

CITY OF BAY CITY

ORDINANCE NO. 498

AN ORDINANCE PROVIDING FOR REGULATION OF NON-RESIDENTIAL WASTES, PROVIDING DEFINITIONS, SETTING DISCHARGE PROHIBITIONS AND PRETREATMENT STANDARDS FOR WASTEWATER DISCHARGED INTO THE CITY SEWER SYSTEM, PROVIDING FOR PERMITS, PERMIT FEES, REPORTING REQUIREMENTS AND EMERGENCY SUSPENSION OF SERVICE PROVIDING FOR NONCOMPLIANCE NOTIFICATION AND HEARING PROCESSES AND PROVIDING CIVIL PENALTIES.

THE PEOPLE OF THE CITY OF BAY CITY DO ORDAIN AS FOLLOWS: Section 1.

General Provisions

1.1 Declaration of purpose and policy. This ordinance sets forth uniform requirements for direct and indirect non-residential contributors of pollutants into the wastewater collection and treatment system for the City of Bay City and enables the City to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403). The objectives of this ordinance are:

- 1) To prevent the discharge of pollutants into the City sewerage system which will interfere with the operation of the system or contaminate the resulting sludge;
- 2) To prevent the discharge of pollutants into the City sewerage system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- 3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- 4) To provide for equitable distribution of the cost of the City sewerage system.

1.11 Pollutants shall be accepted into the City sewerage system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the City for the protection of sewerage facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance. As a minimum, nonresidential users of the City sewerage system shall comply with the applicable pretreatment standards developed under state (OAR 340-45-063) and federal (40 CFR 403) regulations. Pretreatment standards shall be developed to ensure that at a minimum the City and

nonresidential users comply with Sections 307(b) and (c) of the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 and the regulations promulgated pursuant to these sections of the Act.

1.12 This ordinance shall apply to the City of Bay City and to persons outside the City who are, by contract or agreement with the City, users of the CSS. This ordinance is a supplement to Ordinance No. _____ as amended.

1.13 Except as otherwise provided herein, the City Public Works Superintendent shall administer, implement and enforce the provisions of this ordinance.

1.2 Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

1) Act of "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et seq.

2) Approval authority. The Director of the Oregon Department of Environmental Quality an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

3) Authorized representative of nonresidential user. An authorized representative of a nonresidential user may be: (1) A principal executive officer of at least the level of vice-president, if the nonresidential user is a corporation; (2) A general partner or proprietor if the nonresidential user is a partnership or proprietorship, respectively; (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

4) Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade (milligrams per liter (mg/l)).

5) Building sewer. A sewer conveying wastewater from the premises of a user to the CSS.

6) Categorical standards. National Categorical Pretreatment Standards or Pretreatment Standard.

7) City. The City of Bay City or the City Council of the City of Bay City.

- 8) City Public Works Superintendent (Superintendent). The Superintendent of Public Works or any other person designated by the City to supervise the operation of the CSS and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.
- 9) City sewerage system (CSS). A treatment works as defined by Section 212 of the Act. This definition includes any wastewater conduits, pumps, treatment plants, structures and appurtenances used to transport, store or treat sewage, storm or surface water of any type. For the purpose of this ordinance, CSS shall also include any sewers that convey wastewater to the CSS from persons outside the City who are, by contract or agreement with the City, users of the CSS.
- 10) City Sewerage System treatment plant. That portion of the CSS designed to provide treatment to wastewater.
- 11) Cooling water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- 12) Control authority. The term "control authority" shall refer to the "Approval Authority", defined hereinabove; or the Superintendent if the City has an approved Pretreatment Program under the provisions of 40 CFR 403.11.
- 13) Direct discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.
- 14) Discharge. The deposit of pollutants into the City sewerage system.
- 15) EPA. The United States Environmental Protection Agency.
- 16) Grab sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- 17) Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- 18) Indirect discharge. The discharge or the introduction of nonresidential pollutants from any source regulated under section 307(b) or (c) of the Act, (33 USC

1317), into the CSS (including holding tank waste discharged into the system).

