector streets shall have a right-of-way width of sixty feet and a pavement width of more than 32 feet . Local streets shall have a right-of-way width of fifty feet and a pavement width of 32 feet or less.**

**12.05.050 Street Numbering System**

- A. There is established a uniform system of numbering all houses and buildings fronting on all streets, avenues, alleys, and highways in the city, dividing the city into four general districts. In establishing the system, Buxton Road/Troutdale Road (and their imaginary extension northward) shall constitute the north and south base line from which the numbers on all houses and buildings on streets running easterly and westerly from such streets shall be extended each way, upon the basis of one number for each ten feet of property frontage, wherever possible, starting at the base line with the number one hundred one and continuing with consecutive hundreds at each intersection, wherever possible.**
- B. Columbia Highway shall constitute the east and west base line from which the numbers on all houses and buildings on streets running north and south from such street shall be extended each way, upon the basis of one number for each ten feet of property frontage, wherever possible, starting at the base line with the number one hundred one and continuing with consecutive hundreds at each intersection, wherever possible.**
- C. All even numbers shall be placed upon houses and buildings on the southerly side of streets, avenues, alleys and highways, and all odd numbers shall be placed upon houses and buildings on the northerly side of streets, avenues, alleys, and highways.**
- D. All even numbers shall be placed upon houses and buildings on the easterly side of streets, avenues, alleys and highways, and all odd numbers shall be placed upon houses and buildings on the westerly side of such streets, avenues, alleys and highways.**

**12.05.060 Street Prefixes**

- A. All streets in the section of the city north of Columbia Highway and east of Buxton Road/Troutdale Road shall be designated as "Northeast", and the prefix "NE" shall be added to the street name.**

- B. All streets in the section of the city south of Columbia Highway and east of Buxton Road/Troutdale Road shall be designated as "Southeast", and the prefix "SE" shall be added to the street name.**
- C. All streets in the section of the city north of Columbia Highway and west of Buxton Road/Troutdale Road shall be designated as "Northwest", and the prefix "NW" shall be added to the street name.**
- D. All streets in the section of the city south of Columbia Highway and west of Buxton Road/Troutdale Road shall be designated as "Southwest", and the prefix "SW" shall be added to the street name.**
- E. The part of Columbia Highway east of Buxton Road shall be designated as "East", and the part west of Buxton Road shall be designated as "West", and the appropriate prefix "E" or "W" shall be added to the street name.**
- F. Buxton Road and Troutdale Road shall be designated as "South", and the prefix "S" shall be added to the street name.**

**12.05.070 Street Designations**

- A. Streets running north and south on grid shall be designated as "avenues".**
- B. Streets running north and south off grid shall be designated as "places".**
- C. Streets running east and west on grid shall be designated as "streets".**
- D. Streets running east and west off grid shall be designated as "ways".**
- E. Neighborhood collector streets shall be designated as "lanes".**
- F. Cul-de-sacs with streets running north and south shall be designated as "courts".**
- G. Cul-de-sacs with streets running east and west shall be designated as "circles".**

**12.05.080 Sidewalks**

- A. It is the duty of all owners of property adjacent to any street or public way in the City to repair, maintain, and reconstruct if necessary the sidewalks, planter or landscaping strips, and driveway approaches within such adjacent public way.**
- B. If such owner does not repair, maintain, or reconstruct the sidewalk, planter strip, or driveway approach adjacent to his property within thirty days after**

receiving written notice from the Director to do so, the City may make such repairs and bill the owner for the actual cost thereof plus the standard City overhead charges. Any such bill that is not paid within thirty days may become a lien on the property.

**CHAPTER 12.06**  
**STORM SEWER SYSTEM**

To be published at a later date.

## CHAPTER 12.07

### PRE-TREATMENT PROGRAM

#### SECTIONS:

12.07.005	Definitions
12.07.010	Prohibited Discharge Standards
12.07.020	Federal Categorical Pretreatment Standards
12.07.030	State Requirements
12.07.040	Local Limits
12.07.050	Right of Revision
12.07.060	Special Agreement
12.07.070	Dilution
12.07.080	Pretreatment Facilities
12.07.090	Additional Pretreatment Measures
12.07.100	Accidental Spill Prevention Plan (ASPP)
12.07.110	Deadline for Compliance with Pretreatment Requirements
12.07.120	Tenant Responsibility
12.07.130	Wastewater Survey
12.07.140	Wastewater Permit Requirement
12.07.150	Wastewater Discharge Permitting: Existing Users
12.07.160	Wastewater Discharge Permitting: New Source and New User
12.07.170	Wastewater Discharge Permit Application
12.07.180	Signatory and Certification Requirement
12.07.190	Wastewater Discharge Permit Decisions
12.07.200	Wastewater Discharge Permit Contents
12.07.210	Wastewater Discharge Permit Appeals
12.07.220	Wastewater Discharge Permit Duration
12.07.230	Wastewater Discharge Permit Modification
12.07.240	Wastewater Discharge Permit Transfer
12.07.250	Wastewater Discharge Permit Revocation or Suspension
12.07.260	Wastewater Discharge Permit Reissuance
12.07.270	Initial/Final Compliance Reports
12.07.280	Periodic Compliance Reports
12.07.290	Compliance Schedules
12.07.300	Notification of Significant Production Changes
12.07.310	Hazardous Waste Notification
12.07.320	Notice of Potential Problems
12.07.330	Non-Compliance Reporting
12.07.340	Notification of Changed Discharge
12.07.350	TTO Reporting
12.07.360	Reports from Unpermitted Users
12.07.370	Record Keeping

- 12.07.380 Sampling Requirements for Users
- 12.07.390 Analytical Requirements
- 12.07.400 City Monitoring of User's Wastewater
- 12.07.410 Inspection and Sampling
- 12.07.420 Monitoring Facilities
- 12.07.430 Search Warrants
- 12.07.440 Vandalism
- 12.07.450 Confidential Information
- 12.07.460 Publication of Users in Significant Non-Compliance
- 12.07.470 Notification of Violation
- 12.07.480 Consent Orders
- 12.07.490 Show Cause Hearing
- 12.07.500 Compliance Orders
- 12.07.510 Cease and Desist Orders
- 12.07.520 Administrative Fines
- 12.07.530 Emergency Suspensions
- 12.07.540 Suspension or Revocation of Permit
- 12.07.550 Injunctive Relief
- 12.07.560 Civil Penalties
- 12.07.570 Criminal Prosecution
- 12.07.580 Remedies Non-Exclusive
- 12.07.590 Water Supply Severance
- 12.07.600 Pretreatment Charges and Fees
- 12.07.610 Severability

12.07.005 **Definitions.** Unless the context suggests otherwise, these terms and phrases mean the following when used in this chapter:

**Accidental Spill Prevention Plan (ASPP).** A plan prepared by the industrial user which provides protection for the POTW from accidental discharges of materials which may cause interference, pass through, worker health or safety problems, or damage to the POTW.

