

Title 13

PUBLIC SERVICES

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Chapter 13.04**WATER REGULATIONS****(Reserved)****Chapter 13.08****WATER FLUORIDATION**

Sections:

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13.08.010 Fluoridation authorized.

The Coos Bay-North Bend water board, the governing body vested with the management and operation of the water system of the cities of North Bend and Coos Bay, Oregon, pursuant to the charter provisions of the respective cities of North Bend and Coos Bay, Oregon, is hereby authorized and directed to provide for the fluoride supplementation of the public water supply of the city of North Bend, Oregon. (Ord. 1046 § 1, 1956)

13.08.020 Compliance with regulations.

The regulations of the Oregon State Board of Health for fluoride supplementation of public water supplies shall be followed and complied with by the Coos Bay-North Bend water board in its fluoride supplementation of the public water supplies to the city of North Bend, Oregon. (Ord. 1046 § 2, 1956)

13.08.030 Future recommendations.

All future recommendations by the Oregon State Board of Health for fluoride supplementation of public water supplies shall be followed and complied with by the Coos Bay-North Bend water board in its fluoride supplementation of public water supplies to the city of North Bend, Oregon. (Ord. 1046 § 3, 1956)

Chapter 13.12**SEWER REGULATIONS**

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13.12.010 Definitions.

Unless the context clearly indicates a different meaning, the words and phrases hereafter listed shall have the following meanings:

- (1) “Act” or “the Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- (2) “Approval authority” means the Oregon Department of Environmental Quality (DEQ).
- (3) Authorized Representative of the Industrial User.

(a) If the industrial user is a corporation, “authorized representative” shall mean:

(i) The president, secretary, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the industrial user is a partnership, association or sole proprietorship, an “authorized representative” shall mean a general partner or the proprietor.

(c) If the individual user is representing federal, state or local governments, or an agent thereof, an “authorized representative” shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

(d) The individuals described in subsections (3)(a) through (c) of this section may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the authorization is submitted to the city.

(4) “Biochemical oxygen demand (BOD)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter mg/l).

(5) “Building drain” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

(6) “Building sewer” means a sewer conveying wastewater from the premises of a user to the POTW.

(7) “Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by

the U.S. EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405 – 471, incorporated herein by reference.

(8) “City” means the city of North Bend or the city council of North Bend.

(9) “Color” means the optical density at the visual wave length of maximum absorption relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.

(10) “Combined sewer” means a sewer that is designed as a sanitary sewer and a storm sewer.

(11) “Composite sample” means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on either an increment of flow or time.

(12) “Cooling water” means the water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.

(13) “Control authority” shall refer to the superintendent once the city has a pretreatment program approved by the Oregon DEQ according to the provisions of 40 CFR 403.11.

(14) “Department of Environmental Quality” or “DEQ” means the Oregon Department of Environmental Quality or, where appropriate, the term may also be used as a designation for the director of the department or other duly authorized official of the department.

(15) “Discharge” means the discharge or the introduction of pollutants into the municipal wastewater system from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

(16) “Environmental Protection Agency” or “U.S. EPA” means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of said agency.

(17) “Existing source” means any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards under Section 307(b) and (c) of the Act (33 U.S.C. 1317) which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(18) “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(19) “Grab sample” means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

(20) “Holding tank waste” means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, recreational vehicles and vacuum-pump tank trucks.

(21) “Industrial user” means any person which is a source of discharge.

(22) “Industrial wastewater” means a non-domestic wastewater originating from a nonresidential source.

(23) “Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(a) Inhibits or disrupts the municipal wastewater system, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) Therefore is a cause of a violation of any requirements of the NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any State Sludge Management Plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

(24) “Medical waste” means isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(25) “Municipal wastewater system” or “systems” means a “treatment works” as defined in Section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having responsibility for the operation and maintenance of the system.

(26) New Source.

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

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

(ii) The building, structure, facility or installation completely replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

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

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections (a)(ii) and (iii) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous on-site construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engi-

neering, and design studies do not constitute a contractual obligation under this subsection.

(27) "Nondomestic pollutants" means any substances other than human excrement and household gray water (shower, dishwashing operations, etc.). Nondomestic pollutants include the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

(28) "Pass through" means a discharge which exits the treatment plant effluent into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES (including an increase in the magnitude or duration of a violation).

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

(30) "pH" means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter of solution.

(31) "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and agricultural wastes.

(32) "Pretreatment" or "treatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the municipal wastewater system. This reduction or alteration may be obtained by physical, chemical or biological processes, by process changes, or by other means.

(33) "Pretreatment requirement" means any substantive or procedural requirements related to pretreatment, other than categorical standards and prohibitive discharge standards, imposed on an industrial user.

(34) "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the superintendent.

(35) “Properly shredded garbage” means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.

(36) “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(37) “Receiving stream” or “water of the state” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state of Oregon or any portion thereof.

(38) “Residential users” means persons only contributing sewage wastewater to the municipal wastewater system.

(39) “Sanitary sewer” means a conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not intentionally admitted.

(40) “Sewage” means human excrement and gray water (household showers, dishwashing operations, etc.).

(41) “Sewage works” means all facilities for collecting, pumping, treating, and disposing of sewage.

(42) “Sewer” means a pipe of conduit for carrying sewage.

(43) “Shall” is mandatory; “may” is permissive.

(44) Significant Industrial User.

(a) Except as provided in subsection (44)(b) of this section, the term “significant industrial user” shall mean:

(i) Industrial users subject to categorical pretreatment standards; and

(ii) Any other industrial user that:

(A) Discharges an average of 25,000 gpd or more of processed wastewater;

(B) Contributes a processed wastewater which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or

(C) Is designated as significant by the city on the basis that the industrial user has a rea-

sonable potential for causing pass through or interference.

(b) Upon a finding that an industrial user meeting the criteria in subsection (a)(ii) of this section has no reasonable potential for adversely affecting the municipal wastewater system’s operation or for violating any pretreatment standard or requirement, the control authority may, at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

(45) “Slug load” means any pollutant (including BOD) released in a nonroutine, episodic, or noncustomary batch discharge at a flow rate or concentration which has the potential to cause a violation of the specific discharge prohibitions in NBCC 13.12.020.

(46) “State” means the state of Oregon.

(47) “Storm sewer” (sometimes termed storm drain) means a sewer designed to carry only stormwaters, surface run-off, street wash waters and drainage.

(48) “Stormwater” means any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

(49) “Superintendent” means the person designated by the city to supervise the operation of the municipal wastewater system and who is charged with certain duties and responsibilities by this chapter or his duly authorized representative.

(50) “Suspended solids” or “total suspended solids (TSS)” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(51) “Toxic pollutant” means one of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of Section 307 of the Act (33 U.S.C. 1317).

(52) “Treatment plant” means that portion of the municipal wastewater system designed to provide treatment of sewage and industrial waste.

(53) “Treatment plant effluent” means any discharge of pollutants from the municipal wastewater system into waters of the state.

(54) “User” means any person who contributes, or causes or allows the contribution of, sewage or industrial wastewater into the municipal wastewater system, including persons who contribute such wastes from mobile sources.

(55) “Wastewater” means the liquid and water-carried industrial wastes, or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the municipal wastewater system.

(56) “Watercourse” means a channel in which a flow of water occurs either continually or intermittently. (Ord. 1934 § 2.1, 2005; Ord. 1770 § 1, 1991; Ord. 1698 § 1, 1985; Ord. 1104 § 1, 1958)

13.12.020 Connection permits – Applications.

Applications for sewer connection permits shall be made in writing on a form prescribed by the plumbing inspector of said city and shall give the location of the property, the number of buildings or dwelling units to be connected, the name of the owner, the address of the owner, the name of the person or firm engaged to make the connection, and such applications shall state whether or not the real property to which the sewer connection is to be made has ever in the past been assessed for the construction of a sewer, and such other information or plans as may be required by the sewer inspector. (Ord. 1104 § 2, 1958)

13.12.030 Connections.

Sewer connections shall be subject to the following regulations:

(1) All applications for a sewer connection permit shall be accompanied by the payment of the inspection fee required by the city of North Bend and a hook-up fee required by the city of North Bend.

(2) Whenever any building shall be required to be connected to any sewer line constructed after the completion of said building, then, subject to the conditions contained in this chapter, the owner may, at his option, elect to pay said connection fee in installments of not less than one-fifth of said fee at the time of application for sewer connection permit, and not less than one-fifth of said fee, plus interest on the unpaid principal balance at the rate of six percent per annum every six months thereafter until the entire connection fee with interest thereon shall have been paid in full.

(3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(4) A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the plumbing inspector, to meet all requirements of this chapter.

(6) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged in the building sewer.

(8) No person shall make connection of roof downspouts, exterior foundation drains, area way 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 a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the plumbing inspector before installation.

