

TITLE V: PUBLIC WORKS

Chapter

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CHAPTER 50: WATER SYSTEM; RULES AND REGULATIONS

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' 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. A person, corporation, association or agency applying for water service.

BASE CHARGE. A periodic charge for water service, charged in addition to the consumption charge.

CITY. The City of Millersburg, a municipal corporation of the State of Oregon.

COMMERCIAL SERVICES. Provision of water to mercantile establishments, professional offices, public or governmental buildings, hospitals, retirement homes, churches, motels, manufacturing and processing uses not qualifying as seasonal food processing or industrial service, and to multifamily dwellings and apartment houses, except those in which each unit is metered separately. Service to any of the above listed ***COMMERCIAL SERVICES*** in combination with any residential use shall also be considered as ***COMMERCIAL SERVICE***.

CONSUMPTION CHARGE. A charge placed on every hundred cubic feet (HCF) of water delivered.

COUNCIL. The City Council of the City of Millersburg.

CROSSCONNECTION. Any physical arrangement whereby the public water supply is connected directly or indirectly with any non-potable or unapproved water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains, or may contain, contaminated water, liquid, gases, sewage or other waste of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow.

CUSTOMER. A person, corporation, association or agency receiving water service.

DOMESTIC SERVICE. The provision of a metered service to a single living unit for purposes of normal domestic consumption, including such uses as sprinkling lawns, gardens and shrubbery; the watering of livestock; the washing of vehicles; and other similar or customary uses.

DROPIN METER SERVICE. A water service that may be provided by installing a meter in an existing meter box or vault at a service location where all of the service connection piping and appurtenances except the meter have previously been installed.

FRONTAGE. The total length for which a parcel abuts one or more than one public rightofway, plus that length for which a public water line is located on (or is proposed to be located on) a parcel.

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HIGH ELEVATION SERVICE AREAS. Those areas served by the city's water utility that require secondary pumping to provide adequate service.

INDUSTRIAL SERVICE. The provision of water to a customer through a four-inch or larger meter for use in manufacturing or processing activities located on land designated for industrial use in the Albany or Millersburg Comprehensive Plans.

LOW AND MEDIUM DENSITY RESIDENTIAL DEVELOPMENT. Residential development on land designated as R1 Low Density Residential District or R2 Limited Multiple-Family Residential District by the Albany Development Code (Title 20, Albany Municipal Code).

MAIN EXTENSIONS. Extension of transmission or distribution pipe lines, exclusive of service connections, beyond existing facilities.

MAINS. Transmission or distribution pipelines located in streets, highways and public and private right-of-way which supply water for general public usage.

MAXIMUM FLOW. The flow through each meter size as established by the American Water Works Association as listed in AWWA Standards, 'C700, and shown below.

<i>Meter Size; Inches</i>	<i>Maximum Flow in Gallons per Minute</i>
3/4	30
1	50
1-1/2	100
2	160
3	320
4	500
6	1,000
8	1,600
10	2,300

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MINIMUM CHARGE. The dollar amount charged for water service when the sum of the base charge and the consumption charge for any period is less than the adopted minimum charge for the applicable class of service and meter size.

MULTIPLEBLOCKS. Where more than one service unit exists per water meter.

MUNICIPAL OR PUBLIC USE. The provision of water to governmental or public entities.

NONDROPIN METER SERVICE. A water service which requires installation of any piping or appurtenances before a meter can be provided and connected.

PREMISES. The property and/or unit(s) to which water service is being requested or provided.

RATE SCHEDULES. Those rates, charges, rentals and regulations as they are set forth and amended from time to time by the City Council.

REGULAR WORKING HOURS. The hours between 8:00 a.m. and 4:00 p.m., Monday through Friday, except city holidays.

SEASONAL FOOD PROCESSING SERVICE. The provision of water to a customer through a twoinch or larger meter for use in primarily summer and fall dryseason food processing activities located on land designated for industrial use in the Albany or Millersburg Comprehensive Plans.

SERVICE CONNECTION. The pipes, valves, meter boxes and appurtenances necessary to supply water from mains through the meter, but this does not include the piping from the meters to the point of service.

SERVICE LINE. All piping and appurtenances from the meter to the point of service. The **SERVICE LINE** is privately owned and maintained.

SERVICE UNIT. Each selfcontained living unit or independent business activity that is served from a single meter.

TEMPORARY SERVICE. Service that will not be of a permanent nature such as circuses, fairs, construction and the like.

UTILITY. The City of Millersburg, a municipal corporation of the State of Oregon.

WATER SYSTEM FACILITY PLAN. The current version of the master plan for development of the water system as amended or updated.
(Ord. 68, passed 2-19-1991)

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' 50.02 SERVICE AREA.

The area in which water service may be furnished at the utility's option, including all that territory within the corporate limits of the city and certain areas adjacent or in reasonable proximity thereto. Except as provided by service contract, the service area shall be limited to the city limits. (Ord. 68, passed 2-19-1991)

' 50.03 DESCRIPTION OF SERVICE.

(A) *Supply*. The utility will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to its customers and to avoid any interruption in the delivery of said service.

(B) *Quality*. The utility shall exercise reasonable diligence to supply safe and potable water at all times.

(C) *Classes of service*. All service installed by the utility will be classified as follows.

(1) *Private fire protection (inside city limits)*. Applies to standpipes, connections for automatic sprinkler systems and fire hydrant service for private fire protection.

(2) *Private fire protection (outside city limits)*. Applies to standpipes, connections for automatic sprinkler systems and fire hydrant service for private fire protection.

(3) *Single-family residential (inside city limits)*. Applies to all singlefamily residences and to individual apartments or flats where service is furnished through a separate meter for each such individual apartment.

(4) *Singlefamily residential (outside city limits)*. Applies to all singlefamily residences and to individual apartments or flats where service is furnished through a separate meter for each such individual apartment.

(5) *Multi-family residential and commercial (inside city limits)*. Applies to all commercial customers, including industrial seasonal food processing and mercantile establishments, stores, offices, public buildings not otherwise classified, public and private hospitals, schools, churches, mercantile and industrial establishments combined with residences, and apartment houses, except those in which service to each apartment is metered separately.

(6) *Multifamily residential and commercial (outside city limits)*. Applies to all commercial customers, including industrial seasonal food-processing and mercantile establishments, stores, offices, public buildings not otherwise classified, public and private hospitals, schools, churches, mercantile and industrial establishments combined with residences, and apartment houses, except those in which service to each apartment is metered separately.

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(7) *Special contracted services.* Applies to all residential, commercial and industrial customers who have need for special services and for which rates will be negotiated.
(Ord. 68, passed 2-19-1991)

' 50.04 APPLICATION FOR SERVICE.

(A) *Application.* Each applicant for water service may be required to sign a form provided by the utility setting forth:

- (1) Date of application;
- (2) Location of property to be served;
- (3) Date for which service is being requested;
- (4) Class of service (commercial, residential and the like);
- (5) The address to which bills are to be delivered;
- (6) Whether the applicant is an owner or tenant of the property;
- (7) Owner of property, address and the like;
- (8) Credit information as pertinent to the customer account;

(9) Where required, a waiver of remonstrance agreement form shall be attached to the application for water service in conformance with ' 50.10(A)(4);

(10) An agreement to be jointly and severally obligated, along with all water customers receiving service at the location noted above, to abide by all applicable ordinances and regulations pertaining to water service, and to pay all costs, damages and fees which may be incurred as a result of water service provided to this location until such time as the customer requests the termination of service; and

(11) Such other information as the utility may reasonably request.

(B) *Deposits.*

(1) *Turnons.* Deposits shall be required with each application of service of each residential user and deposits equal to an estimated three months= usage shall be required of each commercial and industrial user within 72 hours of application of service, except under the following circumstances:

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(a) If the applicant presents satisfactory evidence of ownership of the property where service is to be provided unless other information exists that indicate that the applicant is not an acceptable credit risk; and/or

(b) Deposits may be transferred from an existing account to a new account, provided the existing account demonstrates a satisfactory credit record.

(2) *Existing users.* All existing users, if service is discontinued for nonpayment, shall be required to comply with the deposit requirements of division (B)(1) above before service will be restored.

(3) *Refund or application of deposits.* Deposits will be refunded to the applicant or applied directly to the customer=s account as follows:

(a) Refund on termination of service, less any amount then due and payable; or

(b) Refund on the fifteenth of the month following 24 months= continuous service, except under the following circumstance whereby the utility shall apply the deposit to the customer=s account.

1. *Application of deposit.* The utility may on the fifteenth of the month following 24 months of continuous service apply the deposit directly to the customer=s account if the account is found to be past due, or has been past due three times during a 12month period, or if the account has been disconnected for nonpayment during a 12month period.

2. *Interest on deposits.* Interest will be paid on any deposit at a rate determined by Council resolution.

(C) *Changes in customer=s equipment.* A customer making material changes in the size, character or extent of equipment or operation utilizing water service and, if such change results in the consumption of larger or smaller amounts of water, said customer shall immediately give the utility written notice of the change. Changes shall be made in accordance with ' 50.10(E) and (F).

(D) *Special contracts.* Contracts, other than applications, may be required prior to service where special circumstances warrant special consideration.

(E) *New account fees.* A charge will be collected for the activation of any account.
(Ord. 68, passed 2-19-1991)

' 50.05 **BILLS AND PAYMENT.**

(A) *Rendering of bills.*

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(1) *Meter readings.* Meters will be read at regular intervals for the preparation of periodic bills and as required for the preparation of opening, closing and special bills.

(2) *Estimated meter readings.* Meter readings will be estimated based upon the averaging of the customer=s consumption records in the event that it is impossible or impractical to read a meter for the preparation of a water bill. Failure to read the water meter does not relieve the customer=s obligation to pay for actual or estimated water use.

(3) *Bills for water service.* Bills will be rendered as established by Council resolution.

(4) *New accounts and closing accounts.* Accounts will have the periodic base and minimum charges prorated through the day that service is terminated (for closing accounts) or on the day started (for new accounts).

(B) *Payment of bills.*

(1) All bills are due and payable on presentation. Payment may be made at the utility=s office.

(2) When bills are past due, the utility will follow the procedure as outlined in ' 50.06.

(C) *Billings of separate meters not combined.* Each meter on a customer=s premises will not be combined.

(D) *Individual and joint service.* Two or more parties who join to make a single application of service shall be jointly and individually liable for all charges incurred on the account. Joint applications of service will only be sent a single bill.

(Ord. 68, passed 2-19-1991)

' 50.06 PAST DUE ACCOUNTS.

(A) A water account is past due if it is not paid within 30 days following the date of billing of said account.

(B) A second notice (past due notice) will be mailed to all unpaid accounts on or about 30 days following the original billing date; said notice will state the amount past due and request that payment or arrangements for payment be made within ten days of the past due notice date. This past due notice will be sent to the customer=s mailing address.

(C) A written warning notice to the customer shall be left at the premises on or about the forty-sixth day following the original billing date stating that payment must be received in the city business

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office within 72 hours (three days) or water service will be terminated. In the case of a multi-family unit serviced by a single meter, the written warning notice will be left at each dwelling unit whether or not occupied.