**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.

**Applicable Pretreatment Standards.** For any specified pollutant, the City specific pretreatment standards (local limits), State of Oregon pretreatment standards, or EPA's categorical Pretreatment Standards (when effective), whichever standard is appropriate or most stringent.

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

**Authorized Representative of the User.**

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

- (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the user is a partnership, association or sole proprietorship, an authorized representative shall mean: a general partner or proprietor;
  - (3) If the user is a Federal, State, or local governmental facility or an agent thereof, an authorized representative shall mean: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
  - (4) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

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

**Categorical Discharger.** An industrial user covered by one of EPA's Categorical Pretreatment Standards.

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

**Discharge/Indirect Discharge.** The introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Clean Water Act (Act or CWA).

**Domestic Wastewater.** Liquid and water borne wastes (i.e., sewage and grey water) derived from ordinary living processes and of such character, volume and strength as to permit disposal without special treatment into the POTW.

**Existing Source.** For a significant industrial user subject to categorical pretreatment standards, an "existing source" is any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**Existing User.** For a significant industrial user not subject to categorical pretreatment standards, an "existing user" is any industrial user discharging to the POTW prior to May 13, 1993.

**Grab Sample.** A single discrete sample taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

**Industrial User.** A source of indirect discharge.

**Interceptor.** A device designed and installed so as to adjust, separate, and retain deleterious, hazardous, or undesirable matter from wastewater and to permit normal sewage or liquid wastes to discharge from the user's premises into the POTW.

**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 process, use or disposal; and (2) Therefore causes a violation of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or prevents sewage sludge use or disposal in compliance with applicable Federal statutes, regulations, or permits.

**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.

**National Pretreatment Standard.** Defined in 40 CFR 403.3 (j) as any regulation containing pollutant discharge limits promulgated by EPA under Section 307(b) and (c) of the CWA (33 USC 1317) applicable to industrial users, including the general and specific prohibitions found in 40 CFR 403.5.

**New Source.**

- (1) Any building, structure, facility or installation from which there is or may be a discharge, 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 totally 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 Section (1)(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 source 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 paragraph.

**New User.** A "new user" is not a "new-source" and is defined as a user that applies to the City for a new building permit or any person who occupies an existing building and plans to discharge to the POTW after May 13, 1993.

**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 uses such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

**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 from the City.

**Pollutant.** Any substance such as dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, agricultural and industrial wastes, which when discharged, alters the chemical, physical, biological or radiological integrity of water.

**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 pretreatment requirement, other than a national pretreatment standard, applicable to industrial users.

**Priority Pollutants.** Any one of the pollutants listed as toxic in regulations promulgated by EPA under Section 307 (33 U.S.C. 1317) of the Act.

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

**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.

**Sewage.** Human excrement and gray water (wastewater from household showers, dishwashing operations, etc.) resulting from ordinary living processes.

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

**Significant Industrial User (SIU).**

- (1) Any categorical industrial user.
- (2) Any other industrial user which:
  - (a) Discharges 25,000 gallons or more of process wastewater per day, or
  - (b) Contributes a process wastewater which makes up five (5) percent or more of the dry weather average hydraulic or organic capacity of the POTW, 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 a pretreatment standard or requirement.
- (3) Upon a finding that an industrial user meeting the criteria in Subsection Two (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 an industrial user [and in accordance with procedures in 40 CFR 403.8(f)(6)] determine that such industrial 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 discharge standards in Section 12.07.010 through 12.07.040 or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

**Stormdrain.** A sewer which is designed to carry storm waters or drainage rather than sewage or industrial wastes.

**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 filtration.

**Treatment Plant Effluent.** The discharge of treated wastewater from the POTW into waters of the United States.

**User.** A person who introduces pollutants into a POTW.

**Wastewater.** Water containing a pollutant.

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

**Wastewater Treatment Plant (WWTP) or Treatment Plant.** That portion of the POTW which is designed to provide treatment of municipal sewage and nondomestic wastewater.

#### **12.07.010 Prohibited Discharge Standards**

- A. General Prohibitions:** No user shall introduce or cause to be introduced into the POTW any pollutant which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions:** No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - 1.** Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Such pollutants include, but are not limited to, wastestreams with a closed-cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system, (or at any point in the system), be more than five (5%) percent nor any single reading over ten (10%) percent of the lower explosive limit (LEL);
  - 2.** Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;

3. **Solid or viscous substances, including but not limited to oil and grease, such that discharge results in stoppage, plugging, breakage, significant obstruction to flow or any other damage to or increased maintenance of sewers or sewerage facilities or results in pass-through;**
4. **Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;**
5. **Wastewater having a temperature greater than 150° F (55° C) or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C);**
6. **Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;**
7. **Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause worker health or safety problems;**
8. **Untreated trucked or hauled pollutants;**
9. **Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;**
10. **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 plant's effluent;**
11. **Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable State or Federal regulations;**
12. **Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, non-contact cooling water, and unpolluted water unless specifically authorized by the Director;**

13. Any sludge, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;
14. Medical or infectious wastes, except as specifically authorized by the Director;
15. Substances which may cause excessive foaming in the POTW;
16. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
17. Water added to a wastewater discharge for the sole purpose of dilution as a means to achieve compliance with any pretreatment standard or local discharge limit;
18. Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
19. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);
20. Any materials identified as hazardous waste according to 40 CFR 261, except as specifically authorized by the Director;
21. Any wastewater, which in the opinion of the Director can cause harm either to the collection system, sewage treatment process, or equipment; have an adverse effect on the receiving waters; cause the POTW to violate its NPDES and/or other disposal system permits; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the Director (except that no special waiver shall be given from categorical pretreatment standards).

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW without adequate treatment.