19) Nonresidential user. A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act. (33 USC 1342).

20) Interference. The inhibition or disruption of the CSS treatment processes or operations which contributes to a violation of any requirement of the City's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the CSS in accordance with 405 of the Act, (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV or SWDA) applicable to the method of disposal or use employed by the CSS.

21) National Categorical Pretreatment Standard or Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1347) which applies to a specified category of Industrial Users.

22) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

23) New source. Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 USC 1317) Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

24) National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 USC 1342).

25) Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or other legal

entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

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

27) Pollution. The alteration of the chemical, physical, biological, or radiological state of water.

28) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, agricultural waste and all other elements or compounds discharged into the CSS except water, unless the water has been heated, cooled or irradiated.

29) Pretreatment or treatment. 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 the CSS. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).

30) Pretreatment requirements. Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on a nonresidential user.

31) Shall is mandatory: May is permissive.

32) Significant nonresidential user. Any nonresidential user of the City's Sewerage System who (a) has a discharge flow of 25,000 gallons or more per average work day, or (b) has a flow greater than 5 percent of the flow in the City's wastewater treatment system, or (c) has in its wastes toxic pollutants as defined pursuant to Section 307 of the Act (d) or is found by the City, DEQ or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

33) State. State of Oregon.

34) State industrial classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of the Management and Budget, 1972, as amended through the effective date of this ordinance.

35) Standards. The limitations and requirements established by federal, state and local laws and regulations for discharges to the City sewerage system.

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

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

38) Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other acts or as identified by the Superintendent.

39) User. Any person who contributes, causes or permits the contribution of wastewater into the City's Sewerage System.

40) Wastewater. Liquid or water carried pollutants including any groundwater, surface water and storm water that may be present, whether treated or untreated, which is discharged, flows or infiltrates into the City sewerage system.

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

42) Wastewater discharge permit. A permit issued pursuant to section 4.1 of this ordinance.

1.3 Abbreviations. The following shall have the designated meanings:

BOD - Biochemical Oxygen Demand. CFR - Code of Federal Regulations. COD - Chemical Oxygen Demand. CSS - City Sewerage System.

DEQ - Oregon Department of Environmental Protection Agency.

EPA - U.S. Environmental Protection Agency. 1 Liter.

mg - Milligrams.

mg/l - Milligrams per liter.

NPDES- National Pollutant Discharge Elimination System. POTW

- Publicly Owned Treatment Works. SIC - Standard Industrial

Classification. SWDA - Solid Waste Disposal Act, 42 USC 6901,

et seq. USC - United States Code.

TSS - Total Suspended Solids.

Section 2 Regulations

- 2.1 General discharge provisions. No nonresidential user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the CSS. These general prohibitions apply to all such nonresidential users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state, or local Pretreatment Standards or Requirements. A user may not contribute the following substances to any CSS:

1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the CSS or to the operation of the CSS. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5 percent nor any single reading over 10 percent of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naptha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the user is a fire hazard or a hazard to the system.

2) Solid or viscous substances which either alone or in combination with other pollutants may cause obstruction to the flow in a sewer or other interference with the operation of the CSS treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2) in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent line, stone or marble dust, 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.

3) Any wastewater having a pH less than 5.0 or greater than 9.5 unless the CSS is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the City.

4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving wastes of the CSS, or exceeds any limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

5) Any noxious or malodorous liquid, gas, or solid which either singly or by interaction with other pollutants are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

6) Any substance which may cause the CSS's effluent or any other product of the CSS such as 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 CSS cause the CSS to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

7) Any substance which will cause the CSS to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.