(D) In all cases of past due turnoffs, a notice shall be left on the door or mailed to the customer on or about the forty-ninth day following the original billing date stating that water has been turned off and will remain turned off until all past due amounts and penalty charges are paid. Turnoff notices for multifamily units serviced by a single meter will be left at each dwelling unit whether or not occupied. A service charge established by Council resolution will be charged and collected for each past due or disconnection notice sent or delivered to the customer=s premises.

(E) In all instances where water has been turned off because of nonpayment of a past due account, a service charge established by Council resolution will be collected in addition to the past due amount prior to restoring any service during regular working hours. An additional fee will be collected for restoration of service after regular working hours.

(F) The City Manager or the City Manager=s agent, in the case of extreme hardship or by prior arrangement with the user, shall have the discretion of renewing or not discontinuing service to a past due account upon acceptance of a valid plan for the payment of all past due, current and future charges.

(G) Notice shall be given with the past due notice that the customer shall have the opportunity, if he or she does not agree with the billing, to have a hearing on his or her account. The hearing shall be held by a Hearings Officer appointed by the Finance Director, and the Hearings Officer=s decision shall be binding. Written notice to the utility by the customer of a request for a hearing must be given prior to the water service being disconnected; otherwise, the customer must pay all past due accounts, plus any restoration charges prior to service being restored. If the hearing is held and the Hearings Officer finds in favor of the customer, any or all of the appropriate charges may be adjusted or returned to the customer based upon the findings of the Hearings Officer.

(H) If any unpaid account balance remains after the initial due date of the closing bill, the utility may:

- (1) Apply deposit;
- (2) Transfer any remaining balance to the customer=s new water account; and/or
- (3) Initiate other collection actions against the customer.

(I) In cases where termination of service for a past due account may cause severe hardship or loss of life, the utility may initiate other collection actions against its customers. This action may include the use of Small Claims Court and/or District Court, if appropriate.

(Ord. 68, passed 2-19-1991)

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(A) Notices required to be given by the utility to the customer will normally be given in writing and may be delivered to the customer personally or by mail to the address for which service is rendered.

(B) Notice from the customer to the utility shall be given by the customer or authorized representatives orally or in writing at the utility=s office.
(Ord. 68, passed 2-19-1991)

' 50.08 DISCONTINUANCE OF SERVICE.*(A) Nonpayment of bills.*

(1) A customer=s water service may be discontinued if the water bill is not paid in accordance with the procedures as listed in ' 50.06.

(2) A customer=s water service may be discontinued if the deposit is not paid within 72 hours of application of service as listed in ' 50.06.

(B) Unsafe apparatus.

(1) The utility may refuse to furnish water and may discontinue service to any premises where apparatus, appliances or equipment using water is dangerous, unsafe or is being used in violation of laws, ordinances or legal regulations.

(2) The utility does not assume liability for inspecting apparatus on the customer=s property. The utility does reserve the right of inspection, however, if there is reason to believe that unsafe or illegal apparatus is in use.

(C) Service detrimental to others. The utility may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

(D) Fraud and abuse. The utility shall have the right to refuse or to discontinue water service to any premises to protect itself against fraud or abuse.

(E) Noncompliance. The utility may, unless otherwise provided, discontinue water service to a customer for noncompliance with any of these water system rules and regulations any time after giving written notice to the customer of the utility=s intention to discontinue service. If such noncompliance affects matters of health or safety or other conditions that warrant such action, the utility may

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discontinue water service immediately.

(F) *Customer request for service discontinuance.*

(1) Customers may have their water service discontinued by notifying the utility during normal working hours and providing at least 24 hours= advance notice (excluding weekends) of the desire weekday date of discontinuance. The customer will be required to pay all water charges through the date of such discontinuance.

(2) If notice is not given to the utility, the customer will be required to pay for the water service through the date the utility has learned that the customer has vacated the premises or otherwise has discontinued service.

(G) *Restoration; reconnection charge.* The utility shall charge, as provided by Council resolution, for restoring water service which has been discontinued because of noncompliance with these rules. Water service which has been discontinued because of nonpayment or noncompliance with these rules shall not be restored in the name of any relative, friend, family member nor in the same customer name when the head of the household has not changed or when the customer of record at that service location would continue to receive water service unless all charges have been paid.

(H) *Penalty for turning on water service without authority.* Should the water be turned on by any water customer or other person without authority from the utility, the water may then be shut off at the main or the meter may be removed. The charge for shutting water off at the main shall be the actual cost plus 15% overhead. The charge for removing and/or reinstalling the meter shall be established by Council resolution. All such charges shall be chargeable to the customer and water shall not again be furnished to the customer until said charges are paid.

(I) *Tampering.* Water services lockedoff for nonpayment or noncompliance will be subject to tampering fees as specified by Council resolution should any customer or person without authority from the utility remove or destroy said locking devises in order to selfrestore water service. Tampering charges and/or costs shall be chargeable to the customer.

(Ord. 68, passed 2-19-1991)

' 50.09 METER ERROR.

(A) *Meter test.*

(1) *Testing.* Prior to installation, each meter will be tested and no meter found to register more than 2% fast or slow under conditions of normal operation will be placed in service.

(2) *On customer request.*

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(a) A customer may request the utility to test the meter serving the customer=s premise.

(b) The utility may require the customer to deposit an amount to cover the reasonable cost of the test as established by Council resolution.

(c) This deposit will be returned if the meter is found to register more than 2% fast. This deposit will be forfeited if the meter is found to be accurate or slow.

(d) A written report giving the results of the test shall be available to the customer within ten days after completion of the test.

(3) *Utility-initiated meter testing.*

(a) The utility may temporarily interrupt water service in order to test existing meters or make repairs.

(b) In lieu of division (A)(3)(a) immediately above, the utility may, at customer=s expense, install bypass piping in order to maintain water service during meter testing or repairs.

(B) *Adjustment of bills for meter error.*

(1) *Fast meters.* When, upon test, a meter is found to be registering more than 2% fast under conditions of normal operation, the utility may adjust the account or refund to the customer the full amount of the overcharge based upon averaging on corrected meter readings for a period not to exceed a threeyear period that the meter was in error and in use.

(2) *Slow meters.*

(a) When, upon test, a meter used for domestic or residential service is found to be registering more than 25% slow, the utility may bill the customer for the amount of the undercharge, based upon averaging corrected meter readings for a period not exceeding one year that the meter was in use.

(b) When, upon test, a meter used for other than domestic or residential service is found to be registering more than 5% slow, the utility may bill the customer for the amount of the undercharge based upon correct meter readings for a period not exceeding two billing periods that the meter was in use.

(3) *Non-registering meters.* The utility may bill the customer for water consumed while the meter was not registering. The bill will be calculated using an estimate of consumption based either upon the customer=s prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions.

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(4) *Adjustments on account of underground leaks.* Where it can be demonstrated that an existing underground leak between the meter and the building has been repaired, the utility may allow an adjustment of up to 50% of the estimated excess consumption due to leakage, for no more than the last billing period. Adjustments shall not be permitted due to leaking plumbing fixtures or the apparent continued waste of water due to a negligent failure to repair.

(Ord. 68, passed 2-19-1991)

' 50.10 NEW SERVICE CONNECTIONS AND METERS.

(A) The utility may furnish and install a service of such size and at such location as the applicant requests, provided that:

(1) Such requests are reasonable;

(2) The location is such that the utility has in place a distribution main of sufficient size adequate to provide service to this location without detriment to existing customers. In all cases, the final location of the proposed meter shall be subject to approval;

(3) Such a distribution main is adjacent to and extends along the full length of the property frontage along the rightofway;

(4) Where a parcel has more than 150 feet of frontage along a rightofway and the parcel is being developed in phases; and the water line is not currently needed for the full length of the parcel to facilitate service to other properties, to provide fire protection, or to meet other utility system needs, the requirement of division (A)(3) above may be reduced, where approved, by delaying the requirement for a water main adjacent to that portion of the parcel which remains as an undeveloped portion of a future phase. Such delay, if authorized, is contingent upon the signing of a waiver of remonstrance agreement which commits the parcel to participate in a future local improvement (assessment) district for the extension of water main(s);

(5) Where the property abuts more than one street or rightofway, water mains shall be extended for the full length of the property frontages along the rightofways for all frontages, unless it is determined that the extensions on the frontages from which service is not being taken is not currently needed for water pressure, system capacity or fire protection, nor to facilitate service to other properties and that said water mains may be completed at a future time. In that case, where authorized, the owners of the property to be serviced shall sign a waiver of remonstrance agreement which commits the parcel to participate in a future local improvement (assessment) district for the extension of this water main. This agreement may be incorporated into the water service application form;

(6) The utility shall be the sole judge in determining the meaning and provisions of, and conformance with, any conditions for providing service to a property;

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(7) Service taps on 16inch and larger mains shall include an accessible gate or butterfly valve in a valve box at the connection of the main and the service line. Direct taps on 16inch and larger mains shall be minimized; and

(8) The applicant shall provide and maintain an accessible, un-flooded vault of a size as specified for all meters larger than two inches.

(B) A water connection fee, an installation fee and a deposit shall be paid by the party requesting the installation of the service at the time said request is made. The water fees and deposits are established by Council resolution.

(1) *Refund not permitted.* If properties change from one use to a lower use requiring a lower connection fee, no refund for connection fees shall be made.

(2) *Payment of fees.* Before a building permit may be issued, the applicant shall pay to the utility the necessary connection and installation fees herein provided for or shall make the necessary arrangements to pay such fees as provided in division (B)(2)(a) below, together with such other fees as may be provided by ordinances or resolutions now in effect or hereinafter adopted.

(a) *Bancroft bonding of water connection fees.* Connection fees to be paid under the provisions of this code may be subject to payment in installments under the provisions of the Bancroft Bonding Act of the state upon approval by the City Council.

(b) *Water connection fee to run with land.* A connection fee paid hereunder shall apply to the particular lot or tract for which it is issued.

(3) *Other.* Any change of use which requires additional connections to the water system shall cause an additional connections to the water system shall cause an additional fee to be paid for each additional connection. The owner of the property shall be given credit only for those connections theretofore paid involving the same parcel of property. Where a structure which is served by water from the utility is destroyed by fire, flood, wind or act of God, no connection fee shall be charged for a replacement of the structure, provided the use thereof is not intensified.

(C) Included in the charges are all meters and necessary appurtenances for installation and continued operation of the service which the utility will supply.

(D) All meters shall be sealed by the utility at the time of installation, and no seal shall be altered or broken, except by an authorized agent of the utility.

(E) Change in location or reduction in meter size or service:

(1) Change in the location of service at the convenience or request of the customer shall be

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done at the customer=s expense; and

(2) Reduction in meter size requested by the customer shall be only if the request is reasonable and approved. Charges for these reductions are established by Council resolution.

(F) Increases in the size of the meter and service: if a change in the size of a meter and service is requested and approved, the installation will be accomplished at a charge based upon time and material costs plus 15% overhead. Where the meter size increases, a connection charge shall also be charged, but a credit, equal to current connection charge for the existing meter, shall be given toward the connection charge for the new meter.

(G) Ownership: the service connection, whether located on public or private property, is the property of the utility, and the utility reserves the right to repair, replace and maintain it, as well as to remove it upon discontinuance of service.