**12.07.020 Federal Categorical Pretreatment Standards**

Industrial users subject to categorical pretreatment standards shall comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

**12.07.030 State Requirements**

**Industrial users shall comply with applicable State pretreatment standards and requirements set out in OAR Chapter 340 and incorporated herein.**

**12.07.040 Local Limits**

**No industrial user shall discharge to the POTW wastewater containing pollutants in excess of limitations specified in its wastewater discharge permit, categorical pretreatment standards or other limits established by the City. The City may establish and revise standards for specific substances. These standards or local limits shall be developed in accordance with 40 CFR Section 403.5 and shall implement the objectives of this chapter. Local limits are usually concentration based standards and apply at the point where wastewater is discharged to the POTW (end of the pipe). The Director may impose mass limitations in addition to (or in place of) the concentration-based limits. Where an industrial user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.**

**12.07.050 Right of Revision**

**The City may establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in this chapter or the general and specific prohibitions of this chapter.**

**12.07.060 Special Agreement**

**The City may enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the EPA in accordance with 403.13. A special agreement may contain requirements in addition to those specified in this chapter.**

**12.07.070 Dilution**

**No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users which he believes may be using dilution to meet applicable pretreatment**

standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

**12.07.080 Pretreatment Facilities**

Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards and requirements set out in this chapter within the time limitations specified by the Director. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operation procedures shall be submitted to the Director for review and shall be acceptable to the Director before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this chapter.

**12.07.090 Additional Pretreatment Measures**

- A. Industrial users may be required to restrict their discharge during peak or low 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 take such other actions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this chapter.
- B. Industrial users may be required, if discharging into the POTW greater than one (1%) percent of the average daily flow in the POTW, to install and maintain, on his property and at his expense, a suitable storage and flow-control facility to insure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Director. A wastewater discharge permit may be issued solely for flow equalization.
- C. Industrial users shall provide grease, oil, and sand interceptors for the proper handling of wastewater containing grease, oils, sand or other harmful constituents in cases where such materials may be discharged into the POTW. All interception units shall be of type and capacity approved by the City in accordance with the City adopted plumbing codes and shall be installed and connected so as to be easily accessible for cleaning, maintenance and inspection. Such interceptor units shall be maintained in continuously efficient operating condition at all times, by the user at his expense.



- D. **Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.**
- E. **Industrial users may be required to install a control manhole when deemed necessary by the Director, to facilitate observation, sampling and flow measurement of the discharge. Such manholes shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The manhole shall be installed and maintained by the user at his expense.**

**12.07.100 Accidental Spill Prevention Plan (ASPP)**

**Industrial users, as required by the Director, shall provide protection from accidental discharges of materials, which may interfere with the POTW, by developing and implementing an accidental spill prevention plan. Facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental spill prevention plan/slug control plan (ASPP) showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation of the plan. 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.**

- A. **Industrial users that store hazardous substances shall implement an approved ASPP. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.**
- B. **Accidental discharge slug control plans shall address, at a minimum, the following:**
  - 1. **Description of discharge practices, including non-routine batch discharges;**
  - 2. **Description and location of stored chemicals and potential entry points to the POTW;**
  - 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 of the standards in Sections 12.07.010 through 12.07.040 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.**
  
- C. **Industrial users shall notify the City Wastewater Treatment Plant immediately upon 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 industrial 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.**
  
- D. **Within five (5) days following an accidental discharge, the industrial user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.**
  
- E. **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 a discharge with respect to emergency notification procedures.**

**12.07.110 Deadline for Compliance with Pretreatment Requirements**

**Compliance by existing users covered by 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 Standard. The City shall establish a final compliance deadline date for any existing user not covered by Categorical Pretreatment Standards or for any categorical discharger when the local limits for said user are more restrictive than EPA's Categorical Pretreatment Standards.**

**New Sources and "new users" 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. New source**

dischargers and "new users" are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge).

Any wastewater discharge permit issued to a categorical discharger shall not contain a compliance date beyond any compliance deadline specified in the appropriate subpart of 40 CFR 425-471, Chapter I, subchapter N. Any other existing user or a categorical discharger that must comply with a more stringent local limit, which is in non-compliance with any local limits, shall be provided with a compliance schedule placed in an industrial wastewater permit to insure compliance within the shortest time feasible.

**12.07.120 Tenant Responsibility**

Any person who occupies the 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 User.

**12.07.130 Wastewater Survey**

When requested by the Director, dischargers of nondomestic wastewater to the POTW shall submit information on the nature and characteristics of their wastewater by completing a wastewater survey. The Director may prepare a form for this purpose and may periodically require users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the user and shall be considered a violation of this chapter.

**12.07.140 Wastewater Permit Requirement**

Any industrial user discharging wastewater to the POTW may be required to obtain a wastewater discharge permit from the Director. Failure to complete a permit application shall be deemed a violation of this chapter and subjects the industrial user to the sanctions set out in this chapter. Any violation of the terms and conditions of the wastewater discharge permit shall be deemed a violation of this chapter and subjects the industrial user to the sanctions set out in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirement of Federal, State, and local laws or regulations.

**12.07.150 Wastewater Discharge Permitting: Existing Users**

Any industrial user that was discharging wastewater into the POTW prior to May 13, 1993 and that wishes to continue such discharges in the future shall,

within 90 (ninety) days after notification by the Director, submit a permit application to the City in accordance with Section 12.07.170 of this chapter.

**12.07.160 Wastewater Discharge Permitting: New Source and "New User"**

Any new source or "new user" proposing to begin or recommence discharging to the POTW shall obtain a wastewater discharge permit prior to beginning or recommencing such discharge if required by the Director. An application for the permit must be submitted at least 90 days prior to the anticipated discharge date. New Sources and "new users" shall give estimates of the information requested in paragraphs (D) and (E) of Section 12.07.170.

**12.07.170 Wastewater Discharge Permit Application**

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information on the wastewater discharge permit application form approved by the Director. Categorical dischargers submitting the following information shall have complied with 40 CFR 403.12 (b) (baseline monitoring report requirements).