(10) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property distributed in the course of the work shall

be restored in a manner satisfactory to the city. (Ord. 1934 § 2.2, 2005; Ord. 1698 § 2, 1985; Ord. 1534, 1976; Ord. 1358 § 1, 1967; Ord. 1104 § 3, 1958)

13.12.040 Connection permits – Compliance with excavation provisions.

Applicants for sewer connection permits shall comply with all of the provisions of any ordinances of the city of North Bend regulating and requiring permits for the excavation in or under streets or alleys. (Ord. 1104 § 4, 1958)

13.12.050 Connection required.

(1) Wherever there is, or may hereafter be, constructed in any street or alley, or part thereof, a public sewer for the purpose of carrying off sewage within the city of North Bend, the owner or owners of the property abutting on, adjacent to, along the line of, or within a distance of 300 feet of such sewer now or hereafter constructed, must connect any house or building on such property with such sewer, and whenever the city of North Bend shall notify in writing any owner or owners of property within said city to connect to a public sewer, the building or buildings situated on a lot or lots or parcel of land abutting on, adjacent to, along the line of a public sewer constructed in any street or alley, or having a property line which is within 300 feet of such public sewer and accessible thereto, it shall be the duty of such owner or owners to make application, file the plans in the manner prescribed by the ordinances of the city of North Bend, pay the fees provided therefor, and complete said sewer connection within 60 days of the date of said notice.

(2) Whenever any connection shall be made to any house or building which shall not have been completed prior to the time that a sanitary sewer was accessible thereto, then the owner or owners of such house or building must pay the entire connection fee at the time of application therefor and shall not have the right to pay in installments; and provided further, that if an application for a sewer connection permit is not made within 60 days from the time of mailing or delivery of a notice by the city of North Bend to connect as provided herein, then the entire connection fee must be paid at the time of application. (Ord. 1934 § 2.3, 2005; Ord. 1104 § 5, 1958)

13.12.060 Sanitary conditions.

(1) Every building or structure of any kind in which there is any plumbing affecting the sanitary condition of such building or structure and every building or structure of any kind used, occupied or inhabited as a dwelling shall be furnished and provided with one or more water closets and one or more sinks and shall be separately connected with and drained into a public sewer when situated in the manner provided in NBCC 13.12.050, but where the land on which such building or structure is situated cannot be connected with a public sewer as heretofore provided, then such building or structure shall be separately connected with and drain into a septic tank situated on the same lot; and it shall be unlawful for any person to occupy, maintain, or use any dwelling or building having neither sewer or septic tank.

(2) It shall be the duty of the plumbing inspector or other officer designated by the council of said city of North Bend to notify every person using or occupying any such building or structure that such person must, within 60 days from and after the date of the service upon him of said notice, install sanitary plumbing in accordance with the provisions of this chapter. (Ord. 1104 § 6, 1958)

13.12.070 Drainage – Repair and maintenance of sewer lines.

(1) Neither temporary nor permanent drainage of excavation into the sanitary sewer system shall be permitted. No connections shall be permitted for drainage from roofs, storm sewers or storm drains.

(2) Responsibilities for the repair and maintenance of sewer lines in the city of North Bend are hereby established as follows:

(a) Sanitary sewer mains and laterals which have been constructed by the city of North Bend on streets, alleys or public easements which have become defective or damaged shall be repaired by, and at the cost of, the city of North Bend.

(b) Any portion of a sanitary sewer lateral which has not been constructed or accepted by the city of North Bend as a part of the public sanitary sewer system whether situated in whole or in part on private property or on public streets, alleys or easements, which is or becomes defective or damaged, shall be repaired by, and at the cost of, the owners or possessors of the property served by such lateral.

(c) If a sanitary sewer main shall become stopped or plugged, then it shall be opened or

cleaned and made operable by and at the cost of the city of North Bend.

(d) If a sanitary sewer lateral shall become stopped, plugged or damaged by objects or materials within the lateral by plant roots, or by actions of persons other than employees or agents of the city, then such lateral shall be opened, cleaned or repaired by, or at the cost of, the owner or occupant of property served by the sewer lateral, whether or not the place of stoppage is situated on private property or on a dedicated public right-of-way. The city may elect to perform any work necessary within the improved portion of a public right-of-way and charge the cost to the responsible party, and any costs not paid to the city may be charged as a special assessment to the affected property. (Ord. 1792, 1992; Ord. 1565 § 1, 1978; Ord. 1104 § 7, 1958)

13.12.080 Discharges – Requirements.

This section sets forth uniform requirements for direct and indirect discharges of pollutants from nondomestic sources into the wastewater collection and treatment system for the city of North Bend and enables the city to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1252 et seq.), the General Pretreatment Regulations (40 CFR Part 403) and Chapter 340 Oregon Administrative Rules (OAR). The objectives of this section are to:

- (1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system;
- (2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) Ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its beneficial use;
- (4) Protect both municipal personnel who may come into contact with sewage, sludge and effluent in the course of their employment as well as protecting the general public;
- (5) Preserve the hydraulic capacity of the municipal wastewater system;
- (6) Improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- (7) Provide for equitable distribution of the cost of operation, maintenance and improvements of the municipal wastewater system; and

(8) Ensure the city complies with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws which the municipal wastewater system is subject to.

This section provides for the regulation of direct and indirect discharge to the municipal wastewater collection system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for other users, authorizes monitoring and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This section shall apply to the city and to persons outside the city who by contract or agreement with the city are included as users of the municipal wastewater system. Except as otherwise provided herein, the superintendent of the municipal wastewater system or his designees shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the superintendent may be delegated by the superintendent to other city personnel. (Ord. 1770 § 2, 1991; Ord. 1698 § 3, 1985; Ord. 1648, 1982; Ord. 1469 § 1, 1973; Ord. 1104 § 8, 1958)

13.12.090 General sewer user requirements.

(1) Prohibited Discharge Standards. No user shall contribute, or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general prohibitions apply to all users of the municipal wastewater system whether or not the user is subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. Furthermore, no use may contribute the following substances to the system:

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

(b) Solid or viscous substances in amounts which will cause interference with the flow in a

sewer but in no case solids greater than one-half inch (1.27 centimeters) in any dimension.

(c) Any fat, oils or greases, including but not limited to petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(d) Any wastewater having a pH less than 5.5 or more than 10.0, or which may otherwise cause corrosive structural damage to the system, city personnel or equipment.

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

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

(g) Any substance which may cause the treatment plant effluent or any other 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 system cause the city to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other state requirements applicable to the sludge use and disposal practices being used by the city.

(h) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the city's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10 percent from the seasonably established norm for aquatic life.

(i) Any wastewater having a temperature greater than 150 degrees Fahrenheit (55 degrees centigrade), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to

exceed 104 degrees Fahrenheit (40 degrees centigrade).

(j) Any wastewater containing any radioactive waste or isotopes except as specifically approved by the superintendent in compliance with applicable state or federal regulations.

(k) Any pollutants which result in the presence of toxic gases, vapor or fumes within the system in a quantity that may cause worker health and safety problems.

(l) Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with NBCC 13.12.100(6), Hauled Wastewater.

(m) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater, unless specifically authorized by the superintendent.

(n) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.

(o) Any medical wastes except as specifically authorized by the superintendent in a wastewater permit.

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

(q) Any material identified as hazardous waste according to 40 CFR Part 261 except as specifically authorized by the superintendent.

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

(s) Recognizable portions of the human or animal anatomy.

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

(i) Wastes prohibited by this section shall not be processed or stored in such a manner that these wastes could be discharged to the municipal wastewater system.

(2) Federal Categorical Pretreatment Standards. Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405 – 471, and incorporated herein.

(3) State Requirements. Users are required to comply with applicable state pretreatment standards and requirements set out in Chapter 340

OAR. These standards and requirements are incorporated herein.

(4) **Specific Pollutant Limitations.** No nonresidential user shall discharge wastewater containing restricted substances into the municipal wastewater system in excess of limitations specified in its wastewater discharge permit or published by the superintendent. The superintendent shall publish and revise from time to time standards for specific restricted substances. These standards shall be developed in accordance with 40 CFR 403.5 and shall implement the objectives of this chapter. Standards published in accordance with this section will be deemed pretreatment standards for the purposes of Section 307(d) of the Act.

(a) At his discretion, the superintendent may impose mass limitations in addition to or in place of the concentration based limitations referenced above.

(5) **City's Right to Revision.** The city reserves the right to establish, by ordinance or in wastewater permit, more stringent limitations or requirements or discharges to the municipal wastewater system if deemed necessary to comply with the objectives presented in subsection (1) of this section, Prohibited Discharge Standards.

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

(7) **Dilution.** No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard, or any other pollutant-specific limitation developed by the city. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(A), 1958)

13.12.100 Pretreatment of wastewater.

(1) **Pretreatment Facilities.** Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in NBCC 13.12.090 within the time limitations specified by the superintendent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility.

(a) The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this chapter.

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

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

(b) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances, except that such interceptors shall not be required for residential users. All intercep-

tion units shall be of type and capacity approved by the superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed by the owner, at his expense.

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

(3) Spill Prevention Plans. Industrial users shall provide protection from accidental discharge of materials which may interfere with the municipal wastewater system by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and the operating procedures, shall be approved by the city before implementation of the plan.