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

9) Any wastewater having temperature which will inhibit

biological activity in the CSS treatment plant or stimulate excessive biological activity in the City sewerage system but in no case wastewater with a temperature at the introduction into the City sewerage system which exceeds 40°C (140°F) unless the CSS treatment plant is designed to accommodate such temperature.

10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the CSS. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent or applicable state or federal regulations.

12) Any wastewater which causes a hazard to human life or creates a public nuisance.

- 2.2 Specific pollutant limitations. Subject to further limitation by the City Public Works Superintendent pursuant to Section 2.1, no nonresidential user shall discharge wastewater containing in excess of:

Daily Maximum

1.0 mg/l arsenic
 1.2 mg/l cadmium 4.5 mg/l copper 2.0 mg/l cyanide 3.0
 mg/l lead 0.1 mg/l mercury 5.0 mg/l nickel 4.0 mg/l
 silver
 9.0 mg/l total chromium 4.0 mg/l zinc
 3.0 mg/l phenolic compounds which cannot be removed by
 the City's wastewater treatment processes.

- 2.3 Dilution. No nonresidential user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the standards contained in this ordinance.

- 2.4 Federal Categorical Pretreatment Standards. Upon the promulgation of the Federal Categorical pretreatment standards for a particular nonresidential subcategory, the Federal Standard, if more stringent than limitations imposed under this ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this ordinance. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CF, Section 403.12.
- 2.5 State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance.
- 2.6 Modification of federal Categorical Pretreatment Standards. Where the City's wastewater treatment system achieves consistent removal of pollutants limited by federal Pretreatment Standards, the City may apply to the Approval Authority for modification of specific limits in the federal Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 95 percent of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The City may then modify pollutant discharge limits in the federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained.
- 2.7 Accidental discharges. Each nonresidential user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility.
- All existing nonresidential users shall complete such a plan by June 1, 1991. No user who commences discharge to the CSS after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the nonresidential user from the responsibility to

modify the user's facility as necessary to meet the requirements of this ordinance. In the case of an accidental discharge, it is the responsibility of the user to immediately notify the City as follows:

1) Telephone notice. Any nonresidential user or employee thereof becoming aware of a discharge in violation of this ordinance into the City sewerage system shall report such discharge immediately by telephone to the City. Prompt notification of such discharges will allow the City to take necessary precautions to minimize hazards and to prevent damage to the receiving water, thereby avoiding or minimizing discharge violations and fines from state and federal regulatory agencies and the City. The notification shall include the location of the discharge, type, concentration and volume of pollutant and corrective actions proposed and/or taken.

2) Written notice. Within five (5) days following such a discharge, the nonresidential user shall submit to the City Public Works Superintendent a detailed written report describing the cause and location of the discharge, the type, concentration and volume of pollutant discharged, and any hazards which may be posed to life or property and the measures taken or to be taken to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss or damage or other liability which may be incurred as a result of damage to the sewerage system, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

3) Notice to employees. Each nonresidential user subject to Section 4.1 shall permanently post a notice on its bulletin board or other prominent place advising employees whom to call in the event of a discharge in violation of this ordinance. Employers shall ensure that all employees who may cause or suffer such a discharge to occur or who are likely to detect such discharge are advised of the emergency notification procedure.

Section 3 Fees

- 3.1 Purpose. It is the purpose of this section to reduce the City's cost of implementation of the pretreatment program through a system of equitable charges or fees to be paid by the nonresidential users of the City sewerage system who are subject to Section 4.1 for certain services. The applicable charges or fees shall be set forth in a schedule of fees adopted by resolution of the City Council.

3.2 Charges and fees. The City may adopt charges and fees which may include:

- 1) Fees for reimbursement of costs of setting up and operating the City's Pretreatment Program;
- 2) Fees for monitoring, inspections and surveillance procedures;
- 3) Fees for reviewing accidental discharge procedures and construction;
- 4) Fees for permit applications;
- 5) Fees for filing appeals;
- 6) Fees for consistent removal by the City of pollutants otherwise subject to federal Pretreatment Standards;
- 7) Other fees as the City may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this ordinance and are separate from all other fees chargeable by the City.