(H) Charges for service pipes connected without permit: if the premises are connected without the application prescribed in this section, such premises shall be immediately disconnected. Before a new connection is made, the applicant shall pay double the rate for the estimated quantity of water consumed prior to the effective date of metered service, plus a tampering fee as authorized by Council resolution. A new connection shall only be made upon, compliance with provisions of this code.

(I) Abandoned and nonrevenueproducing services: where a service connection to any premises has been abandoned or not used for a period of one year or longer, the utility may remove such service or meter. If the service or meter has been removed, service shall be restored only upon the owner making application and paying all costs associated with the reinstallation.

(J) Leaking or unused services: where there is a leak between the main and the meter, the utility shall make all repairs. When a service connection is damaged or destroyed by contractors or others, or where service connections are destroyed by electrolysis, the person, contractor or company responsible for such damage or destruction shall pay the utility for the cost of repairing or replacing such connections on the basis of the direct cost to the utility in labor and in materials, plus 15% overhead. Where a customer service line is leaking or has a history of repair problems which has resulted in leak adjustments, service to this customer shall not be activated until the customer can demonstrate the problem has been eliminated. Action necessary may be in the form of partial or total replacement of the customer=s plumbing and/or deposit of sufficient funds to cover estimated consumption. Customers with serious water leaks which will cause extreme financial hardship or detrimental service to other customers may have their water service terminated after 24 hours= notice. In cases of leakage causing severe detriment to other customers= service, water service may be terminated immediately.

(Ord. 68, passed 2-19-1991)

' 50.11 MULTIPLEBLOCK DWELLINGS.

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(A) Number of services to a separate unit: separate service units under single or common control or management will each be supplied through individual service connections unless otherwise authorized.

(B) For division of multipleblock dwellings not under common management, new service must be supplied to each unit.

(C) Service to multipleblock dwellings: separate houses, buildings, living or business quarters on the same premises or on adjoining premises, under a single control or management, may be served as authorized by either of the following methods:

(1) Through separate service connections to each or any unit if that pipeline system for each service is independent of the others and is not interconnected;

(2) Through a single service connection to each physically separated structure; or

(3) The liability for payment of charges for all water furnished to combined units, supplied through a single service connection of approved capacity, is that of the owner of the property. (Ord. 68, passed 2-19-1991)

' 50.12 MAIN EXTENSIONS.

(A) A main extension and/or special facilities shall be required to service all property which cannot obtain service as outlined in ' 50.10.

(B) The following rules shall apply to all extensions.

(1) The minimum size of the water main to be installed shall be six inches in diameter where a larger size is not needed to provide required fire flows, provide adequate system or customer flows and/or pressures.

(2) All water mains shall be public, installed in public rightsofway or public utility easements. The normal routing for the water main extension shall be in a dedicated street rightofway.

(3) The Public Works Director or Director=s agent shall design or approve extensions to the water system and shall have the sole right to determine size, location and type of facility to be constructed. All engineering shall be based on both domestic and fire protection design criteria. Those not designed by the Public Works Director or Director=s agent shall be designed by a registered engineer licensed in the state to design these facilities. All water main extensions shall be designed and constructed to meet the approval of the utility and the State Health Division. All extensions shall be consistent with the Water System Facility Plan.

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(4) The installation of all water facilities shall be by city forces or through a bonded contractor.

(5) All main extensions shall extend to the extreme property line of the development or lot. If the property has excess frontage on the rightofway and only partial development is to occur, then some consideration may be given to shortening the extension, provided sufficient assurance is given to ensure the completion of the extension at the time other development occurs. Where mains are being extended into the interior of a property or development, the mains shall be extended through to the boundaries of the property at all such points as shall be determined as needed, unless it is determined that the extensions are not needed to provide current or future looping of water mains or to provide current or future service to adjacent properties.

(6) The utility may pay for the additional cost of materials due to the oversizing of main extensions over eight inches in low and mediumdensity residential development, provided the petitioner=s individual service and fire protection needs do not dictate a larger line size. The utility may pay for the additional cost of materials due to the oversizing of main extensions over 12 inches in diameter for all other land uses, provided the petitioner=s individual service and fire protection needs do not dictate a larger line size. The oversize payment shall be limited to pipe and fitting material cost differences only.

(7) The utility may, at its option, supply materials for main extension projects. All material supplied by contractors must meet strict material specifications set forth by the utility. Failure to do so will result in nonacceptance of the projects. All materials supplied by the utility to any main extension project shall be billed at the utility=s replacement cost, plus a 15% overhead and handling charge.

(8) All main extensions and system design shall include fire hydrants and other devices at intervals consistent with the recommendations of the water system, facility plan, except as modified by the Fire Marshal. The fire hydrants shall be considered as incidental to the water mains. Where local improvement districts are established, the cost of fire hydrants shall be considered as part of the total assessable cost. Where mains are extended under permit, the cost of fire hydrants shall be the responsibility of the permittee. Where fire hydrants are installed on an existing water main to provide fire protection for a proposed development, the installed cost of the fire hydrants shall be the responsibility of the developer.

(9) Under conditions where hydrants are required within the property to be served, the main must be extended to the hydrant locations. Easements for these internal lines and hydrants must be provided by the developer.

(10) In large projects, or projects where extensive engineering or design is required prior to preliminary estimates or design being obtained, a cash advance may be required to cover the cost of such engineering or design. All engineering drawings and documents and other work completed by the utility will be understood to be the property of the utility.

(11) In areas of service above the main system service elevation, special facilities will

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normally be required in addition to main extensions to provide service (' 50.13).

(12) There are two basic means of financing main extensions, as outlined below:

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

(b) *Local improvement districts.* Local improvement districts may be formed and bonds sold to fund main extensions and special facility projects.

(13) Subject to available funds, refunds may be made to the developer in areas where the developer is required to extend mains beyond the property frontage. If developers are to install the project themselves or through their own contractor and supply materials, they must secure three competitive bids for the total construction cost of the extension. These bids must be turned into the utility for review and approval of utility participation, prior to beginning work. Where approved for funding, an invoice shall be submitted to the utility after construction is completed for its portion of the project cost. The cost to the utility shall not exceed the cost determined using the lowest bid.

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

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

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

(Ord. 68, passed 2-19-1991)

' 50.13 SPECIAL FACILITIES.

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(A) In any high-elevation service area, special facilities in the form of booster pumps, storage tanks, control equipment and the like, may be required. The utility shall approve all special facilities and shall have the sole right to determine the size, location and type of facility to be constructed.

(B) The party or parties requesting the service to the high-elevation service area shall pay the full cost of said facilities, including materials, installation, engineering, surveying and the like, as may be required.

(Ord. 68, passed 2-19-1991)

' 50.14 SERVICE OUTSIDE CITY LIMITS.

(A) *Application for service.* Each application for service outside the city may be acted upon on its merits without regard to any other past or present application or service. If service is approved, the cost of service connection fees plus applicable rates will be those charges and regulations set forth and approved by the Council and the same as they may be amended from time to time, unless otherwise set forth in a service contract.

(1) *Service limitation.* The utility shall not provide water service to any property outside the city limits when such property is contiguous to the city limits and eligible for annexation to the city.

(2) *Users.* No use and benefits of the water system shall be extended to or made available to any property outside the city limits, except under contractual agreement with the owners of said property, and only then when the property is not contiguous to the city at the time water service is requested.

(3) *Contract.* Use and benefits of the water system may be granted to property owners outside of the city limits on a contractual basis only.

(a) Except for contracts with another public agency, the contract shall require that, in order to continue to receive water service, the property owner shall annex the property to the city at the earliest date that the property becomes eligible for annexation under the laws of the state.

(b) A contract for water service may further require provisions for financing of the water extensions, annexation of property served by contract to a public agency, termination of the service contract if any conditions are not met, and any other requirements which are deemed in the best interest of the utility.

(B) *Rules and regulations.*

(1) All customers receiving water from the utility shall comply with and be bound by these rules and regulations.

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(2) Customers shall cooperate to a reasonable and practical extent with other customers with regard to the extension or enlargement of common facilities.
(Ord. 68, passed 2-19-1991)

' 50.15 FIRE PROTECTION SERVICE.

Fire protection service shall be allowed under the following conditions:

(A) When the owner of a property or building desires such service and a main of sufficient size and volume is present, adjacent to or which may be extended to the property (see ' 50.12) in such a manner as to provide the service required. The fee for fire services shall be an advance payment of the estimated cost, as specified by Council resolution, of the work to be done before the installation of the service connection. When the estimated cost is not sufficient to cover the actual cost, the deficit shall be billed to the applicant and must be paid prior to activation of the service. Any excess payment shall be returned to the application;

(B) The owner or agent of such a building shall agree that no water may be used from the system except for extinguishing fires or periodic testing. Before any water for testing can be used, the owner or agent must receive written permission;

(C) All fire systems and private hydrants, wet or dry, shall be equipped with the appropriate backflow prevention assemblies as set forth in ' 50.23(B);

(D) In the case of existing fire services which do not meet the conditions of division (C) above, the hydrants or hose connection may be sealed in such a manner as to indicate use thereof. If the seal is found to be broken, it will be assumed that water is being used from the fire service, which is a violation of these rules and which results in action being taken as outlined in division (E) below;

(E) Where any violation of any of the above divisions exists, service may be immediately discontinued. In the case where no detector or proportional meter exists, then one will be required before service is restored. In cases where there is a detector or proportional meter, then the owner or agent must provide satisfactory assurances that the use of water will cease or appropriate means are provided to ensure payment for all the water used. The customer will also be required to pay for all water used. The utility shall estimate this amount in cases where it cannot be determined. The bill must be paid prior to service being restored;

(F) No charge will be made for water used in the extinguishing of fires;

(G) The cost of all detector checks, proportional meters, backflow devices and related appurtenances shall be borne by the customer;

(H) Service connections and all equipment appurtenant thereto, including the meter, shall be the

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sole property of the utility;

(I) Standby charges for automatic fire service are established by Council resolution; and

(J) Pressure and supply. The utility assumes no responsibility for loss or damage because of lack of water or pressure and merely agrees to furnish such quantities and pressures as are available in its general distribution system. The service is subject to shutdowns and variations required by the operation of the system.

(Ord. 68, passed 2-19-1991)

' 50.16 TEMPORARY SERVICE.

(A) *Time limit.* Temporary service connections shall be disconnected and terminated within six months after installation, unless an extension of time is granted in writing by the utility.

(B) *Charge for water served.* Charges for water furnished through a temporary service connection shall be at the established rates for other customers.

(C) *Installation charge and deposits.* The applicant for temporary service will be required:

(1) To pay the utility in advance the estimated cost of installing and removing all facilities and overhead charges necessary to furnish such service; or, if service is supplied through a fire hydrant, the applicant will be charged applicable fees as established by Council resolution;

(2) To deposit an amount sufficient to cover bills for water during the entire period such temporary service may be used, or to establish credit approved by the utility; and

(3) To deposit with the utility an amount equal to the value of any equipment loaned by the utility to such applicant for use on temporary service. This deposit is refundable under terms of division (D) below.

(D) *Responsibility for meters and installation.* The customer shall use all possible care to prevent damage to the meter or to any other loaned facilities of the utility which are involved in furnishing the temporary service from the time they are installed until they are removed, or until 48 hours= notice in writing has been given to the utility that the contractor or other person is through with the meter or meters and the installation. If the meter or other facilities are damaged, the cost of making repairs, including overhead charges, shall be paid by the customer.