(a) Industrial users that store hazardous substances shall not contribute to the municipal wastewater system after the effective date of this chapter unless a spill prevention plan has been approved by the city. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

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

(5) Separation of Domestic and Industrial Wastestreams. All new and domestic wastewaters from rest rooms, showers, drinking fountains, etc., unless specifically included as part of a categorical pretreatment standard, shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a required pretreatment system and the industrial user's monitoring facility. When directed to do so by the superintendent, industrial users must separate existing domestic wastestreams.

(6) Hauled Wastewater. Septic tank waste (septage) will be accepted into the municipal wastewater system at a designated receiving structure within the treatment plant area, and at such times as are established by the superintendent provided such wastes do not contain toxic or hazardous pollutants, and provided such discharge does not violate any other requirements established by the city.

Permits for individual vehicles to use such facilities shall be issued by the superintendent.

(a) All waste haulers, regardless of the origin of the hauled wastes, shall be considered "industrial users" for the purposes of this chapter.

(b) The discharge of industrial wastes as "industrial septage" requires prior approval and wastewater permit from the city. The superintendent shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation.

(c) Fees for the discharge of septage will be established as part of the user fee system as authorized in NBCC 13.12.200(1), Pretreatment Charges and Fees.

(7) Vandalism. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the municipal wastewater system. Any person found in violation of this requirement shall be subject to the sanctions set out in NBCC 13.12.180, Judicial enforcement remedies. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(B), 1958)

13.12.110 Wastewater permit eligibility.

(1) Wastewater Survey. When requested by the superintendent all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The superintendent is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this chapter.

(2) Wastewater Permit Requirement. It shall be unlawful for significant industrial users to discharge wastewater into the city's sanitary sewer system without first obtaining a wastewater permit from the superintendent. Any violation of the terms and conditions of the wastewater permit shall be deemed a violation of this chapter and subjects the industrial user to the sanctions set out in NBCC 13.12.170 and 13.12.180. Obtaining a wastewater permit does not relieve a permittee of its obligation to obtain other permits required by federal, state or local law.

(a) The superintendent may require other industrial users, including liquid waste haulers, to obtain wastewater permits as necessary to carry out the purposes of this chapter.

(3) Permitting Existing Connections. Any significant industrial user which discharges industrial waste into the municipal wastewater system prior to the effective date of the ordinance codified in this chapter and who wishes to continue such discharges in the future shall, within 90 days after said date, apply to the city for a wastewater permit in accordance with subsection (6) of this section, Wastewater Permit Application Contents, and shall not cause or allow discharges to the system to continue after 180 days of the effective date of this chapter except in accordance with a permit issued by the superintendent.

(4) Permitting New Connections. Any significant industrial user proposing to begin or recommence discharging industrial wastes into the municipal wastewater system must obtain a wastewater permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least 90 days prior to the anticipated start up date.

(5) Permitting Extra-Jurisdictional Industrial Users. Any existing significant industrial user located beyond the city limits shall submit a permit application, in accordance with subsection (6) of this section, within 90 days of the effective date of the ordinance codified in this chapter. New significant industrial users located beyond the city limits shall submit such applications to the superintendent 90 days prior to any proposed discharge into the municipal system. Upon review of such application, the superintendent may enter into a contract with the industrial user which requires the industrial user to subject itself to and abide by this chapter, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. Alternately, the superintendent may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said user.

(6) Wastewater Permit Application Contents. In order to be considered for a wastewater permit, all industrial users required to have a permit must submit the following information on an application form approved by the superintendent:

- (a) Name, mailing address, and location (if different from the mailing address);
- (b) Environmental control permits held by or for the facility;
- (c) Standard Industrial Classification (SIC) codes for pretreatment the industry as a whole and

any processes for which categorical pretreatment standards have been promulgated;

(d) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the municipal system;

(e) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment system;

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

(g) Type and amount of raw materials process (average and maximum per day);

(h) The site plans, floor plans and mechanical and plumbing plans and details to show all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge;

(i) Time and duration of the discharge;

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

(k) Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly, and seasonable variations, if any;

(l) Wastewater constituents and characteristics, including any pollutants in the discharge which are limited by federal, state, or local standards, pretreatment standards applicable to each regulated process, and nature and concentration (or mass if pretreatment standard requires) of regulated pollutant in each regulated process (daily maximum and average concentration or mass when required by a pretreatment standard). Sampling and analysis will be undertaken in accordance with 40 CFR Part 136;

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

(n) If additional pretreatment and/or operations and maintenance will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish installation or adoption of such additional treatment and/or operations and maintenance. The completion date in this schedule shall not be longer than the compliance date established for the appli-

cable pretreatment standard. The following conditions apply to this schedule:

(i) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to in this subsection shall exceed nine months nor shall the total compliance period exceed 36 months.

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

(o) Any other information as may be deemed by the superintendent to be necessary to evaluate the permit application.

(i) Incomplete or inaccurate information will not be processed and will be returned to the industrial user for revision.

(7) **Application Signatories and Certification.** All permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

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

sibility of fine and imprisonment for knowing violations.

(8) **Wastewater Permit Decisions.** The superintendent will evaluate the data furnished by the industrial user and may require additional information. Within 60 days of receipt of a complete permit application, the superintendent will determine whether or not to issue a wastewater permit. If no determination is made within this time period, the application will be deemed denied.

If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in NBCC 13.12.090, General sewer use requirements, and which in the judgment of the superintendent may have a deleterious effect upon the municipal treatment system, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may take any of the following actions:

(a) Reject the wastes;

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

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

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of NBCC 13.12.200, Miscellaneous provisions. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(C), 1958)

13.12.120 Wastewater permit issuance process.

(1) **Wastewater Permit Duration.** Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period of less than five years at the discretion of the superintendent. Each permit will indicate a specific date upon which it will expire.

(2) **Wastewater Permit Contents.** Wastewater permits shall include such conditions as are reasonably deemed necessary by the superintendent to prevent pass through of interference and to implement the objectives of this chapter.

(a) Wastewater permits must contain the following conditions:

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

(ii) A statement that the permit is non-transferable without prior notification to and approval from the city and provisions for furnish-

ing the new owner or operator with a copy of the existing permit.

(iii) Effluent limits applicable to the user based on applicable standards in federal, state and local law.

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

(v) Statement of applicable penalties for violation of pretreatment standards and requirements, and compliance schedules.

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

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

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

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

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

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

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

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

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

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

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

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

(xii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in NBCC 13.12.130, Reporting requirements, and affording the superintendent or his representatives access thereto.

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

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

(xv) Requirements for immediate notification of excessive, accidental, or sludge discharges, or any discharge which could cause any problems to the system.

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

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

(3) Wastewater Permit Appeals. Any person including the industrial user may petition to the city to reconsider the terms of the permit within 10 days of the issuance of the final permit.

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

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

(c) The effectiveness of the permit shall not be stayed pending the appeal.

(d) If the city fails to act within 15 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a permit, not to issue a permit, or not to modify a permit shall be considered final administrative action for purposes of judicial review.

(e) Aggrieved parties seeking judicial review of the final administrative permit decision

must do so by filing a complaint with the circuit court for Coos County, Oregon.

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

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

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

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

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

(e) Violation of any terms or conditions of the wastewater permit.

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

(g) Revision of, or a grant of variance from, categorical pretreatment standards pursuant to 40 CFR 403.13.

(h) To correct typographical or other errors in the permit.

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

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

(5) Wastewater Permit Transfer. Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the superintendent if the permittee gives at least 30 days' advance notice to the superintendent. The notice must include a written certification by the new owner which:

(a) States that the new owner has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing permit.

(i) Failure to provide advance notice of a transfer renders the wastewater permit voidable on the date of the facility transfer.

(6) Wastewater Permit Revocation. Wastewater permits may be revoked for the following reasons:

(a) Failure to notify the city of significant changes to the wastewater prior to the changed discharge;

(b) Falsifying self-monitoring reports;

(c) Tampering with monitoring equipment;

(d) Refusing to allow the city timely access to the facility premises and records;

(e) Failure to meet effluent limitations;

(f) Failure to pay fines;

(g) Failure to pay sewer charges;

(h) Failure to meet compliance schedules;

(i) Failure to complete a wastewater survey;

(j) Failure to provide advance notice of the transfer of a permitted facility;

(k) Violation of any pretreatment standard or requirement or any terms of the permit or the ordinance.

(i) Permits shall be voidable upon non-use, cessation of operations, and transfer of business ownership. All are void upon the issuance of a new wastewater permit.

(7) Wastewater Permit Reissuance. A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with NBCC 13.12.110(6), Wastewater Permit Application Contents, a minimum of 90 days prior to the expiration of the user's existing permit. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(D), 1958)

13.12.130 Reporting requirements.

(1) Baseline Monitoring Reports. Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the municipal system shall be required to submit to the city a report which contains the information listed in subsection (a) of this section. At least 90 days prior to commencement of their discharge, new sources, including existing users which have changed their operation or processes so as to become new sources, shall be required to submit to the city a report which contains the information listed in subsection (a) of this section. A new source shall also be required to report the method it intends to use to meet applicable pretreatment stan-

ards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged. The information required by this subsection includes:

(a) Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners.

(b) Permits. The user shall submit a list of any environmental control permits held by or for the facility.