- A. Identifying information. The name, mailing address, location (if different from the mailing address), telephone number, and the operator and owners of the facility;
- B. Permits. A list of any environmental control permits held by or for the facility;
- C. Description of operations. A brief description of the nature of the operation, and Standard Industrial Classification (SIC) Codes of the operation(s) carried out by the user; a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW; number of employees; hours of operation; and the time and duration of discharges. This description should also include as necessary, a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing areas, as well as site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connection, inspection manholes, sampling chambers and appurtenances by size, location and elevation.
- D. Flow Measurement.
  - 1. Categorical Discharger:

Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

- (i) Regulated or manufacturing process streams; and

- (ii) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6 (e).

**2. Industrial user:**

Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

- (i) Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Director.

The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

**E. Measurements of pollutants.**

**1. Categorical Discharger:**

- (i) Identify the applicable pretreatment standards for each regulated or manufacturing process;
- (ii) In addition, submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the Categorical Pretreatment Standard or as required by the City of regulated pollutants (including standards contained in Sections 12.07.010 through 12.07.040, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Sections 12.07.380 through 12.07.400.
- (iii) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6 (e) for a categorical discharger covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

**2. Industrial user:**

- (i) Identify the applicable pretreatment standards for its wastewater discharge.

- (ii) In addition, submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the City) of regulated pollutants contained in Section 12.07.010 through 12.07.040, as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Sections 12.07.380 through 12.07.400.
- (iii) Take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (iv) Where the Director developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the application.

**F. Certification.** A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in Section 12.07.180, indicating whether the applicable Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the user to meet the applicable Pretreatment Standards and Requirements.

**G. Compliance Schedule.** If additional pretreatment and/or O and M will be required to meet the applicable Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment and/or O and M. The user's schedule shall conform with the requirements of Section 12.07.290. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 12.07.110.

**H. Additional Information.** Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application.

**Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.**

**12.07.180 Signatory and Certification Requirement**

**All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:**

**"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."**

**12.07.190 Wastewater Discharge Permit Decisions**

**The Director will evaluate the data furnished by the industrial user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Director will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within thirty (30) days of full evaluation and acceptance of the data furnished. The Director may deny any application for a wastewater discharge permit.**

**12.07.200 Wastewater Discharge Permit Contents**

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

**A. Wastewater discharge permits shall contain the following conditions:**

- 1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;**
- 2. A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the City, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;**
- 3. Applicable Federal, State, and local effluent limits;**
- 4. Self monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, 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. Requirement for immediate notification to the City where self-monitoring results indicate non-compliance;
  6. Requirement to report a by-pass or upset of a pretreatment facility;
  7. Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the City within thirty (30) days after becoming aware of the violation;
  8. A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards, and requirements, and any applicable compliance schedule.
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  2. Requirements for the installation and maintenance of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
  3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
  4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
  5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
  6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
  7. A statement that compliance with the wastewater discharge 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 wastewater discharge permit;

8. Any special agreements the Director chooses to continue or develop between the City and industrial user as long as such agreements do not violate any applicable pretreatment standards or requirements;
9. Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and State and Federal laws, rules, and regulations;
10. Requirements for maintaining and retaining plant records relating to wastewater discharge.

#### **12.07.210 Wastewater Discharge Permit Appeals**

Any person, including the user may petition the City to reconsider the terms of a wastewater discharge permit within ten (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 condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the City fails to act within fifteen (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 purposes 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 Municipal Court of the City of Troutdale, Multnomah County, Oregon within ten (10) days.

#### **12.07.220 Wastewater Discharge Permit Duration**

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

**12.07.230 Wastewater Discharge Permit Modification**

The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the City's POTW or personnel, or to the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required report;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

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

**12/07.240 Wastewater Discharge Permit Transfer**

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the wastewater

**discharge permit transfer. The notice to the Director must include a written certification by the new owner and/or operator which:**

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;**
- B. Identifies the specific date on which the transfer is to occur; and**
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.**

**Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.**

**12.07.250 Wastewater Discharge Permit Revocation or Suspension**

**Wastewater discharge permits may be revoked or suspended for, but not limited to, the following reasons:**

- A. Failure to notify the City of significant changes to the wastewater prior to the changed discharge;**
- B. Failure to provide prior notification to the City of changed conditions;**
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;**
- D. Falsifying self-monitoring reports;**
- E. Tampering with monitoring equipment;**
- F. Refusing to allow the City timely access to the facility premises and records;**
- G. Failure to meet discharge limitations;**
- H. Failure to pay fines;**
- I. Failure to pay sewer use charges or permit fees;**
- J. Failure to meet compliance schedules;**
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;**
- L. Failure to provide advance notice of the transfer of a permitted facility;**

- M. Invocation by the City of emergency provisions as cited in Section 12.07.530;**
- N. Failure to properly maintain oil, grease or sand interceptors in an efficient operating condition; or**
- O. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.**

**Wastewater discharge permits shall be voidable 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 discharge permit to that user.**

#### **12.07.260 Wastewater Discharge Permit Reissuance**

**A user, required to have a wastewater discharge permit, shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with Section 12.07.170, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and 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.**

#### **12.07.270 Initial/Final Compliance Reports**

- A. Within ninety (90) days following the date for final compliance by the Significant Industrial User with applicable pretreatment standards and requirements set forth in this chapter, in a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or "new users" considered by the City to fit the definition of SIU, the affected user shall submit to the City a report containing the information outlined in Paragraph (D) - (F) of Section 12.07.170.**
- B. For users subject to equivalent mass or concentration limits established by the City in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long term production rate. For all other 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 users' actual production during the appropriate sampling period.**

**12.07.280 Periodic Compliance Reports**

- A. Any user that is required to have a Wastewater Discharge Permit and performs self-monitoring shall submit to the City during the months of June and December, unless required on other dates or more frequently by the City, a report indicating the nature of the discharge over the previous reporting period. The frequency of monitoring shall be as prescribed within the wastewater discharge permit. At a minimum, SIUs shall sample their discharge at least twice per year.**
- B. The report shall include a record of the concentrations (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 sample 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, using methodologies in 40 CFR Part 136, more frequently than what was required by the City or by this chapter, 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 Section 12.07.280 (B).**
- 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, dilution flows and non-regulated flows.**
- E. Flows shall be reported on the basis of actual measurement; provided, however, that the City may accept reports of average and maximum flows estimated by verifiable techniques if the City determines that an actual measurement is not feasible.**
- F. Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in Section 12.07.380 through 12.07.400.**
- G. The City may require reporting by users that are not required to have a 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 POTW.**

- H. **The City may require self-monitoring by the user. If requested by the user or if user fails to perform required sampling and testing, the City may perform the compliance monitoring needed to prepare the compliance reports required under this section. If the City performs 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. The City is under no obligation to perform periodic compliance monitoring for a user.**

**12.07.290 Compliance Schedules**

**If a user is required to install additional pretreatment or provide additional O & M, it shall submit a proposed compliance schedule containing the following information:**

- A. **The schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment shall exceed nine (9) months.**
- B. **Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the City including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return to the construction schedule established. In no event shall more than nine (9) months elapse between such progress reports.**

**If compliance dates are not met, or reports not submitted when due, the City may take appropriate enforcement action for lack of satisfactory progress toward compliance.**

**12.07.300 Notification of Significant Production Changes**

**Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the City within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.**

**12.07.310 Hazardous Waste Notification**

Industrial users shall provide written notification in accordance with 40 CFR 403.12 (p) of the discharge into the POTW of more than fifteen (15) kilograms per month of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261.