(Ord. 68, passed 2-19-1991)

' 50.17 POOLS AND TANKS.

When an abnormally large quantity of water is desired for filling a swimming pool, log pond or for

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other purposes, arrangements must be made with the utility prior to taking such water. Permission to take water in unusual quantities will be given only if it can be safely delivered through the utility's facilities and if other consumers are not inconvenienced.

(Ord. 68, passed 2-19-1991)

' 50.18 FIRE HYDRANTS.

(A) *Unauthorized use of fire hydrant.* No person or persons other than those designated and authorized by the proper authority, or by the utility, shall open any fire hydrant or attempt to draw water from it in any manner. Violation of this regulation will result in water use fee due and payable immediately. Any future water service request will be denied until this fee has been paid. Continual violation of this rule shall lead to prosecution.

(B) *Damage of fire hydrants.* No person or persons shall damage or tamper with any fire hydrant. Any violation of this regulation shall lead to prosecution.

(C) *Authorized use.* In order to obtain authorization to use a fire hydrant, the customer must contact both the utility and the Fire Department. The utility will determine a hydrant the customer may use, after which they must get the Fire Department's written permission.

(1) At the time the customer signs up for temporary water supply from a fire hydrant, the customer must supply the utility with an estimate of water to be used, address and name of who will be responsible for the bill and the time and date water will be taken from the system. This information will be placed on the appropriate form and signed by the customer or the authorized agent of the customer. The bill will be generated from metered usage readings after the service is used. If an account is to be active more than 60 days, a partial bill will be prepared.

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(2) Any party using a hydrant must install an auxiliary control valve on the hydrant. This valve will be used to control the volume of water discharged from the hydrant. Where the use of the water from the hydrant requires backflow prevention, the customer is responsible for the property installation and operation of the required backflow prevention assembly.

(D) *Water bill.* The amount to be paid for the water used shall be based upon a standard account: set-up fee plus a bulk rate charge established by Council resolution.

(E) *Moving of fire hydrants.* When a fire hydrant has been installed in the location specified by the proper authority, the utility has fulfilled its obligation. If a property owner or other party desires a change in the size, location or type of the hydrant, the property owner shall bear all costs of such changes. Any change in the location of a fire hydrant must be approved by the utility and the Fire Department.

(F) *Charge for installation and annual maintenance for rural hydrants.*

(1) All rural fire hydrants will be installed at cost, providing a utility water main of sufficient size is located in the desired hydrant location.

(2) All maintenance for public hydrants shall be the responsibility of the local governmental fire district or city fire department district in which they appear.

(3) A standby charge for each hydrant shall be charged per the rate resolution.

(G) *Service and ownership.* All required new fire hydrants shall be served by a public water main and shall be owned by the utility.

(Ord. 68, passed 2-19-1991) Penalty, see ' 50.99

' 50.19 RESPONSIBILITY FOR EQUIPMENT.

(A) The customer shall, at the customer=s own risk and expense, furnish, install and keep in good and safe condition all equipment that may be required for receiving, controlling, applying and utilizing water. For all services with meters larger than two inches, this shall include an accessible, unflooded, customer-provided an maintained utility vault of a size specified. The utility shall not be responsible for any loss or damage caused by the improper installation of such water equipment or the negligence, want of proper care or wrongful act of the customer or any of the customer=s tenants or agent in installing, maintaining, using, operating or interfering with such equipment. The utility shall not be responsible for damage to property caused by spigots, faucets, valves and other equipment that are open when water is turned on at the meter, either when the water is turned on originally or when turned on after a temporary shutdown

(B) No customer shall allow the extension of his or her service to another property or customer.
(Ord. 68, passed 2-19-1991)

Millersburg - Public Works**' 50.20 DAMAGE TO UTILITY=S PROPERTY.**

The customer shall be liable for any damage to a meter or other equipment or property owned by the utility which is caused by an act of the customer, customer=s tenants or agents. Such damage shall include the breaking or destruction of locks by the customer or others on or near a meter and any damage to a meter that may result from hot water or steam from a boiler or heater on the customer=s premises. The utility shall be reimbursed by the customer for any such damage promptly on presentation of a bill.

(Ord. 68, passed 2-19-1991)

' 50.21 CUSTOMER CONTROL VALVES.

(A) The utility shall install a suitable control valve on all new customer service lines one inch and smaller.

(1) This valve shall be located in the meter box for the convenience of the customer in controlling the entire service line.

(2) The valve from that period forward shall be the responsibility of the customer to maintain.

(3) Where requested by the customer, the customer shall be responsible for installing a customer control valve on all existing service lines one inch and smaller.

(B) All customers with services larger than one inch shall install their own customer control valve as close to the meter as possible. This valve shall be housed in a separate vault or box. The maintenance of this valve is also the responsibility of the customer.

(C) The operation of the utility=s angle meter valve located on the utility=s side of the meter is not permitted.

(Ord. 68, passed 2-19-1991)

' 50.22 CROSSCONNECTIONS.

Customer=s responsibility:

(A) No customer shall establish or maintain a crossconnection to the public water supply;

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(B) If a crossconnection is found in the customer=s water system, the customer will be informed of this condition in writing and given 60 days to correct the problem or install an approved backflow prevention assembly. If the customer does not comply with the 60 days, the provisions of ' 50.24 shall be enforced;

(C) The customer shall comply with the provisions of ' 50.23;

(D) The customer shall own and maintain any required backflow prevention assemblies; and

(E) The customer shall provide sufficient information for the utility to evaluate the degree of any potential, suspected or actual crossconnection.

(Ord. 68, passed 2-19-1991)

' 50.23 BACKFLOW PREVENTION REQUIREMENTS.

(A) *Requirement.* All backflow prevention assemblies required herein shall be of a type and model approved by the Oregon State Human Resources Department, Health Division (OSHD), and shall be installed in accordance with OSHD requirements and the provisions of division (B)below.

(B) *Installation.* Backflow prevention assemblies shall be installed by a statelicensed installer, at customer=s expense, on each service line of the customer=s system at or near the property line or, if approved, immediately inside the building being served, but in all cases before the first branch line leading off the service line wherever any of the following conditions exist:

(1) Where there is an auxiliary water supply which is or can be connected to the potable water piping;

(2) Where there is piping for conveying fluids (liquids or gases) other than potable water and where that piping is installed and operated in a manner which could cause a crossconnection;

(3) Where there are intricate plumbing arrangements which make it impracticable to ascertain whether or not crossconnections exist;

(4) Where there has been a history of repeating the same or similar crossconnections, even though these have been removed or disconnected;

(5) Where there is a building over three stories in height or any plumbing system that is greater than or equal to 30 feet above the main from which it is served;

(6) Where there is backflow or back siphonage potential;

(7) Where the system is not open for inspection; or

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(8) Where the system is subject to being submerged.

(C) *Device type.* The type of protective assembly required under division (B) above shall be commensurate with the degree of hazard, which exists as follows.

(1) *Air gap or reduced pressure assembly.* An approved air gap of at least twice the inside diameter (but not less than one inch) of the incoming supply line measured vertically above the top rim of the vessel or an approved reduced pressure principle backflow prevention (RP) assembly shall be installed where the substance which could backflow is a contaminant or hazardous to health. Examples of premises where these conditions may exist include, but are not limited to, sewage treatment plants, pump stations, sewage piping, chemical manufacturing plants, hospitals, mortuaries, plating plants, car washes, medical clinics and auxiliary water systems.

(2) *Double check valve or double detector check valve assembly.* An approved double check valve (DC) assembly or double detector check valve (DDC) assembly shall be installed where the substance which could backflow is a secondary contaminant or objectionable but does not pose an unreasonable risk to health.

(3) *Pressure vacuum breaker or atmospheric vacuum breaker.* An approved pressure vacuum breaker or an atmospheric vacuum breaker shall be installed where the substance which could backflow is objectionable but does not pose an unreasonable risk to health, and where there is no possibility of back pressure in the downstream piping. A shutoff or control valve may be installed on the line downstream of a pressure vacuum breaker, but shall not be installed downstream of an atmospheric vacuum breaker.

(D) *Locations.* Examples of locations requiring backflow prevention assembly are listed below, but are not limited to:

(1) Irrigation systems. In the case of irrigation systems, an approved atmospheric vacuum breaker or an approved pressure vacuum breaker may be authorized, provided no back pressure is possible and no chemical or material injection or mixing exists;

(2) Private fire protection services. In the case of all private fire protection services, an approved backflow prevention assembly with a monitoring meter or detection system to detect unauthorized use or leakage within the system and a remote meter shall be required. The type of backflow prevention device shall be as follows.

(a) An approved double detector check valve assembly shall be required for low and medium hazards. Low and medium hazards are systems with or without pumper connection, but no auxiliary water supplies available, chemical or additives, detectable crossconnection and serving a building three stories or less.

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(b) An approved reduced pressure principle backflow prevention assembly and a single detector check shall be required for high hazards. High hazards are systems with auxiliary water supplies, chemical additives, detectable crossconnections or a building exceeding three stores.

(3) New construction. Where adequate plans and specifications are not available and no realistic evaluation of the proposed water uses can be determined, the installation of maximum backflow protection may be required at the water service connection.

(E) *Inspections and leakage tests.*

(1) It shall be the duty of the assembly owner at any premise where backflow protective assemblies are installed to have thorough inspections and leakage tests made immediately upon installation of assemblies, when assemblies are moved and at least once a year, or more often in those instances where successive inspections indicate repeated failure.

(2) The frequency of these tests or the replacement of the assembly because of failure shall conform to state regulations.

(3) The inspections, tests, repairs and/or replacement of assemblies shall be at the expense of the assembly owner and shall be performed by an assembly tester who is licensed by the Oregon State Health Division.

(4) Test and repair or replacement shall be performed within 30 days from receipt of notice to test.

(a) The assembly owner is required to contact a tester who can perform the work in the necessary period.

(b) The assembly owner shall notify the utility a minimum of 48 hours in advance when the test is to be performed so that the utility may witness the tests if so desired.

(c) Records of such tests, repairs and overhaul shall be kept by the owner, and a copy submitted to the utility within 30 days of completed tests.

(Ord. 68, passed 2-19-1991)

' 50.24 WATER SERVICE DENIED UPON FAILURE TO MEET REQUIREMENTS.

Water service to the premises may be immediately discontinued or denied by a physical break in the service until the customer has corrected the following conditions as required in " 50.22 and 50.23:

(A) In the case of extreme emergency or where a reduced pressure principle backflow assembly is required and where an immediate threat to life or public health or water system operation is found to

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exist; and

(B) In other cases after a reasonable length of time the test, repairs and/or replacement of assemblies or any other requirement within these regulations are not performed.

(Ord. 68, passed 2-19-1991)

' 50.25 WATER WASTE.

Where water is wastefully or negligently used on a customer=s premises, seriously affecting the general service, the utility may discontinue the service if such conditions are not corrected after notice to any customer at the location.

(Ord. 68, passed 2-19-1991)

' 50.26 ACCESS TO PREMISES.

(A) The utility shall at all reasonable times have the right to enter or leave the customer=s premises for any purpose properly connected with the service of water.

(B) Any inspection or recommendations made by the utility on plumbing or appliances or use of water on the customer=s premises, either as the result of a complaint or otherwise, will be made or offered without charge.