(c) Description of Operation. The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the system from the regulated processes.

(d) Flow Measurement. The user shall submit information showing the measured average daily and maximum daily flow in gallons per day to the system from regulated process streams and other streams as necessary to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(e) Measurement of Pollutant.

(i) The industrial user shall identify the categorical pretreatment standards applicable to each regulated process.

(ii) In addition, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standards or city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be performed in accordance with procedures set out in 40 CFR Part 136.

(iii) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organics. All other pollutants will be measured by composite samples obtained through flow proportional sampling technique. If flow proportional composite sampling is infeasible, samples may be obtained through time proportional sampling techniques or through four grab samples if the user proves such a sample will be representative of the discharge.

(f) Special Certification. A statement reviewed by an authorized representative of the industrial user and certified to by a qualified pro-

fessional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operations and maintenance and/or additional pretreatment is required in order to meet the pretreatment standards and requirements.

(g) Compliance Schedule. If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or operations and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in NBCC 13.12.110(6)(n).

(h) Certification and Signatures. All baseline monitoring reports must be signed and certified in accordance with NBCC 13.12.110(7), Application Signatories and Certification.

(2) Compliance Deadline Reports. Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the municipal wastewater system, any industrial user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in subsection (1)(e) and (f) of this section, Measurement of Pollutant and Special Certification. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with NBCC 13.12.110(7), Application Signatories and Certification.

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

for the industrial user to claim that sample results are unrepresentative of its discharge.

(b) 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 superintendent and resample its discharge. The industrial user must report the results of the repeated sampling within 30 days of discovering the first violation.

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

(a) The superintendent 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 NBCC 13.12.110(6), Wastewater Permit Application Contents, if necessary.

(b) The superintendent may issue a wastewater permit under NBCC 13.12.110(8), Wastewater Permit Decisions, or modify an existing wastewater permit under NBCC 13.12.120(4), Wastewater Permit Modifications.

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

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

(4) Reports of Potential Problems. Each industrial user shall provide protection from accidental or intentional discharges of prohibited materials or other substances regulated by this chapter. Facilities to prevent the discharge of prohibited materials shall be provided and maintained at the owner's 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. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter.

(a) No industrial user which commences contribution to the system after the effective date

of the ordinance codified in this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city.

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

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

(d) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this chapter.

(e) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (4)(b) of this section. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(5) Reports from Noncategorical Users. All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater permit shall provide appropriate reports to the city as the superintendent may require.

(6) Sample Collection. Except as indicated in subsection (6)(a) of this section, wastewater samples collected for purposes of determining industrial user compliance with pretreatment standards and requirements must be obtained using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the superintendent may authorize the use of time proportional sampling.

(a) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides and volatile

organic chemicals must be obtained using grab collection techniques.

(7) Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, or if 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question in accordance with procedures approved by the EPA, DEQ, and the city.

(8) Monitoring Charges. The superintendent may recover the city's expenses incurred in collecting and analyzing samples of the industrial user's discharge by adding the costs to the industrial user's sewer charges.

(9) Timing. Written reports will be deemed to have been transmitted at the time of deposit, postage prepaid, into a mail facility serviced by the United States Postal Service.

(10) Record Keeping. Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under 40 CFR 403.12(o). 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 this chapter, or where the industrial user has been specifically notified of a longer retention period by the superintendent. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(E), 1958)

13.12.140 Compliance.

(1) Inspection and Sampling. The city shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Industrial users shall allow the superintendent or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

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

(b) The city, state and U.S. EPA shall have the right to set up or require installation of, on the industrial user's property, such devices as are necessary to conduct sampling and/or metering of the user's operations.

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

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

(e) Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this chapter.

(2) Search Warrants. If the superintendent has been refused access to a building, structure or property, or any part thereof, and if the superintendent has probable cause to believe that there may be a violation to this chapter, or that there is a need to inspect as part of a routine inspection program of the city designed to protect the overall public health, safety and welfare of the community, then upon application by the city attorney, the municipal court judge of the city shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the superintendent in the company of a uniformed police officer of the city. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(F), 1958)

13.12.150 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 in 40 CFR 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 which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(G), 1958)

13.12.160 Publication of users in significant noncompliance.

The city shall annually publish, in the largest daily newspaper circulated in the area where the municipal wastewater system is located, a list of the industrial users which during the previous 12 months were in significant noncompliance with applicable pretreatment standards and requirements. The term “significant noncompliance” shall mean:

(1) Sixty-six percent or more of wastewater measurements taken during a six-month period exceed the discharge limit for the same pollutant by any amount.

(2) Thirty-three percent or more of wastewater measurements taken during a six-month period equal or exceeding the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and greases, and 1.2 for all other pollutants except pH).

(3) Any other discharge violation that the city believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public).

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the city’s exercise of its emergency authority to halt or prevent such a discharge.

(5) Failure to meet within 90 days of the scheduled date a compliance schedule milestone contained in a permit or enforcement order for starting

construction, completing construction or attaining final compliance.

(6) Failure to provide within 30 days after the due date any required reports including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(7) Failure to accurately report noncompliance.

(8) Any other violation(s) which the city has reason to believe is significant. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(H), 1958)

13.12.170 Administrative enforcement remedies.

(1) Notification of Violation. Whenever the superintendent finds that any industrial user has violated or is violating this chapter, a wastewater permit or order issued hereunder, or any other pretreatment requirement, the superintendent or his agent may serve upon said user a written notice of violation. Within 10 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the superintendent. Submission of this 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 subsection shall limit the authority of the city to take emergency action without first issuing a notice of violation.

(2) Consent Orders. The superintendent is hereby empowered to enter into consent orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (4) and (5) of this section and shall be judicially enforceable.

(3) Show Cause Hearing. The superintendent may order any industrial user which causes or contributes to violation(s) of this chapter, wastewater permits or orders issued hereunder, or any other pretreatment requirement to appear before the superintendent and show cause why a proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action,

and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. Whether or not the industrial user appears as notified, immediate enforcement action may be pursued following the hearing date.

(4) Compliance Orders. When the superintendent finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement, he may issue an order to the industrial user responsible for the discharge directing that following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Furthermore, the superintendent may continue to require such additional self-monitoring for at least 90 days after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control.

(5) Cease and Desist Orders. When the superintendent finds that an industrial user has violated or continued to violate this chapter, permits of order issued hereunder, or any other pretreatment requirement, the superintendent may issue an order to the industrial user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements.

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

(6) Administrative Fines. Notwithstanding any other section of this chapter, any user which is found to have violated any provision of this chapter, permits and orders issued hereunder, or any other pretreatment requirement shall be fined in an amount not to exceed \$1,000. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long term average dis-

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

(a) Assessments may be added to the user's next scheduled sewer service charge and the superintendent shall have such other collection remedies as may be available for other service charges and fees.

(b) Unpaid charges, fines, and penalties shall after 30 calendar days be assessed an additional penalty of 20 percent of the unpaid balance and interest shall accrue thereafter as a rate of seven percent per month. Furthermore, these unpaid charges, fines and penalties together with interest therefrom shall constitute a lien against the individual user's property.

(c) Industrial users desiring to dispute such fines must file a written request for the superintendent to reconsider the fine along with full payment of the fine amount within 10 days of being notified of the fine. Where the superintendent believes a request has merit, he shall convene a hearing on the matter within 15 days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the industrial user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(7) Emergency Suspensions. The superintendent may suspend the wastewater permit of an industrial user for a period not to exceed 30 days whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, interferes with the operation of the municipal wastewater system, or which present, or may present, an endangerment to the environment.

(a) Any industrial user notified of a suspension of its wastewater permit shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or endangerment to any individuals. The superintendent shall allow the industrial user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings set forth in sub-

section (8) of this section, Termination of Permit, are initiated against the user.

(b) An industrial user which is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the superintendent prior to the date of any show cause or termination hearing under subsections (3) and (8) of this section, Show Cause Hearing and Termination of Permit.

(8) Termination of Permit. In addition to those provisions in NBCC 13.12.120(6), Wastewater Permit Revocation, any industrial user which violates the following conditions of this chapter, wastewater permits or orders issued hereunder is subject to permit termination:

(a) Violation of permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under subsection (3) of this section, Show Cause Hearing, why the proposed action should not be taken. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(I), 1958)

13.12.180 Judicial enforcement remedies.

(1) Injunctive Relief. Whenever an industrial user has violated or continues to violate the provisions of this chapter, permits or orders issued hereunder or other pretreatment requirements, the superintendent, through the city's attorney, may petition the Circuit Court of the State of Oregon for the issuance of temporary or permanent injunction as may be appropriate, which restrains or compels the specific performance of the wastewater permit order or other requirement imposed by this chapter on activities of the industrial user. Such other action as may be appropriate for legal and/or equitable relief may also be sought by the city. The court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.

(2) Civil Penalties. Any industrial user which has violated or continues to violate this chapter,

any order or permit hereunder, or any other pretreatment requirement shall be liable to the superintendent for a maximum civil penalty of \$500.00 per violation per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each business day during the period of this violation.

(a) The superintendent may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(b) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factors as justice requires.