In the case of any notification made under this paragraph, an industrial 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.

**12.07.320 Notice of Potential Problems**

Any industrial user shall notify the City immediately of all discharges that could cause problems to the POTW, including any slug loadings. The notification shall include the concentration, volume and corrective action. Steps being taken to reduce any adverse impact should also be identified during the notification. Any industrial user who discharges a slug load of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City under state or federal law.

**12.07.330 Non-Compliance Reporting**

If sampling performed by a user indicates a violation, the user shall notify the City within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling within five (5) days and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation. Resampling shall continue until it is evident that the discharge is in compliance.

**12.07.340 Notification of Changed Discharge**

All users shall notify the City at least thirty (30) days in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p). Changes in volume or character of discharge may result in changes in permittee's sewer use fees.

**12.07.350 TTO Reporting**

Categorical dischargers which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTO's) discharged into the sewer system must follow the Categorical Pretreatment Standards for that industry. When

required for that categorical standard, they must also meet the following requirements:

- A. Sample, as part of the application requirements, for all the organics listed under the TTO limit (no exceptions);
- B. If no TTO's are used at the facility or the industrial user elects to develop a solvent management plan in lieu of continuously monitoring for TTO:

The categorical discharger must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of any toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the City.

(Note: Facilities that have sampled initially and can verify that there are no toxic organics utilized should not have to develop a solvent management plan, but must make the certification statement of "no use of toxic organics during the reporting period".)

**12.07.360 Reports from Unpermitted Users**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the Director may require.

**12.07.370 Record Keeping**

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the Director.

Receipts or manifests for the proper disposal of hazardous wastes shall be retained by the user and shall be available for review at the time of inspection.

**12.07.380 Sampling Requirements for Users**



- A. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The City may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.**
- B. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the City and contained in the user's wastewater discharge permit. For categorical dischargers, 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 of 40 CFR 403.6 (e) in order to evaluate compliance with the Applicable Pretreatment Standards.**
- C. All sample results shall indicate the time, date and location of sampling; methods of analysis; date of and person performing analysis; and a certification that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed, using methodologies in 40 CFR Part 136, more frequently than what was required in its wastewater discharge permit it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.**

**12.07.390 Analytical Requirements**

**All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.**

**12.07.400 City Monitoring of User's Wastewater**

**The City will follow the same procedures as outlined in Sections 12.07.380 and 12.07.390 when sampling and analyzing user discharge samples.**

**12.07.410 Inspection and Sampling**

The City shall have the right to enter the facilities of any user to ascertain whether the objectives of this chapter, and any wastewater discharge permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be born by the user.
- D. Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this chapter.

**12.07.420 Monitoring Facilities**

The Director may require the user to provide and operate, at the user's own expense, a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the City. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the City may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Director, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line or wastewater treatment system).

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

**All monitoring facilities shall be constructed and maintained in accordance with all applicable construction standards and specifications.**

**The Director may require the 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 user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated regularly to ensure accuracy.**

**12.07.430 Search Warrants**

**If the Director has been refused access to a building, structure or property, or any part thereof, and has probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this chapter or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director shall seek issuance of a search and/or seizure warrant from the Municipal Court of the City of Troutdale. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director in the company of a uniformed police officer of the City.**

**12.07.440 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 POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this chapter.**

**12.07.450 Confidential Information**

**Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction, unless the 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 law. When requested and demonstrated by the user that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as**

defined by 40 CFR Part 2.302 will not be recognized as confidential information and will be available to the public without restriction.

#### **12.07.460 Publication of Users in Significant Non-Compliance**

The City shall publish annually, in January, in the City's designated newspaper, a list of the industrial users which, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term significant non-compliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6-) month period exceed the discharge limit or average limit for the same pollutant parameter by any amount;**
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);**
- C. Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);**
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;**
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;**
- F. Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;**
- G. Failure to accurately report non-compliance; or**

H. Any other violation(s) which the City has reason to believe is significant.

**12.07.470 Notification of Violation**

When the Director finds that an industrial 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 Director may serve upon that industrial user a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the industrial user to the Director. Submission of this plan in no way relieves the industrial user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

**12.07.480 Consent Orders**

The Director is hereby empowered to enter into Consent Orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the non-compliance. Such Orders shall include specific action(s) to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to Section 12.07.500 and 12.07.510 below and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

**12.07.490 Show Cause Hearing**

The Director may order an industrial user which 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, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the industrial user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. Immediate enforcement action may be pursued following the hearing date whether or not the industrial user appears as notified. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

#### **12.07.500 Compliance Orders**

When the Director finds that an industrial 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 Director may issue an order to the industrial user responsible for the discharge directing that the industrial user come into compliance within a time specified in the order. If the industrial user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. The Director may continue to require such additional self-monitoring for at least ninety (90) days after consistent compliance has been achieved, after which time the self-monitoring conditions in the wastewater discharge permit shall apply again. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

#### **12.07.510 Cease and Desist Orders**

When the Director finds that an industrial 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, or that the industrial user's past violations are likely to recur, the Director may issue an order to the industrial user directing it to cease and desist all such violations and directing the industrial user to:

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

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

#### **12.07.520 Administrative Fines**

- A. When the Director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may fine such user in an amount not to exceed \$1000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge**

limits, fines shall be assessed for each day during the period of violation.