(Ord. 68, passed 2-19-1991)

' 50.27 INTERRUPTIONS IN SERVICE.

The utility shall not be liable for damage resulting from an interruption in service. Temporary shutdowns may be required for improvements and repairs. Whenever possible, and as time permits, all customers affected will be notified prior to such shutdowns. The utility will not be liable for interruption, shortage or insufficiency of supply or for any loss or damage occasioned thereby if caused by accident, act of God, fire, strikes, riots, war or any other cause not within its control.

(Ord. 68, passed 2-19-1991)

' 50.28 RESALE OF WATER.

Except by special agreement with the utility, no customer shall resell any of the water received from the utility, nor shall water from the utility be delivered to premises other than those specified in the application of service.

(Ord. 68, passed 2-19-1991)

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' 50.29 WATER MAIN SERVICES AND HYDRANTS IN LOCAL IMPROVEMENT DISTRICTS.

(A) In areas of the city where property owners request local improvement districts in order to improve their streets, storm drainage and/or sewer system, the following policy for water main and service replacement shall be in effect.

(1) Except as specified in ' 50.12(B)(6), in areas where no water main exists, such main shall be assessed to the benefitting properties in the local improvement district.

(2) In areas of the system where existing lines are of sufficient size but of such age or construction which require excessive maintenance, the replacement of such lines shall be at the utility=s expense.

(3) In areas of the system where existing lines are adequate and the replacement or relocation of such lines are necessary primarily to conform to the street, storm or sewer plans, all costs shall be included in the local improvement district assessments.

(4) The cost of all service relocations and/or replacements completed in conjunction with local improvement district projects shall be included in the local improvement district assessments.

(5) Where a particular property has frontage on intersecting public rightsofway and the property has previously been assessed or paid in lieu of assessment for more than 50 linear feet of water line along either of the frontage, the first 50 linear feet of frontage from the other (second) frontage may be excluded from the assessment calculation formula used in the establishment of the local improvement district.

(B) All fire hydrant requirements within local improvement districts shall be installed under the following policy.

(1) In areas where no fire hydrant exists, they shall be included in the local improvement district assessments.

(2) In areas where fourinch or smaller hydrants exist, they may be replaced at the utility=s expense.

(3) In areas where hydrants exist which are adequate, six inches in size, and relocation or replacement is needed primarily to conform to street, storm and/or sewer plans, all costs shall be included in the local improvement district assessments.

(Ord. 68, passed 2-19-1991)

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' 50.30 RESTRICTED USE OF WATER.

(A) The City Council may, by motion, restrict the use of water from time to time by the implementation of either of the orders of restriction set forth below.

(B) The orders of restriction need not be applied in sequence.

(1) The first order of restriction shall limit water uses as follows.

(a) Residences and businesses with addresses ending in even numbers may use water for sprinkling of lawns, gardens and shrubbery; the washing of vehicles (except commercial car washes); and other similar exterior uses only on even-numbered days of the month.

(b) Residences and businesses with addresses ending in odd numbers may use water for sprinkling of lawns, gardens and shrubbery; the washing of vehicles (except commercial car washes); and other similar exterior uses only on odd-numbered days of the month.

(c) Users who do not have specific addresses (parks, school grounds and the like) may use water for sprinkling laws and shrubbery on Mondays, Wednesdays and Fridays only.

(2) The second order of restriction shall prohibit the use of water for sprinkling of lawns, gardens and shrubbery; the washing of vehicles (except commercial car washes); and other similar exterior uses until authorized by the City Council.

(3) Willful or continued violation of any of the provisions herein established shall be deemed a misdemeanor, and anyone convicted of such misdemeanor shall be subject to penalties as imposed by ' 1.04.010 of the Albany Municipal Code.
(Ord. 68, passed 2-19-1991) Penalty, see ' 50.99

' 50.31 BUILDING OVER WATER MAINS PROHIBITED.

No structure requiring a building permit shall be constructed over or within seven and one-half feet of a public water main.

(Ord. 68, passed 2-19-1991) Penalty, see ' 50.99

' 50.32 SEPARATION OF WATER MAINS AND SERVICES FROM OTHER UTILITIES.

Except for crossings, all utilities, piping, conduits and other underground lines shall be installed at a minimum of five feet of horizontal clearance from all utility water mains and services, unless a lesser distance is specifically approved in writing.

(Ord. 68, passed 2-19-1991)

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' 50.33 AUTHORITY OF UTILITY.

(A) The utility shall have sole authority to make discretionary determinations required by this code. Such discretionary determinations are required where the code calls for approvals, determinations, reasonableness, authorization, standards (or reductions thereof), judgments, estimates, requirements, sufficiency, options, impacts upon the water system and/or customers thereof and similar words or phrases. In each case where such words or phrases are stated or implied, they shall be understood to mean Asubject to the approval or determination of the utility@.

(B) Said discretionary determinations shall be based upon the following criteria: anticipated impacts upon sufficiency and reliability of the water system; the water system facility plan; sound engineering practices in the field of municipal services; financial impacts; service to other properties; the potential to establish precedent and the impacts of alternative actions.
(Ord. 68, passed 2-19-1991)

' 50.34 APPEALS.

(A) The approvals and determinations referenced in ' 50.33 shall be made by the authorized representative of the City Council.

(B) Appeals of the decision of the authorized representative of the City Council must be made to the Council of the city by filing a written notice of appeal with the City Recorder within 30 days of the initial determination by the authorized representative of the City Council.

(C) The notice of appeal shall include a brief statement of the action or decision from which the appeal is taken, the relief sought and the material facts claimed to support the contentions of the appellant.

(D) Upon receipt of a notice of appeal, the Council shall schedule a hearing on said appeal and notify the appellant thereof.

(E) A decision shall be rendered by the City Council on the appeal within 120 days of the filing of the notice of appeal.

(F) At the appeal, the City Council=s authorized representative shall present to the Council a response to the statement in the notice of appeal. Only those matters or issues specifically raised by the appellant in the notice of appeal or included in the response by the authorized representative of the City Council shall be considered in review of the appeal.

(G) The Council may affirm the decision of the authorized representative or reverse the decision

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entirely.

(Ord. 68, passed 2-19-1991)

' 50.99 PENALTY.

Willful or continued violation of any of the provisions herein established shall be deemed a misdemeanor and anyone convicted of such misdemeanor shall be subject to penalties as provided in ' 10.99.

(Ord. 68, passed 2-19-1991)

CHAPTER 51: SANITARY SEWER HOOK-ON SYSTEM

Section

- 51.01 Adoption
- 51.02 Entry and inspection
- 51.03 Unauthorized entry and damage
- 51.04 Surface water
- 51.05 Required sewer connection

- 51.99 Penalty

' 51.01 ADOPTION.

Provisions of Ord. 30 are hereby incorporated within this chapter as though fully set out, and the two ordinances are to be considered the ordinances governing matters pertaining to the city sanitary sewer system.

(Ord. 33, passed 2-12-1980)

' 51.02 ENTRY AND INSPECTION.

(A) A duly authorized employee or engineer of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing for the purpose of carrying out the terms of this chapter. Said employee or engineer shall be permitted to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the waste water collection system. Said employee or engineer, or contractors retained by the city, shall be permitted to enter all private properties in the city for which the city holds a sewer easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sanitary sewer system lying within said easement.

(B) Waste discharge into the public sewer shall be subject to periodic inspection and a determination of character, concentration and quantity. The determination shall be made as often as deemed necessary by the city.

(Ord. 33, passed 2-12-1980)

Millersburg - Public Works**' 51.03 UNAUTHORIZED ENTRY AND DAMAGE.**

No unauthorized persons shall enter any city sewer manhole, pumping station or appurtenant facility. No person shall maliciously, willfully or negligently break, damage, destroy, deface or tamper with any structure, appurtenance or equipment which is part of the city sewer system. No person other than an authorized employee of the city shall operate or change the operation of any sewer, pumping station or appurtenant facility.

(Ord. 33, passed 2-12-1980) Penalty, see ' 51.99

' 51.04 SURFACE WATER.

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted process waters to the city sanitary sewer, except as agreed to between the industry, the city, and the City of Albany as to quality and quantity. No person shall make connection of rain drains, rain leaders, roof down spouts, exterior foundation drains, area drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to the city sanitary sewer.

(Ord. 33, passed 2-12-1980) Penalty, see ' 51.99

' 51.05 REQUIRED SEWER CONNECTION.

Any industry employing more than five persons may be required by the city to hookon to the city sanitary sewer system, upon a determination by the city that said industry is depositing in an unsanitary manner upon public or private property within the city, any human excrement or other objectionable waste.

(Ord. 33, passed 2-12-1980)

' 51.99 PENALTY.

Any person, firm or corporation found to be violating any provision of this chapter may be prosecuted by the city in the District or Circuit Court of the county, for a misdemeanor. Upon conviction, there shall be affixed a fine not exceeding \$1,000 for each violation, and each day in which any such violation shall occur or continue shall be deemed as a separate offense. In addition thereto, said person, firm or corporation violating this chapter shall be subject to an injunction prohibiting the violating activity issued by the described courts, and liable to the city for any expense, loss or damage occasioned by the city by reason of such violation, including attorney fees.

(Ord. 33, passed 2-12-1980)

CHAPTER 52: WASTEWATER COLLECTION AND TREATMENT SYSTEM

Section

- 52.01 General provisions
- 52.02 Abbreviations
- 52.03 Definitions
- 52.04 Regulations
- 52.05 Hauled waste
- 52.06 Administration
- 52.07 Reporting and monitoring requirements
- 52.08 Pretreatment facilities
- 52.09 Enforcement

- 52.99 Penalty

' 52.01 GENERAL PROVISIONS.

(A) The City of Albany has been authorized by the Oregon State Department of Environmental Quality to implement a pretreatment program through ' E of its national pollutant discharge elimination system (NPDES) permit. Because there are nondomestic users located outside of Albany=s jurisdictional boundaries within the city, the City of Albany is required to enter into Ajoint powers agreements@ with the city in order to ensure compliance by nondomestic users located in the city.

(B) The City of Albany, Oregon and the City of Millersburg, Oregon have entered into an agreement whereby the City of Albany will provide secondary wastewater treatment services to the city, hereafter referred to as Athe Agreement@.

(C) The purpose of the agreement is to provide secondary and/or wetlands wastewater treatment for the city by connection of a Millersburg Wastewater Sewerage Collection System to the AlbanyMillersburg Water Reclamation Facility (AMWRF) and connection of approved wastewater discharge to the Talking Water Gardens (TWG) wetlands treatment system. The city has designated the City of Albany as the agent of the city for the purposes of implementation and enforcement of the city=s Sewer Use Ordinance (SUO) contained herein. It is the intent of this SUO that it be no less stringent and as wide in scope as the Sewer Use Ordinance of the City of Albany.

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

(1) *Purpose and policy.*

(a) This chapter sets forth uniform requirements for discharges into the wastewater treatment system and enables the city to protect public health and the environment in conformity with all applicable state and federal laws relating thereto.