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

(3) Criminal Prosecution.

(a) Any industrial user who willfully or negligently violates any provisions of this chapter, any orders or permits issued hereunder, or any other pretreatment requirement shall upon conviction be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year or both.

(b) Any industrial user who knowingly makes false statement, representations, or certifications in any application, record, report, plan or other documentation filled or required to be maintained pursuant to this chapter, or wastewater permit or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall upon conviction be punished by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year or both.

(c) In the event of a second conviction, the use shall be punishable by a fine not to exceed \$3,000 per violation per day or imprisonment for not more than three years or both. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(J), 1958)

13.12.190 Affirmative defenses to discharge violations.

(1) Upset. An upset shall be an affirmative defense to an enforcement action brought against a user for violating a pretreatment standard and requirement if the following conditions are met:

(a) The user can identify the cause of the upset.

(b) The facility was operating in a prudent and workmanlike manner at the time of the upset and was in compliance with applicable operations and maintenance procedures.

(c) The user submits, within 24 hours of becoming aware of the upset, a description of the discharge and its causes, the period of noncompliance (if not corrected, then time noncompliance is anticipated to end), and the steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.

(d) If this report is given orally, the user must also submit a written report containing such information within five days unless waived by the superintendent.

(e) "Upset" shall mean 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. Non-compliance cause by operational error, improperly designed pretreatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation does not constitute an upset.

(2) 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 NBCC 13.12.090(1), Prohibited Discharge Standards, if it can prove that it did not know or have reason to know that its discharge would cause pass through or interference and that either:

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

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

(3) Bypass. The intentional diversion of wastestreams 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. In order to be eligible for the affirmative defense, the industrial user must demonstrate that there was no feasible alternative to the bypass and submit notice of the bypass as required by 40 CFR 403.17. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(K), 1958)

13.12.200 Miscellaneous provisions.

(1) Pretreatment Charges and Fees. The city may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

(a) Fees for permit applications including the cost of processing such applications;

(b) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by industrial users;

(c) Fees for reviewing and responding to accidental discharge procedures and construction;

(d) Fees for filing appeals;

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

(2) Severability. If any provisions of this chapter are invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(3) Conflicts. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of the inconsistency or conflict. (Ord. 1770 § 2, 1991; Ord. 1104 § 8(L), 1958)

13.12.210 Private sewage disposal.

Private sewage disposal is subject to the following regulations:

(1) Where a public sanitary sewer is not available under the provisions of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(2) Before commencement of construction of a private sewage disposal system, the owner shall

first obtain a written permit from the Oregon State Department of Environmental Quality.

(3) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in this chapter, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sewage disposal facility shall be abandoned in accordance with state law at no expense to the city.

(4) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the city.

(5) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Oregon State Department of Environmental Quality. (Ord. 1698 § 4, 1985; Ord. 1104 § 9, 1958)

13.12.220 Measurements, tests, and analyses.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.) (Ord. 1698 § 5, 1985; Ord. 1104 § 10, 1958)

13.12.230 Prohibited acts.

The following acts and conduct are prohibited:

(1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city of North Bend or in any area under the juris-

dition of said city any human or animal excrement, garbage or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet with the city of North Bend or in any area under the jurisdiction of said city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as otherwise provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) It shall be unlawful for any person, firm or corporation to use or occupy or to permit to be used or occupied, any building not plumbed or drained in accordance with the provisions of this chapter.

(5) It shall be unlawful for any person, firm, or corporation either as owner, architect, contractor, artisan or otherwise to do or cause or permit to be done, any plumbing or drainage work in such manner that the same shall not conform to all of the provisions of this chapter.

(6) It shall be unlawful for any person, firm or corporation to willfully injure, break, destroy, obstruct, remove or in any way interfere with any manhole, flush tank, or public sewer of the city of North Bend, whether constructed on private ground or on any street or sidewalk in said city. (Ord. 1698 § 6, 1985; Ord. 1104 § 11, 1958)

13.12.240 Permit required for connection.

It shall be unlawful for any person, firm or corporation to connect or cause to be connected with any public sewer of the city of North Bend, either directly or through any private sewers, any property, house or building that is not included under a permit duly issued in accordance with the provisions of this chapter. (Ord. 1104 § 12, 1958)

13.12.250 Use of other sewer systems.

Whenever, under the terms of this chapter, any dwelling or building shall be required to be connected to the sanitary sewer system of the city of North Bend, then it shall be unlawful for an occupant or occupants of such dwelling or building to use or maintain any sewage disposal facilities other than said sanitary sewer system, or to live in or occupy any dwelling or building which is not connected to said sanitary sewer system unless application shall have been made for connection and all fees shall have been paid under the terms of this chapter. (Ord. 1104 § 13, 1958)

13.12.260 Violation – Penalty.

Violation of, or failure to comply with, any provisions of this chapter is punishable, upon conviction, by a fine not to exceed \$300.00, unless the cost to the city due to the violation exceeds the cost of the fine, then the fine will be equal to whichever cost is higher, and each day that such violation shall continue and persist after due notice thereof shall constitute a separate and distinct violation of this chapter. (Ord. 1934 § 2.4, 2005; Ord. 1386 § 2, 1969; Ord. 1104 § 14, 1958)

13.12.270 Delinquent payments – Liens and assessments.

In the event that any of the installment payments on connection fees shall not be made promptly and within the time limit therefor under the terms of this chapter, and in the event that all delinquent payments shall not have been paid within 30 days of the date of notice mailed by said city to the owner or owners at the address listed on their connection permit, then the entire balance of the connection fee shall become a special assessment on the land where such connection was made, and may be collected in the manner provided by law for the collection of assessments and liens on real property. (Ord. 1104 § 15, 1958)

13.12.280 Fund – Deposits.

All charges collected under the terms of this chapter shall be deposited in a special fund to be known as the sewage disposal fund, and the moneys in said fund shall be used by the city of North Bend for the payment of principal and interest on sewer bonds of the city for the repair, maintenance and operation of the North Bend sewage system and treatment plant for the replacement and treatment or reconstruction of any part of said sewage or new sewage disposal facilities. (Ord. 1447 § 1, 1972; Ord. 1104 § 16, 1958)

13.12.290 Sewer extension lines.

The council is hereby empowered to order the construction of sewer extension lines by the city of North Bend by resolutions of setting forth therein the manner in which said work is to be carried out and the funds of the city of North Bend to be used for such purpose, and the council may provide for the interim financing of such sewer extensions through the issuance of warrants or promissory note of the city of North Bend which shall be general obligations of the city, and the provisions of this chapter requiring sewer connections and the

payment of fees therefor shall apply to all such sewer extensions. (Ord. 1104 § 17, 1958)

13.12.300 Severability.

If any provisions, section, sentence or phrase of this chapter shall for any reason be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this chapter. (Ord. 1104 § 18, 1958)

Chapter 13.16

SEWER USER CHARGES

Sections:

- 13.16.010 Findings.
- 13.16.020 Definitions.
- 13.16.030 Sewer user charges.
- 13.16.040 Responsibility, collection and enforcement of charges.
- 13.16.050 Disposition of funds.
- 13.16.060 Review and repeal.

13.16.010 Findings.

The council finds that it has been collecting sewer user charges for the use of sanitary sewers and sewage treatment plant facilities for the purpose of paying the costs of the financing of such facilities and operation of the sewage collection and treatment system within the city of North Bend, and this chapter is intended to continue to collect sewer user charges for such purposes on the revised basis provided in this chapter. The council also finds that it is necessary in order to protect the waters within and adjacent to the city of North Bend from pollution and to promote the public health, safety and welfare of the residents of and near the city, a sewage system has been developed to be operated by the city for collection, treatment and disposal of wastewater tributary to such a system, and it is necessary in the public interest that the city establish a schedule of rates for sewage collection and disposal in amounts sufficient to pay the expenses of maintaining and operating such facilities and the payment of any outstanding sewer bonds to also provide necessary reserves. The council also finds that it has entered into a grant agreement with the Environmental Protection Agency for the construction of sewage treatment facilities in which the city has agreed that the costs of operating and maintaining the sewage treatment works shall be distributed among all users of such treatment works in proportion to each user's contribution to the total wastewater loading of that sewage system. (Ord. 1587 § 1, 1979)

13.16.020 Definitions.

Unless the context clearly indicates a different meaning, the words and phrases hereafter listed shall have the following meanings:

(1) "BOD (biochemical oxygen demand)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under stan-

dard laboratory procedure in five days at 20 degrees centigrade, expressed in milligrams per liter.

(2) "Collection system" shall mean the system of public sewers to be operated by the city designed for the collection of sanitary sewage.

(3) "Commercial user" shall mean any premises used for commercial or business purposes which is not an industry as defined in this chapter.

(4) "Domestic waste" shall mean any wastewater emanating from dwellings or from domestic activities which are performed outside the home in lieu of a home activity directly by or for private citizens.