- B. Assessments may be added to the user's next scheduled sewer service charge and the Director shall have such other collection remedies as may be available for other service charges and fees.
- C. Unpaid charges, fines, and penalties shall, after 30 (thirty) calendar days, be assessed an additional penalty of twelve percent (12%) of the unpaid balance and interest shall accrue thereafter as a rate of one percent (1%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- D. Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where the Director believes that a request has merit, the Director shall convene a hearing on the matter within fifteen (15) days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- E. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

#### **12.07.530 Emergency Suspensions**

The Director may immediately suspend an industrial user's wastewater discharge permit (after informal notice to the user) whenever such suspension is necessary 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, threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any industrial user notified of a suspension of its wastewater discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed,

unless the termination proceedings in Section 12.07.540 are initiated against the user.

- B. An industrial user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sections 12.07.490 and 12.07.540.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

#### **12.07.540 Suspension or Revocation of Permit**

In addition to the provisions in Section 12.07.250, any industrial user that violates the following conditions is subject to wastewater discharge permit revocation or suspension:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- E. Violation of the pretreatment standards in Sections 12.07.010 through 12.07.070.

The noncompliant user will be notified of the proposed revocation of its discharge permit and be offered an opportunity to show cause under Section 12.07.490 why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

#### **12.07.550 Injunctive Relief**

When the Director finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition the Municipal Court of the City of Troutdale through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the



wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

**12.07.560 Civil Penalties**

- A. A user which 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 shall be liable to the City for a civil penalty up to \$1000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.**
- B. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages or fines incurred by the City.**
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.**
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.**

**12.07.570 Criminal Prosecution**

- A. A user which has willfully or negligently violated any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1000 per violation, per day, or imprisonment for not more than 1 year, or both.**
- B. A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1000 and/or be subject to imprisonment for 1 year. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.**

- C. A user which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder; or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, wastewater discharge permit, or order issued hereunder, shall, upon conviction, be punished by a fine of not more than \$1000 per violation per day, or imprisonment for not more than one year, or both.
- D. In the event of a second conviction, a user shall be punished by a fine of not more than \$3000 per violation per day, or imprisonment for not more than three (3) years, or both.

**12.07.580 Remedies Non-exclusive**

The provisions in Section 12.07.460 through 12.07.590 are not exclusive remedies. They supplement all other remedies including those set out in Sections 12.01.080 to 12.01.100 of this Code. The City may take any, all, or any combination of these actions against a non-compliant user. Further, the City is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

**12.07.590 Water Supply Severance**

Whenever 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, water service to the user may be severed. Service will only recommence, at the user's expense, after the user has satisfactorily demonstrated its ability to comply.

**12.07.600 Pretreatment Charges and Fees**

The City may adopt reasonable fees for reimbursement of costs of development and implementation of the City's Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of sampling and analyzing a user's discharge, and reviewing monitoring reports submitted by any users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;

**D. Fees for filing appeals; and**

**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.**

**12.07.610 Severability**

**The invalidity of any section, subsection, paragraph, sentence, or phrase of this chapter which is incorporated herein, shall not affect the validity of the remaining portions thereof.**

## CHAPTER 12.08

### PUBLIC IMPROVEMENTS

#### SECTIONS:

- 12.08.010 Title
- 12.08.020 Intent and Scope
- 12.08.030 Initiation
- 12.08.040 Engineer's Report
- 12.08.050 Project Approval
- 12.08.060 Assessment
- 12.08.070 Objections and Remedies
- 12.08.080 Liens and Foreclosure Proceedings
- 12.08.090 Abandonment of Proceedings
- 12.08.100 Curative Provisions
- 12.08.110 Bancroft Bonding

#### 12.08.010 Title

This chapter of the Troutdale Municipal Code shall be entitled "Public Improvements".

#### 12.08.020 Intent and Scope

Pursuant to the statutes of the State of Oregon and the powers granted in the Charter of the City, the Council finds, declares, and affirms a need to provide for public improvements by special assessments. As used in this chapter, "public improvements by special assessments" means improvements of, on, over, or under property owned or controlled by the public by construction, reconstruction, remodeling, repair, or replacement when the improvement is determined by the Council to confer a special and peculiar benefit on properties, and these properties are charged through assessment all or a portion of the improvement cost.

#### 12.08.030 Initiation

- A. A public improvement funded by special assessment may be initiated by the Council or by affected property owners.
- B. Whenever the Council deems it expedient to construct, alter, repair, improve, widen or extend any street, ally, sidewalk, parking, curbing or any part thereof, or to construct, alter or install street lights, or to construct, improve or repair any sanitary or storm sewer or waterline or any part thereof, or to

acquire, establish, construct or reconstruct any off-street motor vehicle parking facility; or to construct, reconstruct or repair any flood control facility, or to construct, reconstruct, repair or equip a park, playground or neighborhood recreation facility, for which it is anticipated that special assessments will be levied, it shall by motion direct the Director to make an investigation of such project and to submit a written report, containing the information hereinafter specified.

- C. Whenever the owners of at least sixty percent of the affected property by area in the proposed district desire to form themselves into an improvement district, they may by written petition request the Council to direct the Director to submit a report as hereinafter specified. The petition must be filed with the recorder not less than seven days prior to any regular meeting of the Council. The Council, if satisfied that the petition is signed by the owners of at least sixty percent in area of the affected property within the proposed district, shall pass the requested motion unless by a vote of at least two-thirds of the councilors present, the Council deems it not in the public interest to comply with such petition. In determining the public interest, the Council may consider the City's Comprehensive Plan designation for the area to be served and the effect of the improvement on the goals of the community, the credit rating of the City, the level of petitioner investment in the improvement to serve the area, the credit worthiness and bonding capabilities of property in the proposed district, and any other facts deemed significant.

#### **12.08.040 Director's Report**

- A. The Director shall provide the Council with a report containing the following:
1. A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof;
  2. Estimated cost of the work to be done, including any legal, administrative and engineering costs attributable thereto; provided, however, that where the proposed project is to be carried out in cooperation with any other governmental agency, the Director may adopt the estimates of that agency;
  3. An analysis of the extent to which the proposed improvement benefits the entire City and a recommendation as to the method of determining the project costs that will be borne by the entire City;
  4. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefitted;

5. An estimate of the unit assessment cost of the improvement based upon the recommended method of assessment;
  6. The description and assessed value of each lot, parcel of land, or portion thereof, to be specially benefitted by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof;
  7. A statement of outstanding assessments against property to be assessed.
- B. After the Director's report has been received, the Council may by motion approve the report, modify the report and approve it as modified, require the Director to supply additional or different information for such improvement, or abandon the improvement.