(b) The objectives of this chapter are:

1. To protect the health of the city employees or agents working in the city wastewater treatment system;
2. To prevent the introduction of pollutants into the city wastewater treatment system that will interfere with the normal operation of the system or contaminate the resulting sludge;
3. To prevent the introduction of pollutants into the city wastewater treatment system that do not receive adequate treatment in the publicly owned treatment works (POTW) and that will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
4. To improve the opportunity to recycle and reclaim wastewater and sludge from the system; and
5. To allow the use of fees and charges to recover the costs of operation, maintenance and administration of the wastewater treatment system.

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

(3) *Compliance with standards.* Pollutants shall be accepted into the city wastewater treatment system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the Cities of Albany and Millersburg for the protection of wastewater facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance. As a minimum, users of the city wastewater treatment system shall comply with the applicable pretreatment standards.

(4) *Permit conditions.* Wastewater discharge permit conditions shall be predicated on federal, state and local regulations and requirements and on the results of analysis of the type, concentration,

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

(5) *Application.* This chapter shall apply to the Cities of Albany and Millersburg and to persons outside the Cities of Albany and Millersburg who are, by contract or agreement with the City of Albany and the City of Millersburg, users of the City of Albany and the City of Millersburg POTW. Except as otherwise provided herein, the Director of Public Works of the City of Albany shall administer, implement and enforce the provisions of this chapter.
(Ord. 106, passed 10-9-2012)

' 52.02 ABBREVIATIONS.

For the purpose of this chapter, the following abbreviations shall apply unless the context clearly indicates or requires a different meaning.

AMC. Albany Municipal Code.

ASPP. Accidental Spill Prevention Plan.

ASTM. American Society for Testing and Materials.

BMP. Best management practices.

BOD. Biochemical oxygen demand.

C.F.R. Code of Federal Regulations.

COD. Chemical oxygen demand.

CWA. Clean Water Act, being 33 U.S.C. 1251 *et seq.*

DEQ. Oregon Department of Environmental Quality.

EPA. U.S. Environmental Protection Agency.

L. Liter.

mg. Milligrams.

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mg/L. Milligrams per liter.

NDCIU. Non-discharging categorical industrial user.

NPDES. National pollutant discharge elimination system.

O&M. Operation and maintenance.

POTW. Publicly owned treatment works.

SIC. Standard industrial classification.

SWDA. Solid Waste Disposal Act, being 42 U.S.C. " 6901 *et seq.*

TSS. Total suspended solids.

U.S.C. United States Code.
(Ord. 106, passed 10-9-2012)

' 52.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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, means city prohibitive discharge standards, city=s specific limitations on discharge, state pretreatment standards or categorical pretreatment standards (when effective), whichever standard is most stringent.

APPLICANT. A person who applies for sewer service or a sewer connection.

APPROVAL AUTHORITY. The Oregon Department of Environmental Quality (DEQ).

AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF USER.

(1) If the user is a corporation:

(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 decisionmaking functions for the corporation; or

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(b) The manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure longterm environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

(3) If the user is a federal, state or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his or her designee.

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

BEST MANAGEMENT PRACTICES (BMPS). Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in ' 52.04(A). **BMPS** include, but are not limited to, treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage,

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

BUILDING SEWER. A sewer conveying wastewater from the premises of a user to the POTW.

CATEGORICAL PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with ' 307(b) and (c) of the Act (33 U.S.C. ' 1317) that applies to a specific category of Industrial users and that appears in 40 C.F.R. Chapter 1, Subchapter N, parts 405471, incorporated herein by reference.

CITY. The City of Albany and/or the City of Millersburg, municipal corporations of the State of Oregon.

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CITY MANAGER. The person designated by the Albany City Council to act as the administrative head of the city government and who is charged with certain duties and responsibilities by this chapter or the duly authorized representative.

COMMERCIAL USER. Any person who contributes, causes or permits the contribution of wastewater into the city's POTW that by nature of the services rendered is of a dissimilar volume or chemical makeup than that of a domestic user. Examples of **COMMERCIAL USERS** may include, but are not limited to, restaurants, grocery stores and car washes.

CONTROL AUTHORITY. The Director of Public Works for the City of Albany.

COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.

DIRECT DISCHARGE. The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.

DIRECTOR/DIRECTOR OF PUBLIC WORKS. The person designated by the City Manager to supervise the Public Works Department, and who is charged with certain duties and responsibilities by this chapter or the duly authorized representative.

DISCHARGE. The discharge or introduction of pollutants into the municipal wastewater treatment system from any nondomestic user.

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

DOMESTIC SEWAGE or DOMESTIC WASTE. The liquid and waterborne wastes derived from the ordinary living processes, free from industrial wastes and of such character as to permit satisfactory disposal, without special treatment, into the public sewer or by means of a private sewage disposal system.

DOMESTIC USER. Any person who discharges only domestic waste.

DOMESTIC WATER SUPPLY. Any water supply system that serves potable water and may include, for the purposes of this chapter, wells that supply potable water.

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

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GARBAGE. The residue from the preparation and dispensing of food, and from the handling, storage and sale of food products and produce.

GRAB SAMPLE. A sample that is taken from a waste stream on a onetime basis with no regard to the flow in the waste stream and without consideration of time.

HAULED WASTE. Waste including septage, wastewater or chemical toilet waste that is hauled for discharge into the city wastewater treatment system.

INDIRECT DISCHARGE. The discharge or the introduction of pollutants from an industrial user into a POTW.

INDUSTRIAL USER. Any person, including a waste hauler, that discharges wastewater that is not domestic waste.

INDUSTRIAL WASTE. Solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.

INSTANTANEOUS LIMIT. The maximum concentration 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.

INTERFERENCE. A discharge that, alone or in conjunction with a discharge or discharges from other sources:

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

(2) Is a cause of a violation of any requirements of the NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): ' 405 of the Solid Waste Disposal Act (SWDA), being 42 U.S.C. 6901 *et seq.* (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, being 42 U.S.C. 7401 *et seq.*, the Toxic Substances Control Act, being 15 U.S.C. 2601 *et seq.*, and the Marine Protection Research and Sanctuaries Act, being 16 U.S.C. 1431 *et seq.* and 33 U.S.C. 1401 *et seq.*

LOCAL LIMIT. Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 C.F.R. part 403.5.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or

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groundwater.

NEW SOURCE.

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

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

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

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

(3) Construction of a ***NEW SOURCE*** as defined herein has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous onsite construction program:

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

2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities that is necessary for placement, assembly or installation of new source facilities or equipment.

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

NON-DISCHARGING CATEGORICAL INDUSTRIAL USER (NDCIU). Any facility or

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industry having a connection to the city sewer system and having industrial processes that would otherwise be subject to national categorical pretreatment standards, but having no process wastewater discharge.

OTHER WASTES. Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances, except sewage and industrial wastes.

PASS THROUGH. The occurrence of an indirect discharge that exits the POTW into waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW=s NPDES permit (including an increase in the magnitude or duration of a violation).

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

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

PLUMBING FIXTURE. An approved receptacle or device intended to receive water, liquids or other permissible wastes, and that discharge the same into the soil pipe, waste pipe or special waste pipe with which they are connected, and shall include all floor drains.

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

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

PRETREATMENT REQUIREMENT. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

PRETREATMENT STANDARDS or STANDARDS. Prohibited discharge standards, categorical pretreatment standards and local limits.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in ' 52.04(A).

PUBLICLY OWNED TREATMENT WORKS (POTW). Any wastewater treatment works and the

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sewers, conveyances and appurtenances discharging thereto, owned and operated by the City of Millersburg or the City of Albany.

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

SERVICE LATERAL. Any pipe between the main sewer lines of the city and the user=s plumbing facilities.

SEWAGE. Watercarried human wastes or a combination of watercarried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

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

SEWER CONNECTION PERMIT. A permit issued to connect buildings or structures to a public sewer.

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

SEWER, SANITARY. A sewer that conveys only wastewater and into which storm, surface and ground waters are not intentionally admitted.

SEWER, STORM. A sewer that conveys storm, surface and ground waters and into which wastewaters are not intentionally admitted.

SEWER SYSTEM FACILITY PLAN. The current version of the facility plan for the development of the wastewater treatment plant and sanitary sewer system as amended or updated.

SEWER USE CHARGE. The assessment levied on all users of the public sewer system.

SEWERAGE. The system of sewers and appurtenances for the collection, transportation and pumping of wastewater.

SHALL, MAY. AShall@ is mandatory; Amay@ is permissive.

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SIGNIFICANT INDUSTRIAL USER. Except as provided in division (3) below, the term ***SIGNIFICANT INDUSTRIAL USER*** shall mean:

(1) All industrial users subject to categorical pretreatment standards under 40 C.F.R. ' 403.6 and 40 C.F.R. part I, Subchapter N; or

(2) Any other industrial user that:

(a) Discharges a process waste stream that makes up 5% of the average dry weather hydraulic or organic capacity of the POTW treatment plant;

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

(c) Is designated as significant by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW=s operation or for violating any pretreatment standard or requirement.

(3) Upon finding that an industrial user meeting the criteria in division (2) above has no reasonable potential for adversely affecting the POTW=s operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 C.F.R. ' 403.8(f)(6), determine that such industrial user is not a ***SIGNIFICANT INDUSTRIAL USER***.

SIGNIFICANT NONCOMPLIANCE. A significant industrial user (or any other industrial user that violates divisions (3), (4) or (8) below) is determined to be in ***SIGNIFICANT NONCOMPLIANCE*** if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken for the same pollutant parameter during a sixmonth period exceeded (by any magnitude) a numeric pretreatment standard or requirement, including Ainstantaneous limits@, as defined above;

(2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a sixmonth period equaled or exceeded the product of the numeric pretreatment standard or requirement including Ainstantaneous limits@, as defined by above, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);

(3) Any other violation of a pretreatment standard or requirement as defined above (daily maximum, longterm average, instantaneous limit or narrative standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of city personnel or the general public;

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(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Director=s exercise of its emergency authority to halt or prevent such a discharge;

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

(6) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic selfmonitoring reports and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; and/or

(8) Any other violation or group of violations, which may include a violation of best management practices, the Director determines will adversely affect the operation or implementation of the city=s pretreatment program.

SLUG LOAD or SLUG DISCHARGE. Any pollutant (including BOD) released in a nonroutine, episodic or noncustomary batch discharge at a flow rate or concentration that has the potential to cause interference or pass through, cause a violation of the specific discharge prohibitions in ' 52.04, or in any other way violate the POTW=s regulations, local limits or permit conditions.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

TOTAL SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and that is removable by laboratory filtering.

TOXIC POLLUTANT. One of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provisions of ' 307 (33 U.S.C. ' 1317) of the Act.

TREATMENT PLANT. The portion of the municipal wastewater treatment system designed to provide treatment to wastewater.

UPSET. An exceptional incident in which an industrial user unintentionally and temporarily is in a state of noncompliance with the standards set forth in ' 52.09(F) due to factors beyond the reasonable control of the industrial user, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.

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USER. Any person who contributes, causes or permits the contribution of wastewater into the city=s POTW.

UTILITY. The City of Albany and City of Millersburg, municipal corporations of the State of Oregon.

WASTEWATER. The liquid- and watercarried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated, that are contributed into or permitted to enter the POTW.

WASTEWATER DISCHARGE PERMIT. As is set forth in ' 52.06.