(5) "Industrial user" shall mean any nongovernmental user of the public treatment works that discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

Division A: Agriculture, Forestry, and Fishing

Division B: Mining

Division D: Manufacturing

Division E: Transportation, Communications,
Electric, Gas, and Sanitary Services

Division I: Services

"Industrial user" also means any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

(6) "Industrial waste" shall mean that portion of the wastewater emanating from an industrial user which is not domestic waste or waste from sanitary conveniences.

(7) "Operation and maintenance" shall mean activities required to assure the dependable and economical function of treatment works and shall consist of:

(a) "Maintenance" means preservation of functional integrity and efficiency of equipment and structures. This includes preventive mainte-

nance, corrective maintenance and replacement of equipment as needed; and

(b) "Operation" means control of the unit processors and equipment which make up the treatment works. This includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

(8) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

(9) "Public treatment works" shall mean a treatment works owned and operated by a public authority.

(10) "Replacement" shall mean obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(11) "Service area" shall mean all the area served by the treatment works and for which there is one uniform user charge system.

(12) "Sewage" shall mean a combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

(13) "Sewage treatment plant" shall mean an arrangement of devices and structures used for treating sewage.

(14) "Shall" is mandatory; "may" is permissible.

(15) "Suspended solids" shall mean solids that either float on the surface or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(16) "Treatment works" shall mean all facilities for collecting, pumping, treating and disposing of sewage. "Treatment system" and "sewerage system" shall be equivalent terms for "treatment works."

(17) "Useful life" shall mean the period during which a treatment works operates, as distinguished from "design life" which is the period during which a treatment works is planned and designed to be operated.

(18) "User" shall mean every person using any part of the public treatment works of the city of North Bend.

(19) "User charge" shall mean a charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance

(including replacement) of such works. (Ord. 1699 § 1, 1985; Ord. 1587 § 2, 1979)

13.16.030 Sewer user charges.

(1) General Provisions. User charges shall be levied on all users of the public treatment works which shall cover the cost of operation and maintenance, debt service, taxes, and other administrative costs of such treatment works. The user charge system shall distribute these costs in proportion to each user's contribution to the wastewater loading of the treatment works. Since both volume and strength of wastewater influences the costs of operation and maintenance of the North Bend treatment works, all costs associated with the treatment works shall be distributed among the applicable wastewater characteristics and unit costs for each wastewater characteristic shall be calculated. From these unit costs shall be developed a flow charge for all wastewater with approximately the same strength as domestic wastewater which shall be applied to all users. Certain users shall be grouped into classes of users discharging approximately the same volume of wastewater and shall be levied a flat charge which is calculated from the flow charge by applying the average volume for that class. Each user or user class whose wastewater strength differs substantially from that of domestic wastes shall be charged by applying the unit charges developed under this section to the wastewater volume and strength of that user or user class.

(2) Special Users. Any user which cannot be classified by virtue of the volume and/or strength of his wastewater shall be considered a special user. If the strength of such wastes is not significantly different from that of normal household wastes, such user shall be placed in the open class and shall be assigned the appropriate wastewater volume. If the wastewater strength is significantly different from that of normal household wastes, a special charge based on both volume and strength shall be assigned to that user by the city engineer.

(3) Classification Review. Users who believe that they have been incorrectly assigned to a particular user class of wastewater volume or strength may apply for review of such classification as provided in NBCC 13.16.060.

(4) Reassignment of a User. Should the city engineer determine that a user is incorrectly assigned to a particular user class of wastewater volume or strength then he shall reassign such user to a more appropriate user class for wastewater

volume or strength and shall notify such user of the reassignment.

(5) Records. Records of all assigned rates and assigned wastewater volumes and strengths to user and user classes and the unit rates for each wastewater characteristic shall be kept on file in the office of the city engineer and shall be open to public inspection.

(6) User Rates. Sewer user rates and charges are hereby established as follows:

(a) Sewer user rates shall be established and amended from time to time as required by this chapter through the adoption of resolutions of the city council.

(b) Septic Sewage. Septic sewage will not be accepted.

(c) Accrual of Charges. Ordinary sewer users purchasing water from the Coos Bay-North Bend water board shall be subject to sewer user charges during all times that they shall be connected to the water system, and charges for sewer use shall run concurrently with charges for water use. Users not receiving water from the Coos Bay-North Bend water system or users of the sanitary sewer system whose use does not correspond with water use shall be charged from the day that connection is made with the public sewer system and shall continue to be charged for such use during all times that discharge can physically take place into such sewer system, whether or not the property is continuously occupied and used. If the dates upon which user charges are commenced or altered does not fall on the first day of a billing period, the rates shall be appropriately prorated.

(d) Review and Revision of Rates. The sewer user charges established in NBCC 13.16.030, as a minimum, will be reviewed annually and revised periodically to reflect actual costs of operation, maintenance, replacement, and financing of the treatment works and to maintain the equability of the user charges with respect to proportional distribution of the costs of operation and maintenance in proportion to each user's contribution to the total wastewater loading of the treatment works. (Ord. 1856 § 1, 1997; Ord. 1851 § 1, 1996; Ord. 1841 § 1, 1995; Ord. 1803 § 1, 1993; Ord. 1789 § 1, 1992; Ord. 1761 § 1, 1990; Ord. 1748 § 1, 1989; Ord. 1738 § 1, 1989; Ord. 1719 § 1, 1987; Ord. 1707 § 1, 1986; Ord. 1695 § 1, 1985; Ord. 1682 § 1, 1984; Ord. 1587 § 3, 1979)

13.16.040 Responsibility, collection and enforcement of charges.

(1) Responsibility for Charges. The person or persons who make use of, or discharge materials into, the sewer system of the city of North Bend shall be jointly and severally responsible for the payment of the sewer user charge imposed for such use.

(2) Method of Collection. The Coos Bay-North Bend water board is hereby authorized and directed to collect all of the sewer charges herein levied and imposed and to pay the amounts thereof to the city of North Bend each month. For this purpose the said water board may include sewer charges as a part of their periodic billings for water services. Any sewer user not receiving water service from the Coos Bay-North Bend water board shall be billed each month by the city recorder for sewer charges imposed by this chapter.

(3) Enforcement of Collection. Sewer user charges imposed under this chapter shall be a debt due to city of North Bend, and when such debt shall become 30 days delinquent, this charge may be collected in a civil action in the name of the city against the user or users of such service, or any of them. Collections of sewer user charges may be enforced in the same manner as collections of water charges by the Coos Bay-North Bend water board, which shall act as the agent of the city in such collection.

(4) Rebates. Users of water from the Coos Bay-North Bend water system who pay sewer charges and are not connected with the North Bend sewer system shall be entitled to a rebate of sewer charges paid during any fiscal year ending June 30th after making application therefor to the city recorder within one year following such fiscal year. Such application shall contain the name and address of the user and owner of the property involved, the amount of sewer charges paid to the Coos Bay-North Bend water board and shall certify that the property involved is not connected with the North Bend sewer system. If the city recorder shall determine that the information on the application is correct, payment of the rebate shall be made within 60 days from the filing of the application unless duplicate or conflicting claims are made for the same sewer charges prior to payment, in which case the city recorder shall determine which claimant, if any, is entitled to the rebate.

(5) Notification. Each user shall be notified at least annually in conjunction with a regular billing of the rate and that portion of the user charges

which are attributable to wastewater treatment services. (Ord. 1765 §§ 1, 2, 1991; Ord. 1727, 1987; Ord. 1699 § 2, 1985; Ord. 1646, 1982; Ord. 1587 § 4, 1979)

appeal. The decision of the council upon such appeal shall be final and conclusive. (Ord. 1587 § 6, 1979)

13.16.050 Disposition of funds.

All charges collected under the terms of this chapter shall be deposited in a special fund to be known as “the sewage disposal fund” and the moneys in said fund shall be used by the city of North Bend for the payment of principal and interest on sewer bonds of said city for the repair, maintenance and operation of the North Bend sewage system and treatment plant, for the replacement or reconstruction of any part of the sewage system and treatment plant, or for the construction of new sewers or new sewage disposal facilities. (Ord. 1587 § 5, 1979)

13.16.060 Review and repeal.

(1) Review by City Engineer. Any sewer user believing the sewer user charge is unjust and inequitable as applied to his circumstances or premises may make written application to the city engineer requesting a review of such user charges. Said written request shall, where applicable, show the actual estimated average flow and/or strength of the wastewater in comparison with the values upon which the charge is based, including the manner and method in which such measurements of estimates were made. The review of the request shall be made by the city engineer who shall determine if it is substantiated or not, and if the request is determined to be substantiated, the user charges for that user shall be recomputed based on the approval and revised flow and/or strength data, and the new charges thus recomputed shall be applicable beginning with the date that the written request was received by the city engineer.