Section 4 Administration

4.1 Application and permit to discharge.

4.11 Permits. Each nonresidential user discharging, proposing to discharge or having the potential to discharge significant contributions of wastewater containing restricted substances into the CSS shall secure a Wastewater Discharge Permit from the City if the nonresidential user:

- a) Is subject to national categorical pretreatment standards promulgated by EPA under Section 307(b) or (c) of the Clean Water Act (CWA);
- b) Has in its waste toxic pollutants as defined pursuant to Section 307 and Section 502 of the CWA;
- c) Has a nondomestic flow of 25,000 gallons or more per average work day;
- d) Contributes more than 5 percent of the average dry weather hydraulic, organic or solids handling load to the City's wastewater treatment plant;

e) Is determined by the State of Oregon to have a significant impact or potential for significant impact to adversely affect the City sewerage system by either upset, inhibition, pass through of pollutants, sludge contamination or other means.

4.12 Application. Existing nonresidential users shall apply to City for a Wastewater Discharge Permit within ninety (90) days after becoming subject to the requirements of Section 4.11. New nonresidential users subject to the requirements of Section 4.11 shall apply to City at least ninety (90) days prior to connecting to or discharging to the City sewerage system. Any nonresidential user with a valid permit and proposing to make a change in its existing discharge which will substantially change the volume of flow or the characteristics of the discharge or establish a new point of discharge, shall apply for an amended permit at least sixty (60) days before making such change.

Applications shall be made to the City in writing on forms prescribed by the City, accompanied by the required fee and shall include the following information:

- a) Name, address, telephone number and authorized representative of the applicant and service address.
- b) SIC number.
- c) A list of environmental control permits held by or for the applicant.
- d) A list of wastewater pollutants and their characteristics actually or potentially discharged at the applicable plant site including measured or estimated daily average and daily maximum concentrations of these pollutants.
- e) Time and duration of discharge.
- f) A description of spill prevention measures or plans which are currently in place in the plant.
- g) Water use and wastewater flow rates, including maximum daily, average daily, average monthly and seasonal variations, if any.
- h) A schematic diagram of applicant's industrial processes including a listing of estimated average water flow through each process and indicating point of discharge to City sewerage system.

i) A description of activities, facilities, and plant processes on the premises including a description of types and quantities of products produced, manufacturing methods used, types and quantities of principal and minor materials used, and a work and production schedule for the plant and including all materials which are or which could be discharged into the City sewerage system.

j) Average daily and 3 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.

k) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.

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

m) Type and amount of raw materials processed (average and maximum per day).

n) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

o) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State, or federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards.

p) If additional pretreatment and/or operation and maintenance will be required to meet the Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions apply to this schedule:

1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

2) No increment referred to in paragraph (1) above shall exceed 9 months.

3) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Superintendent.

q) Any other information as may be deemed by the City to be necessary to evaluate the permit application.

The City Public Works Superintendent will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

4.13 Modification of permit. Discharge conditions included in a Wastewater Discharge Permit shall remain in effect for that permit until it expires, except that they may be revised from time to time as the City Public Works Superintendent deems necessary to effectively manage industrial waste discharge. The nonresidential user shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change except in the event of an emergency.

4.14 Duration. Permits shall be issued for a specified time period, not to exceed three (3) years. The industrial user shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of this existing permit if it desires to continue the uninterrupted discharge of restricted substances.