WASTEWATER TREATMENT SYSTEM. Any wastewater treatment works and the sewers, conveyances and appurtenances discharging thereto, owned and operated by the City of Millersburg or City of Albany. Same as **PUBLICLY OWNED TREATMENT WORKS (POTW)**.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through or border upon the state, or any portion thereof.
(Ord. 106, passed 10-9-2012)

' 52.04 REGULATIONS.

(A) *Discharge prohibitions.* No user shall contribute or cause to be discharged, directly or indirectly, any pollutant or wastewater that will cause interference or pass through.

(1) These general prohibitions apply to all users of the publicly owned treatment works (POTW) whether or not the use is subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(2) Furthermore, no user may contribute the following substances to the POTW:

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

(b) Any solid or viscous substances that may cause obstruction to the flow in a sewer or other interferences with the operation of the wastewater treatment system facilities, such as, but not limited to, grease, garbage with particles greater than onehalf inch in any dimension, animal guts or

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tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;

(c) Any wastewater having a pH less than 6 or greater than 10, except under conditions of continuous pH monitoring as specified in the city's enforcement response plan. In no case shall a user be permitted to discharge wastewater having a pH of less than 5, or wastewater having any corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the city;

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

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

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

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

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

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

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

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

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

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

(n) Fats, wax, grease or oils, whether emulsified or not, containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C);

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

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

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

7) Any wastewater, residual solvents or solventcontaminated waste from dry cleaning machines, as well as solventcontaminated wastewater from any auxiliary operation at dry cleaning facilities; or

(s) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through.

(B) *Limitations on wastewater strength.*

(1) *Federal categorical pretreatment standards.* Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 C.F.R. Chapter 1, Subchapter N, parts 405471 and incorporated herein.

(a) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users, in accordance with division (B)

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(1)(b) below.

(b) The Director may convert the mass limits of the categorical pretreatment standards of 40 C.F.R. parts 414, 419 and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the Director. When converting any mass limits to concentration limits, documentation will be made that dilution is not being substituted for treatment as prohibited by division (B)(4) below. The Director will document how the equivalent limits were derived for any changes from mass limits to concentration and make this information publicly available upon request.

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

(d) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or fourday average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(e) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a productionbased standard shall notify the Director within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the longterm average production rate.

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

(3) *Right of revision.* The city reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in ' 52.01.

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

(5) *Specific pollutant limitations.*

(a) No nondomestic user shall discharge wastewater containing restricted substances into

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the POTW in excess of limitations specified in its wastewater discharge permit or published by the Director. The Director shall publish and revise from time to time standards for specific restricted substances, termed **LOCAL LIMITS**, including designation of affected nondomestic users. These standards shall be developed in accordance with 40 C.F.R. ' 403.5 and shall implement the objectives of this chapter. Standards published in accordance with this section will be deemed pretreatment standards for the purposes of ' 307(d) of the Act.

(b) The Director may develop best management practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of division (A) above.

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

(C) *Accidental discharges.*

(1) As appropriate, industrial users shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter.

(2) Where deemed necessary by the city, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user=s cost and expense.

(3) An accidental spill prevention plan (ASPP) or slug discharge control plan showing facilities and operating procedures to provide this protection shall be submitted to the city for review and approval before implementation.

(4) The city shall determine which industrial users are required to develop an ASPP and require said industrial users to submit the ASPP within 60 days after notification by the city.

(5) Each industrial user shall implement its ASPP as submitted after such ASPP has been reviewed and approved by the city.

(6) Review and approval of such plans and operating procedures by the city shall not relieve the industrial user from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

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

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;

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3. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge that would violate any of the standards in division (A) above; and

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

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

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

(d) Signs shall be permanently posted in conspicuous places on industrial user=s premises, advising employees of who to call in the event of a discharge described in division (C)(6)(a) above. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedure.

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

(D) *Special agreements.*

(1) The city reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the wastewater treatment system.

(2) In no case will a special agreement waive compliance with a pretreatment standard; however, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 C.F.R. ' 403.15. Industrial users may also request a variance from the categorical pretreatment standard from U.S. EPA.

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(3) Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by U.S. EPA when establishing that pretreatment standard.

(4) An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 C.F.R. ' 403.13.
(Ord. 106, passed 10-9-2012)

' 52.05 HAULED WASTE.

(A) All hauled waste including septage must be discharged at the City of Albany/Millersburg wastewater treatment plant. All discharges at any other point within the wastewater treatment system, including sanitary sewer manholes, are hereby prohibited. Administration and enforcement of hauled waste permits shall be the same as industrial permits, " 52.06, 52.07 and 52.09.

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

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

(1) A valid State Department of Environmental Quality septage hauling permit if applicable;

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

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

(D) Permit fees and treatment rates for hauled waste shall be established by Council resolution.
(Ord. 106, passed 10-9-2012)

' 52.06 ADMINISTRATION.

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

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

Millersburg - Public Works*(C) Wastewater discharge permit requirement.*

(1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director.

(2) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter, and subjects the wastewater discharge permittee to the sanctions set forth in this chapter.

(3) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with other requirements of federal, state and local law.

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

(D) Wastewater discharge permit application.

(1) All users required to obtain a wastewater discharge permit must submit a permit application accompanied by the appropriate fee.

(2) Existing significant industrial users shall file a permit application within 60 days after the notification by the city and any proposed industrial user that is a new source shall file a permit application a minimum of 90 days prior to connecting to the POTW.

(3) This permit application shall satisfy the requirements of the baseline monitoring report as described in 40 C.F.R. ' 403.12(b).

(4) The permit application shall be made on forms provided by the city and shall include the following information:

(a) Name, address and location of the industrial user and name of the operator and owner;

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

(c) Wastewater constituents and characteristics including, but not limited to, those mentioned in this chapter, including standards contained in ' 52.04(A) and (B) as appropriate, as determined by bona fide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the EPA and contained in 40 C.F.R. part 136, as amended;

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(d) Time and duration of discharges;

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

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

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

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

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

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

2. Under no circumstance shall the city permit a time increment for any single step directed toward compliance that exceeds nine months.

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

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

(k) Type and amount of raw materials utilized including chemicals used in process that

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may be discharged to the sanitary sewer system (average and maximum per day);

(l) List of environmental control permits held by or for the facility; and

(m) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on ' 52.07(A) (2)(c).

(E) *Evaluation of permit application.*

(1) The city will evaluate the complete permit application and data furnished by the industrial user and may require additional information. Within 60 days of receipt of a complete permit application, the Director will determine whether or not to issue a wastewater permit.

(2) If no determination is made within this time period, the application will be deemed denied.

(3) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in ' 52.04, and that in the judgment of the Director may have a deleterious effect upon the POTW, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may take any of the following actions:

(a) Reject the wastes;

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

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

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of ' 52.07.

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

(G) *Categorical standards promulgation.* Where an industrial user, subject to a categorical pretreatment standard, has not previously submitted a permit application as required by division (D) above, the industrial user shall file a permit application with the city within 180 days after the promulgation of the applicable categorical pretreatment standard by the EPA. In addition, any industrial user operating on the basis of a previous filing of a permit application shall submit to the city within 180 days after the promulgation of an applicable categorical pretreatment standard a permit application,

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and the additional information required by divisions (D)(4)(h) and (i) above. If deemed necessary by the city, where categorical pretreatment standards are more stringent, the wastewater discharge permit will be modified.

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

(1) Wastewater permits must contain the following conditions:

(a) A statement that indicates permit duration, which in no event shall exceed five years;

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

(c) Effluent limits, including best management practices, based on applicable pretreatment standards;

(d) Selfmonitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice(s)) to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law;

(e) Statement of applicable penalties for violation of pretreatment standards and requirements, and compliance schedules;

(f) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with ' 52.07(A)(2)(c). Any grant of the monitoring waiver by the Director must be included as a condition in the user=s permit; and

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

(2) Permits may contain, but need not be limited to, the following:

(a) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;

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

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(c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices and the like, designed to reduce, eliminate or prevent the introduction of pollutants into the POTW;

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

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

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

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

(h) Requirements for immediate reporting of any instance of noncompliance and for automatic re-sampling and reporting within 30 days where selfmonitoring indicates a violation(s);

(i) Compliance schedules for meeting pretreatment standards and requirements;

(j) Requirements for submission of periodic selfmonitoring or special notification reports;

(k) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in ' 52.07(F) and affording the Director, or his or her representatives, access thereto;

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

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

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

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

(1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

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

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating the permitted discharge poses a threat to the city=s POTW, city personnel or the receiving waters;

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

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

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. ' 403.13;

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

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

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

(J) *Permit reissue*. Industrial users issued permits are required to reapply to the city a minimum of 90 days prior to the expiration date of their existing permit. Re-application shall be made on a form provided by the city.

(Ord. 106, passed 10-9-2012) Penalty, see ' 52.99

' 52.07 REPORTING AND MONITORING REQUIREMENTS.

(A) *Reporting requirements for industrial users.*

(1) *Final compliance report.*

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

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

(2) *Periodic compliance reports.*

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

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

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

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

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

(C) *Sample collection.* Data collected to satisfy reporting requirements must be based on

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appropriate sampling and analysis performed during the period covered by the report, and must be representative of conditions occurring during the reporting period.

(1) Except as indicated in divisions (C)(2) and (C)(3) below, the user must collect wastewater samples using 24hour flowproportional composite sampling techniques, unless timeproportional composite sampling or grab sampling is authorized by the Director. Where time proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. part 136 and appropriate EPA guidance, multiple grab samples collected during a 24hour period may be composited prior to the analysis as follows: for cyanide, total phenols and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

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

(3) For sampling required in support of baseline monitoring and 90day compliance reports required in ' 52.06(D) and division (A)(1) above, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by division (A)(2) above, the Industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(D) *Notification and re-sampling.* In the event an industrial user=s monitoring results indicate a violation has occurred, the industrial user must immediately (within 24 hours of becoming aware of the violation) notify the city and resample its discharge. The industrial user must report the results of the repeated sampling within 30 days of discovering the first violation. Re-sampling by the industrial user is not required if the city performs sampling at the user=s facility at least once a month, or if the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user. If the city performed the sampling and analysis in lieu of the industrial user, the city will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(E) *Inspection and sampling.*

(1) The Director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or order issued hereunder.

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

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

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

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

(F) *Record-keeping.*

(1) Industrial users shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, documentation supporting any monitoring waiver for pollutants not present established under division (A)(2)(c) above, and documentation associated with best management practices established under ' 52.04(B)(5)(b).

(2) Records shall include the date, exact place, method and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning compliance with the Albany Municipal Code, or where the industrial user has been specifically notified of a longer retention period by the Director.

(G) *Report of changed conditions.* Each industrial user is required to notify the city of any planned significant changes to the industrial user=s operations or pretreatment systems that might alter the nature, quality or volume of its wastewater.

(1) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater permit application under ' 52.06(D), if necessary.

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(2) The city may issue a wastewater permit under ' 52.06(H) or modify an existing wastewater permit under ' 52.06(I).

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

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

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

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

(1) Wastewater constituents and characteristics and other effluent data as defined by 40 C.F.R. ' 2.302 will not be recognized as confidential information and will be available to the public without restriction.