(2) Appeal. Any person aggrieved by the action of the city engineer in denying or modifying a request or application for a review of user charges, shall have a right of appeal of such action to the city council by delivering written notice of such appeal to the city recorder within 15 days after receiving written notice of the action of the city engineer, and such notice of appeal shall specify therein all facts or reasons to be relied upon in such appeal. The appeal shall thereupon be held before the council at its next regular meeting held not earlier than 10 days after the filing of such notice of

Chapter 13.20**PUBLIC IMPROVEMENTS***

Sections:

- 13.20.010 Initiation of proceedings and report from the city engineer.
- 13.20.020 Council's action on engineer's report.
- 13.20.030 Resolution and notice of hearing.
- 13.20.040 Manner of doing work.
- 13.20.050 Hearing.
- 13.20.060 Call for bids.
- 13.20.070 Assessment ordinance.
- 13.20.080 Method of assessment and alternative methods of financing.
- 13.20.090 Remedies.
- 13.20.100 Notice and levy of assessments.
- 13.20.110 Lien records and foreclosure proceedings.
- 13.20.120 Errors in assessment calculations.
- 13.20.130 Deficit assessment.
- 13.20.140 Rebates.
- 13.20.150 Abandonment of proceedings.
- 13.20.160 Curative provisions.
- 13.20.170 Reassessment.
- 13.20.180 Reapportionment of assessments.

*Prior legislation: Ord. 1042.

13.20.010 Initiation of proceedings and report from the city engineer.

Street, sewer, sidewalk and such other public improvements as the council deems necessary may be initiated by motion of the council which shall direct the city engineer to make a survey and written report for such project and file the same with the city recorder. Unless the council shall direct otherwise, such report shall contain the following matters:

(1) A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.

(2) Plans, specifications and estimates of the work to be done; provided, however, that where the proposed project is to be carried out in cooperation with any other governmental agency, the engineer may adopt the plans, specifications and estimates of such agency.

(3) An estimate of the probable cost of the improvement, including any legal, administrative and engineering cost attributable thereto.

(4) An estimate of the unit cost of the improvement to the specially benefited properties.

(5) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited.

(6) The description and assessed value of each lot, parcel of land, or portion thereof to be specially benefited by the improvement with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.

(7) A statement of outstanding assessments against property to be assessed. (Ord. 1553 § 1, 1978; Ord. 1085 § 1, 1958)

13.20.020 Council's action on engineer's report.

After the city engineer's report shall have been filed with the city recorder, the council may thereafter by motion approve the report, modify the report and approve it as modified, require the engineer to supply additional or different information for such improvement, or it may abandon the improvement. (Ord. 1085 § 2, 1958)

13.20.030 Resolution and notice of hearing.

After the council shall have approved the engineer's report as submitted or modified, the council shall, by resolution, declare its intention to make such improvement, provide the manner and method of carrying out the improvement and shall direct the recorder to give notice of such improvement by two publications one week apart in a newspaper of general circulation within the city of North Bend, and by mailing copies of such notice by registered or certified mail to the owners to be assessed for the costs of such improvement, which said notice shall contain the following matters:

(1) That the report of the city engineer is on file in the in the office of the recorder and is subject to public examination.

(2) That the council will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than 10 days following the first publication of notice, at which objections and remonstrances to such improvement will be heard by the council; and if prior to 5:00 p.m. on the date of such hearing there shall be presented to the recorder valid written remonstrances by the owners of property upon which 67 percent of the estimated cost of the improvement is proposed to be levied, then the motion initiating the improve-

ment shall be defeated and no further action upon the improvement shall be taken for six months.

(3) A description of the property to be specially benefited by the improvement, the owners of such property and the engineer's estimate of the unit cost of the improvement to the property to be specially benefited, and the total cost of the improvement to be paid for by special assessments to benefited properties. (Ord. 1553 § 2, 1978; Ord. 1085 § 3, 1958)

13.20.040 Manner of doing work.

The council may provide in the improvement resolution that the construction work may be done in whole, or in part, by the city of North Bend, by a contract, or by any other governmental agency, or by any combination thereof. (Ord. 1085 § 4, 1958)

13.20.050 Hearing.

At the time of the public hearing on the proposed improvement, if the written remonstrances shall represent less than the amount of property required to defeat the proposed improvement, then, on the basis of said hearing of written remonstrances and oral objections, if any, the council may, by motion, at the time of said hearing or within 60 days thereafter order said improvement to be carried out in accordance with the resolution, or the council may, on its own motion, abandon the improvement. (Ord. 1085 § 5, 1958)

13.20.060 Call for bids.

The council may, in its discretion, direct the city recorder to advertise for bids for construction of all, or any part of, the improvement project on the basis of the council-approved engineer's report and before the passage of the resolution, or after the passage of the resolution and before the public hearing on the proposed improvement, or at any time after said public hearing; provided, however, that no contract shall be let until after the public hearing has been held to hear remonstrances and oral objections to the proposed improvement. In the event that any part of the work of the improvement is to be done under contract bids, then the council shall determine the time and manner of advertisement for bids, and the contracts shall be let to the lowest responsible bidder; provided, that the council shall have the right to reject all bids when they are deemed unreasonable or unsatisfactory. The city shall provide for the bonding of all contractors for the faithful performance of any contract let under its authority, and the provisions

thereof in case of default shall be enforced by action in the name of the city of North Bend.

If the council finds, upon opening bids for the work of such improvement, that the lowest responsible bid is substantially in excess of the engineer's estimate, it may, in its discretion, provide for holding a special hearing of objections to the proceeding with the improvement on the basis of such bid, and it may direct the city recorder to publish one notice thereof in a newspaper of general circulation in the city of North Bend. (Ord. 1085 § 6, 1958)

13.20.070 Assessment ordinance.

After the aforesaid public hearing on the proposed improvement and after the council has moved to proceed with the improvement, it may pass an ordinance assessing the various lots, parcels of land, or parts thereof, to be specially benefited with their apportioned share of the cost of the improvement; but the passage of such an assessment ordinance may be delayed until the contract for the work is let, or until the improvement is completed and the total cost thereof is determined. (Ord. 1085 § 7, 1958)

13.20.080 Method of assessment and alternative methods of financing.

The council in adopting a method of assessment of the costs of the improvement may:

(1) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.

(2) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

(3) Authorize payment by the city of all, or part of, the cost of any such improvement, when in the opinion of the council the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of the improvement.

Nothing contained in this chapter shall preclude the council from using any other available means of financing improvements, including federal or state grants in aid, sewer charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement. (Ord. 1085 § 8, 1958)

13.20.090 Remedies.

Subject to the curative provisions of NBCC 13.20.160 and the rights of the city to reassess as provided in NBCC 13.20.170, proceedings for writs of review and suits in equity may be filed not earlier than 30 days nor later than 60 days after the filing of written objections as provided herein. A property owner who has filed written objections with the city recorder prior to the public hearing may have the right to apply for a writ of review based upon the city council exercising its functions erroneously or arbitrarily or exceeding its jurisdiction to the injury of some substantial right of such owner if the facts supporting such claim have been specifically set forth in the written objections. A property owner who has filed written objections with the city recorder prior to the public hearing may commence a suit for equitable relief based upon a total lack of jurisdiction on the part of the city, and if notice of the improvement shall not have been sent to the owner and if the owner did not have actual knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the city recorder within 30 days after receiving notice or knowledge of the improvement. No provision of this section shall be construed so as to lengthen any period of redemption or so as to affect the running of any statute of limitation. Any proceeding on a writ of review or suit in equity shall be abated if proceedings are commenced and diligently pursued by the city council to remedy or cure the alleged errors or defects. (Ord. 1308 § 1, 1965; Ord. 1085 § 9, 1958)

13.20.100 Notice and levy of assessments.

If assessment of benefited property has not been made on the basis of estimates of the city engineer, then when actual costs have been determined, the city recorder shall give notice of the proposed assessments by publication in a newspaper of general circulation in the city of North Bend and by mail or delivery to the owners of property to be assessed at least 10 days prior to the date that the proposed assessments are to be considered by the city council. The notice shall contain a description of the property to be assessed, the amount of the proposed assessment for each parcel of such property, and the latest date that objections may be filed with the city recorder, which date shall not be earlier than the tenth day after the date of publication and mailing, and that such objections must be in writing and state the grounds therefor. The notice

shall also state that the council will enact an assessment ordinance following the consideration of the proposed assessments, and any objections thereto, and, if the owner of property assessed shall fail, within 30 days of the enactment of the said ordinance, to either apply to pay such assessment in installments or to pay the assessment in full, then interest shall commence to run on the assessment and the property will be subject to foreclosure. The council shall consider the proposed assessments and any objections thereto, and may adopt, correct, modify or revise the proposed assessments and determine the amount of assessment to be charged against each parcel of property within the improvement district according to the special and peculiar benefits accruing thereto from the improvement and shall levy the assessments by ordinance. (Ord. 1492 § 1, 1974; Ord. 1085 § 10, 1958)

13.20.110 Lien records and foreclosure proceedings.

After passage of the assessment ordinance by the council, the city recorder shall enter in the docket of city liens a statement of the amounts assessed upon each particular lot, parcel of land, or portion thereof, together with a description of the improvement, the name of the owners, and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land or portions thereof, which have been assessed for such improvement. All assessment liens of the city of North Bend shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state of Oregon permit. Interest shall be charged at the rate of six percent per annum until paid on all amounts not paid within 30 days from the date of the assessment ordinance, and after expiration of 30 days from the date of such assessment ordinance, the city may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the state of Oregon; provided, however, that the city may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state of Oregon to redeem such property. (Ord. 1085 § 11, 1958)