4.15 Conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of this ordinance. Permits may contain the following conditions:

- a) Payment of applicable fees.
- b) Limits on the average and maximum discharge of restricted substances.
- c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

- d) Requirement for installation and maintenance of pretreatment, inspection or monitoring sampling facilities.
- e) Specifications for monitoring and sampling programs which may include monitoring sampling locations, frequency of monitoring sampling, number, types and standards for tests and reporting schedules.
- f) Compliance schedules.
- g) Requirements for submission of technical reports or discharge reports.
- h) Requirement for maintaining and retaining plant records relating to wastewater discharge as specified by the City Public Works Superintendent and affording the Superintendent access thereto.
- i) Requirements for notification to the City of any new introduction of restricted substances or any substantial change in the volume or character of the wastewater or restricted substances being discharged into the City sewerage system.
- j) Requirements for notification of sludge discharges.
- k) Other conditions as deemed appropriate by the City Public Works Superintendent to achieve compliance with this ordinance.

4.16 Transfer. A Wastewater Discharge Permit will be issued to a specific nonresidential user for a specific operation. A Wastewater Discharge Permit shall not be assigned, transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the City. Any succeeding nonresidential user shall agree to comply with the terms and conditions of existing permit as a condition precedent to the approval by the City of a transfer sale or assignment of the permit. Stock transfers shall be deemed transfers for which approval must be obtained.

4.2 Reporting requirements for permittee.

4.21 Compliance date report. Within 90 days following the effective date of this ordinance in the case of a new source, following commencement of the introduction of wastewater into the City sewage system, any user subject to pretreatment standards and requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and the average and maximum daily flow for these process units in the user

facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional efforts and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the nonresidential user, and certified to by a qualified engineer or other appropriate professional.

4.22 Periodic compliance reports.

a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the CSS, shall submit to the Superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the Superintendent, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted.

b) The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the Administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator.

- 4.3 Monitoring facilities. When required by the City Public Works Superintendent, the permit holder shall install and maintain at its expense a suitable control manhole to facilitate observation, sampling, and measurement of wastewater being discharged into the City sewerage system. Such manhole shall be located, if feasible, where it is accessible from a public road or street. It shall be constructed in accordance with plans and at a location approved by the City Public Works Superintendent and shall be arranged so that flow measuring and sampling equipment and shutoff gate or a screen may be conveniently installed by the City. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City.

- 4.4 Inspection and sampling. The City shall have the right to inspect the facilities of any nonresidential user subject to Section 4.11 as necessary to determine compliance with pretreatment standards. These inspections shall take place whether or not the provisions of this ordinance are being complied with. The owner, operator or agent in charge of premises where wastewater is created or discharged shall allow authorized representatives of the City, State and EPA, upon presentation of their credentials, access at all reasonable times to all parts of their premises for the purpose of the performance of any of their duties, including but not limited to, inspection, observation, sampling, and/or records copying and examination. The City, State and EPA shall have the right to set upon the nonresidential user's property such devices as may be necessary or proper to conduct the sampling, observation, inspection, compliance monitoring and/or metering operations. The nonresidential user shall make arrangements with its employees so that upon presentation of their credentials, representatives from the City, State or EPA will be permitted to enter, without delay, for the purpose of performing their response responsibilities.

- 4.5 Pretreatment facilities. As a condition of the granting of a Wastewater Discharge Permit, the permit holder may be required to install pretreatment facilities or make plant or process modifications as deemed necessary by the City Public Works Superintendent to meet the requirements of this ordinance.

Whenever such facilities or modifications are required, they shall be constructed, installed, operated and maintained at the expense of the permit holder and in a manner and within the time prescribed by the City Public Works Superintendent. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way guarantee that these facilities or modifications will function in the required manner or attain the required results or relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

- 4.6 Confidential information. Information and data obtained by the City from reports, questionnaires, permit applications, permits and monitoring programs shall be available to the public and other governmental agencies without restriction unless the permit holder requests in writing that it be confidential and demonstrates to the satisfaction of the City Public Works Superintendent that such records are exempt from disclosure under ORS 192.500(1)(b), (e) or (2)(g). Notwithstanding anything herein to the contrary, all such data shall be available at last to the extent necessary so that the City Public Works Superintendent can ensure compliance with the requirements of 40 CFR 2.302 and to state and federal agencies as required during judicial or enforcement proceedings involving the nonresidential user.