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

(J) *Notification by industrial users discharging hazardous waste.* In compliance with 40 C.F.R. ' 403.12(p), industrial users shall notify the Director, EPA and DEQ in writing of any discharge into the municipal wastewater system of a substance that, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261. The city may request additional information on the nature and concentration of the discharge, and may prohibit such discharge of wastewater containing hazardous waste.

(K) *Certification statements.* All applications, reports or information to the city shall be signed and certified in accordance with 40 C.F.R. ' 403.12(1).

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(1) *Certification of permit applications, user reports and initial monitoring waiver.*

(a) The following certification statement is required to be signed and submitted by users submitting permit applications including baseline monitoring reports in accordance with ' 52.06(D); users submitting final compliance reports under division (A)(1) above; users submitting reports on compliance with the categorical pretreatment standard deadlines under division (A)(2) above; users submitting compliance reports required by division (A) above; and users submitting an initial request to forego sampling of a pollutant on the basis of division (A)(2)(c) above.

(b) The following certification statement must be signed by an authorized representative, as defined in ' 52.03.

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.

(2) *Certification of pollutants not present.* Users that have an approved monitoring waiver based on division (A)(2)(c) above must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 C.F.R. ____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under ' 52.07(A)(2).

(Ord. 106, passed 10-9-2012)

' 52.08 PRETREATMENT FACILITIES.

(A) *Pretreatment plans required.*

(1) Industrial users shall provide necessary wastewater pretreatment as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards within the time limitations as specified by appropriate statutes, regulation and ordinance.

(2) Any facilities required to pretreat wastewater to a level acceptable to the city shall be

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provided, properly operated and maintained at the industrial user=s expense.

(3) Detailed plans showing the pretreatment facilities shall be submitted to the city for review and must be acceptable to the city before construction of the facility.

(4) The review of such plans shall in no way relieve the industrial user from the responsibility of modifying its facility or operations as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(5) Within a reasonable time after the completion of the wastewater pretreatment facility, the industrial user shall furnish its operations and maintenance procedures for the city to review.

(B) *Monitoring facilities.*

(1) Each industrial user required to do so by the city shall provide and operate at the industrial user=s own expense a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the city.

(2) Each monitoring facility shall be situated on the industrial user=s premises, except where such a location would be impractical or cause undue hardship on the industrial user, the city may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles.

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

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

(C) *Grease interceptor requirements.*

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

(2) The owner of every commercial or industrial facility with one or more greasegenerating activities, including food service facilities, serviced by a sewer connection line found to have a grease blockage, a history of grease blockage or accelerated line maintenance resulting from grease disposal

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shall install or cause to be installed, upon notification by the Director, an approved grease interceptor.

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

(4) The owner of any facility with a grease interceptor installation shall maintain the grease interceptor at all times in a manner that shall prevent fat, waste, oil or grease from being carried into the sewer system. Authorized city employees shall be allowed access to grease interceptors for the purpose of inspection and/or to verify compliance with this chapter.

(a) Fat, waste, oil or grease removed from such a facility shall not be disposed of in the sanitary sewer or the storm drain system, and recovered grease shall be stored in a manner to prevent spillage or runoff to the sanitary sewer or storm drain system.

(b) A record of disposal shall be maintained for review upon request by the city.
(Ord. 106, passed 10-9-2012)

' 52.09 ENFORCEMENT.

(A) *Emergency suspension of service and wastewater discharge permit.*

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

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

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

(2) Any industrial user notified of the city=s suspension order shall immediately cease all discharges. In the event of failure of the industrial user to comply with the suspension order, the city may immediately take all necessary steps to halt or prevent any further discharge by such industrial user into the POTW.

(a) The city shall have authority to physically cap, block or seal the industrial user=s sewer line (whether on public or private property) in order to terminate service under this section.

(b) The city shall have the right to enter upon the industrial user=s property to

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accomplish the capping, blocking or sealing of the industrial user=s sewer line.

(c) The city may also commence judicial proceedings immediately thereafter to compel the industrial user=s specific compliance with such order and/or to recover civil penalties.

(d) The city shall reinstate the wastewater discharge permit and/or wastewater treatment service upon clear and convincing proof by the industrial user of the elimination of the noncomplying discharge or conditions creating the threat as set forth above.

(B) *Industrial user prohibited conduct.*

(1) An industrial user shall not:

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

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

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

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

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

(C) *Procedure.* The procedures set forth below apply in those situations where emergency suspension of service pursuant to division (A) above is not needed. Ordinarily, the enforcement procedure outlined below will be followed in the order hereinafter set forth, and enforcement will generally be in accordance with the city=s enforcement response plan. Notwithstanding the foregoing, the city reserves the right and discretion to impose any of the sanctions listed below for any violation should the city deem such action appropriate or necessary in the individual circumstances.

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

Millersburg - Public Works*(2) Administrative order.*

(a) Whenever the city determines that any industrial user has violated or is violating any provision of this chapter or an industrial wastewater discharge permit issued and approved hereunder, or has violated any directives or orders issued and approved hereunder, the city may serve upon such industrial user a written administrative order stating the nature of the violation(s) and imposing sanctions.

(b) This notice shall be served upon the industrial user either by personal service to any owner, operator, authorized agent or any employee of the industrial user at any office maintained by the industrial user either within or outside of the City of Albany.

(c) Service of the notice may also be accomplished by mailing the notice, via registered or certified mail, return receipt requested, to the industrial user at any office maintained by the industrial user either within or outside of the city.

(d) These sanctions may include:

1. An order requiring corrective action;
2. An order setting civil penalties as described in ' 52.99 in the event corrective action is not undertaken as ordered in division (C)(2)(a) above;
3. An order imposing civil penalties as described in ' 52.99 in lieu of, or in addition to, an order of corrective action;
4. An order requiring payment of city costs incurred as a result of a violation;
5. An order requiring a compliance schedule containing milestones and applicable reporting requirements, or requiring an industrial user to submit a compliance schedule for approval by the city;
6. Revocation of the industrial user=s wastewater discharge permit; and
7. Disconnection from the wastewater discharge system pursuant to the rights and procedures set forth concerning emergency suspension of service in division (A) above.

(3) *Appeal of administrative order.* An industrial user served by an administrative order may within seven days of the receipt of the order request in writing that the Director review the enforcement action. The request (letter of appeal) will state all points of disagreement and objection to the order. Upon receipt of the letter of appeal, the city shall cause a hearing to be held before the Public Works Director of the City of Albany, or his or her authorized representative.

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(a) The Public Works Director, or his or her authorized representative, shall conduct the hearing with the advice and counsel of the City Attorney and shall establish such rules and procedures as may be determined by the city in order to meet due process minimums.

(b) Following the close of the hearing, the Public Works Director, or his or her authorized representative, shall enter appropriate findings of fact, conclusions of law and an administrative order with respect to the alleged violations and under the terms of the order, may impose any or all of these sanctions referred to in division (C)(2) above. Said sanction may exceed those originally purposed in the notice of proposed administrative order.

(c) The findings, conclusions and order shall be served upon the industrial user in the manner provided above for the service of the notification of an administrative order.

(4) *Appeal hearing.* Within seven days of its receipt of the determination as outlined above, the industrial user may appeal the findings, conclusions and order of the Public Works Director or his or her authorized representative by serving a written notice of such appeal in the same manner as provided above for the service of the initial appeal. Thereafter, a hearing on the appeal shall be scheduled before the City Council of the City of Albany, or such Appeal Hearings Officer as the city may appoint for such purpose.

(a) The City Manager of the City of Albany shall have the authority and discretion to appoint an Appeal Hearings Officer or direct the appeal to the City Council.

(b) Thereafter, the City Council or the Appeal Hearings Officer may render its decision based upon the record of the hearing on the administrative order, grant an additional hearing to take additional evidence, or conduct a de novo hearing.

(c) The City Council, or Appeal Hearings Officer, in consultation with the City Attorney, shall establish rules and procedures for the conduct of the appeal in order to accord the industrial user minimum due process.

(d) The City Council or Appeal Hearings Officer shall affirm, reverse or modify the findings, conclusions and administrative order and shall serve its decision, in writing, upon the industrial user in the manner provided for the service of the original administrative order.

(e) The decision of the City Council or Appeal Hearings Officer shall be final.

(D) *Judicial proceedings.* Following the entry of any final administrative order by the city with respect to the violation by an industrial user of division (B) above, the city may commence an action for appropriate legal and/or equitable relief in the appropriate local court to enforce the penalty or remedy imposed by the city hereunder.

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(E) *Enforcement actions; annual publication.* A list of all industrial users in significant noncompliance during the twelve previous months shall be annually published by the city in the largest daily newspaper circulated in the area of the municipality or a newspaper of general circulation, summarizing the violations and enforcement action undertaken by the city. For the purpose of this division (E), an industrial user is in **SIGNIFICANT NONCOMPLIANCE** if its violation meets one or more of the criteria stated under the definition of significant noncompliance in ' 52.03.

(F) *Affirmative defense; upset.*

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

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of division (F)(3) below are met.

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

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

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

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

1. Description of the discharge and cause of noncompliance;

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

3. Steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.

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

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

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(6) Industrial users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(G) *General/specific prohibitions.* An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in ' 52.04 if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference and that either:

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

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

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

(I) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The Director may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city=s enforcement response plan; however, the Director may take other action against any user when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. 106, passed 10-9-2012)

Millersburg - Public Works**' 52.99 PENALTY.**

(A) *Civil penalties.* Any industrial user who violates an administrative order of the city, or who fails to comply with any provision of this chapter, or any regulation, rule or permit of the city, issued pursuant to this chapter, shall be liable to the city for a civil penalty. The amount of such civil penalty shall be not less than \$250 per violation nor more than \$2,500 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. Such penalties may be collected by judicial actions commenced by the city as provided in ' 52.09(D). In addition, the city may issue an administrative order terminating the industrial user's wastewater service if a civil penalty is not paid when due.

(B) *Administrative fines.* When the Director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or pretreatment requirement, the Director may fine such user. The amount of such administrative fine shall be not less than \$250 per violation nor more than \$2,500 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation.

(C) *Recovery of cost incurred by the city.* Any user violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the city's wastewater treatment system shall be liable to the city for any expense, loss or damage caused by such violation or discharge. The city may require the user to pay for the cost incurred by the city for any cleaning, repair or replacement work caused by the violation or discharge and for cost incurred by the city in investigating the violation and in enforcing this chapter against the user, including reasonable administrative costs, fees for testing, attorney fees, court costs and all expenses of litigation. Refusal to pay the ordered costs shall constitute a violation of this chapter, enforceable under the provisions of ' 52.09. The user shall also reimburse the city for any and all fines or penalties levied against the city as a result of a discharge by the user.

(D) *Falsifying information.* Any person who knowingly makes any false statement, representation or certification in any application, record, report and plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under ' 52.07, shall (in addition to civil and/or criminal penalties provided by state law) be subject to general criminal penalties under division (F) below.

(E) *Fraud and false statements.* Any reports required in this code and any other documents required to be submitted by the city or maintained by the industrial user shall be subject to enforcement provision of the Albany Municipal Code, municipal, state and federal law relating to fraud and false statements. In addition, the industrial user shall be subject to general criminal penalties under division (F) below.

(F) *General criminal penalties.* Any user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a crime and subject to penalties under a

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misdemeanor or felony as determined by the court.
(Ord. 106, passed 10-9-2012)

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