#### **12.08.050 Project Approval**

- A. If the report is approved, the Council shall, by resolution, declare its intention to make such improvement, provide the manner and method of carrying out the improvement, and direct the recorder to give notice of the improvement by two publications one week apart in a newspaper of general circulation within the City, or by posting notice at the City Hall and at two places within the benefitted area, and by mailing copies of the notice to the owners to be assessed for the costs of such improvement. The notice shall be mailed, and posted, at least ten days prior to the public hearing on the proposed improvement. The notice shall contain the following:
1. A statement describing the proposed improvement, the area to be served and the district boundary, and the intention of the Council to make such an improvement;
  2. The place and times at which the Director's report on the proposed improvement may be examined;
  3. The date, time and place of the public hearing on the proposed improvement;
  4. The procedure for presenting objections and remonstrances;
  5. The estimated total cost of the project or the cost of that portion of the project to be financed by assessments to benefitted properties;
  6. The method of assessment and the estimated unit assessment rate.
- B. The Council shall hold a public hearing on the proposed improvement not less than 10 days from the time notice is deposited in the mail. At that

hearing, remonstrators and persons favoring the improvement are entitled to be heard. If, prior to or during the hearing, written objections are received from owners representing two-thirds of the area to be assessed, the improvement proceedings shall be abandoned and shall not be subject to a further hearing for at least six months. The council, after receiving objections from owners representing not more than two-thirds of the area to be assessed, may discontinue the proceedings or adopt or amend the Director's report and, as amended, adopt the same by resolution. Having by resolution created a local improvement district of the area to be benefitted by the proposed improvement, the Council shall direct, in the resolution or by subsequent action, the Director to prepare detailed plans, specifications and cost estimates for the proposed improvement.

- C. Following adoption of the project approval resolution, the City may advertise for bids, contract for construction of the improvement, and construct the improvement in accordance with law and the adopted plans and specifications. The City may also construct by contracting with another unit of Government. After satisfactory completion of the construction, the Director shall prepare a certificate of completion and final estimate showing the total cost.

#### **12.08.060 Assessment**

- A. Assessments are made following construction of the improvement. The determination shall be based upon actual construction costs and related costs, and the determination of proposed individual and specific property assessments shall be known as the "preliminary assessment roll."
- B. The Council shall establish the date, time and place at which it will meet to equalize and adjust the preliminary assessment roll, and shall direct the city recorder to mail and post or publish the notice of the proposed assessments and hearing for equalization of the assessments in the manner provided by Section 12.08.050A of this code. Notices shall be mailed, published or posed at least ten days prior to the hearing.
- C. The notice of preliminary assessment shall contain the following:
  - 1. A brief description of the improvement;
  - 2. The place and times at which the preliminary assessment roll can be examined;
  - 3. The date, time and place of the hearing on equalization of proposed assessments;
  - 4. The procedure for presenting objections and remonstrances;

5. The individual and specific assessment proposed for the property owned by the recipients of the mailed notices.
- D. The Council shall hear all objections and remonstrances at the designated meeting or, failing to hear all objections and remonstrances within a reasonable period of time, shall adjourn the hearing to a time and place designated prior to adjournment. After hearing all objections and remonstrances, the Council shall, at the hearing or at subsequent meetings, equalize and spread the proposed assessments.
  - E. The Council shall, by ordinance, levy and spread the assessments, such assessment to be then known as the "final assessment roll". Promptly after passage of the ordinance levying the final assessments, the recorder shall send by registered or certified mail a notice of final assessment to all owners of property being assessed.

The notice of final assessment shall contain the following:

1. A brief description of the improvement;
  2. The procedure for cash payment or for applying for Bancroft financing;
  3. The final assessment levied on property owned by the recipient.
- F. The Council, in adopting a method of assessment of the costs of the improvement, may:
    1. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived;
    2. Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefitted;
    3. Authorize payment by the City of all, or any part of, the cost of any such improvement, when in the opinion of the Council the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefitted property of the costs of the improvement.
  - G. In the event that an assessment shall be made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the Council may, by ordinance, declare such deficit and prepare a proposed deficit assessment. The Council shall set a time for a hearing of objections to



such deficit assessment and shall direct the city recorder to publish one notice thereof in a newspaper of general circulation in the City. After such hearing the Council shall make a just and equitable deficit assessment by ordinance, which shall be entered in the docket of City liens as provided by this chapter, and notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with applicable sections of this chapter.

- H. To the extent consistent with the provisions of this chapter, ORS 223.317 to ORS 223.485 on assessment, reassessment, and apportionment of assessment applies to assessments by the City.
- I. Nothing contained in this chapter shall preclude the Council from using any other available means of financing improvements, including federal or state grants in aid, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the Council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement.

#### **12.08.070 Objections and Remedies**

Subject to the curative provisions of this chapter, and the rights of the City to reassess as provided in this chapter, proceedings for writs of review and suits in equity may be filed not earlier than thirty days nor later than sixty days after the filing of written objections as provided in this chapter. A property owner who has filed written objections with the city recorder prior to the public hearing may have the right to apply for a writ of review based upon the City Council exercising its functions erroneously or arbitrarily or exceeding its jurisdiction to the injury of some substantial right of such owner if the facts supporting such claim have been specifically set forth in the written objections. A property owner who has filed written objections with the city recorder prior to the public hearing may commence a suit for equitable relief based upon a total lack of jurisdiction on the part of the City; and if notice of the improvement shall not have been sent to the owner and if the owner did not have actual knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the city recorder within thirty days after receiving notice or knowledge of the improvement. No provision of this section shall be construed so as to lengthen any period of redemption or so as to affect the running of any statute of limitation. Any proceeding on a writ of review or suit in equity shall be abated if proceedings are commenced and diligently pursued by the City Council to remedy or cure the alleged errors or defects.