When confidentiality is requested and the right thereto is established by the permit holder, the confidential information shall not be made available for inspection by the public but may be made available upon written request to governmental agencies for uses related to this ordinance, the NPDES permit, or pretreatment programs. However, all portions of a report shall be available for use by the City, state or any state agency in judicial or enforcement proceedings involving the person furnishing the report.

Section 5 Enforcement

- 5.1 Authority. City shall have all the rights and remedies set forth in this ordinance for the purpose of enforcing the provisions contained herein as well as all rights and remedies the City may have by law or equity not specifically set forth herein.

- 5.2 Public nuisance. Any discharge in violation of this ordinance, the conditions of the Wastewater Discharge Permit, or any other violation of this ordinance is hereby declared to be a public nuisance. Such nuisance may be abated or enjoined and damages assessed therefore in accordance with the procedures set forth in the City nuisance ordinances or in any other manner provided by law.
- 5.3 Cease and desist order. In the event of any actual or threatened discharge into the City sewerage system in violation of this ordinance or the conditions of a Wastewater Discharge Permit, which discharge presents an imminent or existing danger to the health or welfare of persons, property or the environment or which has caused or will cause damage to or interference with the operation of the City sewerage system or causes City to violate any condition of its NPDES permit, the City Public Works Superintendent may issue an order to cease and desist and direct that those nonresidential users responsible for such violation to:
- 1) Immediately stop all discharge into City sewerage system.
 - 2) Comply in accordance with a time schedule set forth by the City Public Works Superintendent.
 - 3) Take appropriate remedial or preventative action.
 - 4) Comply with other appropriate remedies as directed by the City Public Works Superintendent.

If the nonresidential user in noncompliance fails to comply with the order, the City shall take such steps as are deemed necessary or proper including immediate severance of the sewer connection. The City shall reinstate the wastewater treatment service upon proof of the elimination of the actual or threatened violation and upon payment by user of all costs incurred by City in its preventative action and reconnection. The user shall submit to the City within fifteen (15) days of the occurrence a detailed written statement describing the causes of the harmful discharge or threatened discharge and the measures taken to prevent any future occurrence.

- 5.4 Notification of violation. Whenever the City Public Works Superintendent finds that any user has violated or is violating this ordinance, Wastewater Discharge Permit or any prohibition, limitation or requirements contained herein, the City Public Works Superintendent may serve upon such user a written notice stating the nature of the violation and requiring user to submit for approval, within such time and with such modifications as the City Public Works Superintendent deems necessary, a detailed time schedule or

specific actions which the nonresidential user shall take in order to prevent or correct the violation.

5.5 Revocation of permit. Any user who violates the following conditions of this ordinance, or applicable state and federal regulations, is subject to having his permit revoked and sewerage connection severed in accordance with the procedures of Section 5.6 of this ordinance.

a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge.

b) Failure of the user to report significant changes in operations or wastewater constituents and characteristics.

c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.

d) Violation of conditions of the permit.

5.6 Show cause hearing.

5.61 The City may order any user who causes or allows an unauthorized discharge to enter the City sewerage system or who violates the provisions of this ordinance or the conditions of any permit issued hereunder to show cause before the City Council why the proposed enforcement action should not be taken. A written notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The written notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days before the hearing. Service may be made on any agent or office of a corporation at the address specified on the permit.

5.62 The City Council shall hear all testimony and review all evidence received at the hearing and shall then enter appropriate findings of fact and orders with respect to the alleged violations of the discharge. Said order may include revocation of the user's Wastewater Discharge Permit. The order may specify any corrective actions to be taken and the time lines set for corrections.

5.7 Legal action. If any person discharges sewage, industrial wastes or other wastes into the City's sewerage system contrary to the provisions of this ordinance, federal or state pretreatment requirements, or any order of the City, the City

Attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court of this County.