#### **12.080.080 Liens and Foreclosure Proceedings**

After passage of the assessment ordinance by the City Council, the city recorder shall enter in the docket of city liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land or portions thereof, which have been assessed for such improvements. All assessment liens of the City shall be superior and prior to all other liens and encumbrances on property insofar as the laws of the state permit. Interest shall be charged on all amounts not paid within thirty days from the date of the assessment ordinance. The interest rate charged shall be equal to the true interest rate of the bonds sold to finance the improvements plus one percent to pay a proportionate part of the cost of administering the bond assessment program. Upon expiration of thirty days from the date of such assessment ordinance, the City may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general laws of the state; provided, however, that the City may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state to redeem such property.

#### **12.08.090 Abandonment of Proceedings**

The Council shall have full power and authority to abandon and rescind proceedings for improvements made under this chapter at any time prior to the final completion of such improvements.

#### **12.08.100 Curative Provisions**

- A. No improvement assessment shall be rendered invalid by reason of a failure of the Director's report to contain all of the information required by this chapter, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by this chapter, or by reason of any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in any of the proceedings or steps specified in this chapter, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.
- B. Whenever any assessment, deficit or reassessment for any improvement which has been made by the City has been, or shall be,

**set aside, annulled, declared or rendered void, or its enforcement restrained by any court of the state, or any federal court having jurisdiction thereof, or when the Council shall be in doubt as to the validity of such assessment, deficit assessment or reassessment, or any part thereof, then the Council may make a reassessment in the manner provided by the laws of the state.**

**12.08.110 Bancroft Bonding**

**The provisions of Oregon Revised Statutes Sections 223.205 through 223.295 known as Bancroft Bonding Act, are adopted and made a part of this section by reference.**

# CHAPTER 12.09

## EROSION CONTROL

### SECTIONS:

- 12.09.010 Title**
- 12.09.020 Intent and Scope**
- 12.09.030 Policy**

- 12.09.010 Title**

This chapter of the Troutdale Municipal Code shall be entitled "Erosion Control".

- 12.09.020 Intent and Scope**

Pursuant to the statutes of the State of Oregon and the powers granted in the Charter of the City, the Council finds, declares, and affirms a need to prevent erosion onto public ways so that the health, welfare, and safety of the public may be maintained.

- 12.09.030 Policy**

It is unlawful for the owner of any real property within the City of Troutdale to cause or permit dirt, mud, sand, clay, stone, gravel, bark mulch, or similar material to be moved by the action of water from said property, or to be otherwise placed, into or upon the public right-of-way, which shall include public streets, public sidewalks, and public storm or sanitary sewer systems.

# CHAPTER 12.10

## SOLID WASTE

### SECTIONS:

12.10.010	Title
12.10.020	Intent and Scope
12.10.030	Franchise Term
12.10.040	Franchise Fee
12.10.050	Franchise Agreement
12.10.060	Solid Waste Rates
12.10.070	Administration

**12.10.010 Title**

**This chapter of the Troutdale Municipal Code shall be entitled "Solid Waste".**

**12.10.020 Intent and Scope**

- A. Pursuant to the statutes of the State of Oregon and the powers granted in the Charter of the City, the Council declares its intent to insure the safe accumulation, storage, collection, transportation, and disposal or recovery of solid waste in the City of Troutdale.**
- B. The Council hereby finds, determines, and declares the necessity of providing for the City's solid waste needs by the establishment of an exclusive franchise for solid waste collection and transportation services for compensation.**
- C. It is unlawful for any person to provide or offer to provide services for the collection and/or transportation of solid waste for compensation without obtaining a franchise from the City, except for the following wastes:**
  - 1. Sewage sludge, septic tank pumpings, cesspool pumpings, and the like.**
  - 2. Motor vehicles and motor vehicle parts.**
  - 3. Construction and demolition debris.**
  - 4. Redeemable beverage containers.**

5. Wastes that may be repairable or cleanable and are collected by private charitable organizations regularly engaged in such activity.
6. Wastes produced as an incidental part of other business activity such as janitorial services, landscaping services, and the like.

**12.10.030 Franchise Term**

The exclusive franchise agreement provided for by this chapter shall be for a period of five years, with the next term to begin January 1, 1995.

**12.10.040 Franchise Fee**

As compensation for the franchise granted to the franchisee and for the use of City streets, the franchisee shall pay to the City a fee equal to four percent of gross cash receipts resulting from the solid waste services conducted under the franchise.

**12.10.050 Franchise Agreement**

The City and the franchisee shall enter into a written franchise agreement describing the duties and responsibilities of each party. This Agreement shall be authorized by a Resolution of the Council and may, from time to time, be changed by Resolution of the Council.

**12.10.060 Solid Waste Rates**

- A. The Council, by Resolution, shall establish rates which the franchisee may charge for solid waste services and may, from time to time, by Resolution change those rates.
- B. When a new or unusual solid waste service not included in the rate structure approved by the Council is requested, the franchisee may establish a reasonable cost for providing such service. However, if such service is provided for more than one month, the franchisee shall notify the Public Works Director in writing of the service provided, the rate established, and the basis for the rate.

**12.10.070 Administration**

The Public Works Director shall be responsible for the administration of this chapter.

# CHAPTER 12.11

## UNDERGROUNDING UTILITIES

### SECTIONS:

- 12.11.010 Title
- 12.11.020 Applicability
- 12.11.030 Policy

#### 12.11.010 Title

This chapter of the Troutdale Municipal Code shall be entitled "Undergrounding Utilities".

#### 12.11.020 Applicability

This chapter shall apply to all utilities under franchise agreement with the City.

#### 12.11.030 Policy

- A. All utilities are hereby required to install underground utility service lines to serve all newly constructed facilities. The costs for undergrounding in excess of any costs paid for by the utility company shall be paid by the developer, builder, or other entity accomplishing the construction.
- B. All utilities are hereby required to install underground utility service lines whenever there is a major reconstruction, renovation, expansion, or modification of any facility unless it is technically or economically infeasible to do so. The Director of Community Development shall determine whether or not such undergrounding is technically or economically feasible. The costs for undergrounding in excess of any costs paid by the utility company shall be paid by the owner(s) accomplishing the reconstruction.
- C. All utilities are hereby required to install underground utility lines whenever there is a major reconstruction of a public street unless it is technically or economically infeasible to do so. The Director of Public Works shall determine whether or not such undergrounding is technically or economically feasible. The costs for undergrounding in

**excess of any costs paid by the utility company shall be paid by the City, either directly or by assessing the benefitting property owners, for undergrounding within the public right-of-way, and by the affected property owner for undergrounding on private property.**