- 5.8 Public notification of violations. The City will annually publish in a weekly newspaper with the largest circulation in the county, a list of all significant dischargers who were the subject of enforcement proceedings pursuant to this ordinance during the previous twelve (12) months. This notification will summarize enforcement action by the City during the same twelve (12) months. For purposes of this provision, a significant violation is one which remains uncorrected forty-five (45) days after notification of noncompliance; which is part of a pattern of noncompliance over a twelve (12) month period; which involves a failure to accurately report noncompliance; or which resulted in the issuance of a cease and desist order.

Section 6 Appeals

- 6.1 Reconsideration. Any person aggrieved by any decision or action of the City Public Works Superintendent may file a written request with the City Public Works Superintendent for reconsideration thereof within ten (10) days of such decision or action. The notice of appeal shall be on a form provided by the City Public Works Superintendent and shall set forth in reasonable detail the decision or action appealed from and the facts and arguments supporting the appellant's request for reconsideration. The City Public Works Superintendent shall render a final written determination within ten (10) days of the receipt of such request for reconsideration. The City Public Works Superintendent may establish such procedures as may be deemed necessary or proper to conduct the reconsideration process. The filing of a request for reconsideration shall be a condition precedent to the right to appeal to the City pursuant to Section 6.2.
- 6.2 Appeals to the City. Any person aggrieved by the final determination of the City Public Works Superintendent may appeal such determination to the City within ten (10) days of notification by the City Public Works Superintendent of the final determination. Written notification of such appeal shall be filed with the City, together with the payment of a fee of \$50.00, within ten (10) days after receipt of the final determination of the City Public Works Superintendent. The notice of appeals shall be on a form provided by the City and shall set forth in reasonable detail the decision or action appealed from and the facts and arguments supporting the appellant's request for reversal or modification of the City Public Works Superintendent's determination.

A hearing shall be conducted on the appeal after not less than ten (10) days written notice to the applicant. The applicant's

request and all materials supplied by the applicant and the City Public Works Superintendent's recommendation and decisions and all materials related thereon shall be part of the record and shall be made available to the City Council prior to the hearing. The City Council may hold a hearing on the recommendations and, in any event, shall take action on the recommendations within twenty (20) days after their filing.

Section 7 Collection of Costs and Penalties

- 7.1 Damage. Any person who violates this ordinance or a condition of a Wastewater Discharge Permit, as a result of which the City performs or causes to be performed preventive or corrective work or which results in damage to the City sewerage system shall be liable to the City for such damage and the cost of such corrective work, additional treatment and for any penalties, including withholding of any grant money, levied against the City for violation of state or federal permits resulting from said violation. The City may collect such charges in the manner provided in this ordinance for the collection of sewer user charges, in accordance with any other provisions of this ordinance, or in any other manner provided by law.
- 7.2 Civil penalties. Any person who violates any provision of this ordinance or any provision of a Wastewater Discharge Permit shall be liable civilly to the City in a sum of not less than \$100.00 and not more than \$1,000.00 for each day in which a violation occurs; said amount to be set by the City Council. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorney fees, court costs, court reporter fees and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the order, rules, regulations, and permits issued hereunder.
- 7.3 Criminal penalties. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than six (6) months, or by both.
- 7.4 Remedies. The remedies provided for in this section shall be cumulative and not exclusive and shall not be in addition to any and all other remedies available to the City.

Section 8 Severability

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

Section 9 Repeal and Conflict

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

PASSED and ADOPTED by the City Council this 9th day of October, 1990 and APPROVED by the Mayor this 9th day of October, 1990.

/s/ George R. Woolcock
George R. Woolcock, Mayor

ATTEST:

/s/ Linda Wheeler
Linda Wheeler, City Recorder

Ayes: 5
Nays: 0
Abstentions: 0