13.20.120 Errors in assessment calculations.

Claimed errors in the calculation of assessments shall be called to the attention of the city recorder,

who shall determine whether there has been an error in fact. If the recorder shall find that there has been an error in fact, he shall recommend to the council an amendment to the assessment ordinance to correct such error, and upon enactment of such amendment, the city recorder shall make the necessary correction in the docket of city liens and send a corrected notice of assessment by registered or certified mail. (Ord. 1085 § 12, 1958)

13.20.130 Deficit assessment.

In the event that an assessment shall be made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the council may, by motion, declare such deficit and prepare a proposed deficit assessment. The council shall set a time for a hearing of objections to such deficit assessment and shall direct the city recorder to publish one notice thereof in a newspaper of general circulation in the city of North Bend. After such hearing the council shall make a just and equitable deficit assessment by ordinance, which shall be entered in the docket of city liens as provided by this chapter, and notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with NBCC 13.20.100 and 13.20.110. (Ord. 1085 § 13, 1958)

13.20.140 Rebates.

If, upon the completion of the improvement project, it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of such improvements, then the council must ascertain and declare the same by ordinance, and when so declare, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessment. In the event that any assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the repayment of such rebate credit, or the portion thereof, which exceeds the amount unpaid on the original assessment. (Ord. 1085 § 14, 1958)

13.20.150 Abandonment of proceedings.

The council shall have full power and authority to abandon and rescind proceedings for improvements made under this chapter at any time prior to the final completion of such improvements, and if liens have been assessed upon any property under such procedure, they shall be canceled and any payments made on such assessments shall be

refunded to the person paying the same, his assigns or legal representatives. (Ord. 1085 § 15, 1958)

13.20.160 Curative provisions.

No improvement assessment shall be rendered invalid by reason of a failure of the engineer's report to contain all of the information required by NBCC 13.20.010, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by this chapter, or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings. (Ord. 1085 § 16, 1958)

13.20.170 Reassessment.

Whenever any assessment, deficit or reassessment for any improvement which has been made by the city has been, or shall be, set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this state, or any federal court having jurisdiction thereof, or when the council shall be in doubt as to the validity of such assessment, deficit assessment, or reassessment, or any part thereof, then the council may make a reassessment in the manner provided by the laws of the state of Oregon. (Ord. 1085 § 17, 1958)

13.20.180 Reapportionment of assessments.

Property in single ownership at the time of the initial hearing at which the city acquires jurisdiction to perform a public improvement need not be divided by the city for the purpose of levying assessments except when the city receives actual notice of the division of ownership of such property prior to the enactment of the assessment ordinance. After an assessment has been levied upon contiguous property in single ownership as provided in this chapter, there shall be no division or reapportionment of the assessment lien except under the following procedure:

(1) The owner of all or any portion of a parcel of contiguous land subject to a single assessment may make application to the city recorder for a division and reapportionment of the assessment,

and such application shall contain a legal description of each parcel of land into which the property is proposed to be divided together with the name and address of each of the owners and other parties having an interest in such property.

(2) After the receipt of the application, the city recorder shall mail notice to each owner and party having an interest in such property of the application and the date and time of the meeting of the city council at which the matter shall be considered, which meeting shall not be earlier than 10 days from the mailing of written notice.

(3) At or prior to the meeting of the city council at which the application will be considered, the city administrator shall make a report and recommendation to the council for the apportioning of the assessment lien between portions of the property to be divided and describing the effect of such division upon the security of the city.

(4) At the designated meeting of the city council, the applicant and any owner or party having an interest in such property may be heard and the council may make a decision at such meeting or the council may defer its decision to a meeting to be held within 45 days.

(5) The council shall make no reapportionment of an assessment which will impair the security of the city of North Bend for the collection of the assessments upon the property, and the council may impose conditions upon such reapportionment for the protection of the city.

(6) A reapportionment of assessments shall become effective only after the enactment of an ordinance declaring such reapportionment and providing for the amendment of the docket of city liens to conform with the ordinance. (Ord. 1489 § 1, 1974; Ord. 1085 § 18, 1958)

Chapter 13.25

STORM DRAINAGE SYSTEM

Sections:

- 13.25.010 Findings.
- 13.25.020 Definitions.
- 13.25.030 Developer responsibilities.
- 13.25.040 Facility improvements.
- 13.25.050 City maintenance of facilities.
- 13.25.060 Charges levied.
- 13.25.070 Furnishing of service – Rates.
- 13.25.080 Disposition of funds.
- 13.25.090 Review and appeal.

13.25.010 Findings.

The council finds that:

(1) The city of North Bend has been and continues to maintain an extensive stormwater drainage system in a climate with dramatic amounts of rainfall. The system includes open ditches, closed piping, catch basins, manholes, tide gates, and stream channels, all of which require regular maintenance and upgrading.

(2) Due to age, portions of the system need to be completely replaced.

(3) The amount of stormwater to be processed through the city's stormwater drainage system increases with the increasing levels of development in the city. The increased development creates more impervious areas which put a greater demand on the stormwater system. This results in the need for the planning, design, and maintenance of existing and future stormwater systems.

(4) It is anticipated within the next two years the Oregon Department of Environmental Quality will be enacting regulations which may require increased capital expenditures to upgrade the stormwater system.

(5) The city currently does not have the resources from the general fund and the state gas tax fund to maintain the stormwater system in an adequate fashion. Past methods of handling the cost of stormwater problems have included charging the cost to sanitary sewer user fees, the general fund, state gas tax funds and other sources, all of which were not sufficient.

(6) It would be more efficient and more equitable to charge the cost of handling stormwater to those who contribute to the stormwater problem. Determining the impervious areas of the properties contributing to the stormwater is an appropriate

measure for determining what financial contribution should come from various properties.

(7) It is necessary, in order to protect and promote the public health, safety, and welfare of the residents of the city of North Bend, that the storm sewer system within the city continue to be operated, maintained, and upgraded as necessary and that a user fee system be established to ensure adequate funding for this ongoing operation. (Ord. 1965 § 1, 2007)

13.25.020 Definitions.

“Commercial or industrial unit” means any building or facility used other than as a dwelling unit.

“Development” shall mean any man-made change to improved or unimproved real property including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

“Equivalent residential unit (ERU)” means an area which is estimated to place approximately equal demand on the city’s storm drainage system as a single-family dwelling unit. One ERU shall be equal to 2,500 square feet of impervious surface.

“Impervious surfaces” are those surface areas which either prevent or retard saturation of water into the land surface, and/or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

“Improved premises” means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. Such a condition shall be determined by the city engineer.

“Mobile home” and “mobile home park” are defined as provided in ORS 446.003.

“Multiple-family unit (MFU)” means a building or facility under unified ownership and control and consisting of more than one dwelling unit with each such unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family and having a common water meter.

“Open drainageway” means a natural or man-made path, ditch or channel which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.

“Runoff control” is any means approved by the city engineer by which the peak rate of storm runoff from development land surfaces is reduced.

“Single-family unit (SFU)” means that part of a building or structure which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family and where the units are sold and deeded as individual units and have individual water meters. A SFU is presumed to have 2,500 square feet of impervious surface area for purposes of this chapter. The term “SFU” shall be inclusive of those units identified as detached single-family residences, unit ownership, and condominiums, etc. (Ord. 1965 § 2, 2007)

13.25.030 Developer responsibilities.

The improvement of both public and private storm drainage facilities through or adjacent to a new development shall be the responsibility of the developer. The improvement shall comply with all applicable city ordinances, policies, and standards. (Ord. 1965 § 3, 2007)

13.25.040 Facility improvements.

It is the policy of the city of North Bend to participate in the improvements to the storm drainage facilities when authorized by the city council. To be considered for approval by the council, a facility must:

- (1) Be public.
- (2) Be of major benefit to the community.
- (3) If a closed pipe system, be a design equivalent to or larger than a 12-inch diameter circular pipe of a material to be approved by the city’s engineering department.
- (4) Be a rehabilitation or a replacement of an existing public facility. (Ord. 1965 § 4, 2007)

13.25.050 City maintenance of facilities.

The city shall maintain all public storm drainage facilities located within city-owned land, city rights-of-way, and city easements. Public facilities include, but are not limited to:

- (1) Pipe drainage systems and their related appurtenances which have been designed and constructed expressly for use by the general public and accepted by the city.

(2) Roadside drainage ditches along city streets.

(3) Flood control facilities that have been designed and constructed expressly for use by the general public and accepted by the city.

(4) Facilities which do not qualify as public facilities under this section include, but are not limited to:

(a) Facilities not located on city-owned property, city rights-of-way, or within city easements.

(b) Private parking lot storm drains.

(c) Roofs, footings, and area drains.

(d) Drains not designed and constructed for use by the general public.

(e) Access drive culverts not within the city right-of-way. (Ord. 1965 § 5, 2007)

13.25.060 Charges levied.

There are hereby levied and imposed upon all premises which have been improved within the city of North Bend just and equitable charges for stormwater drainage service and any subsequent service, which includes the maintenance, operation and extension of the stormwater system; and to establish a stormwater drainage fund for these same purposes.

(1) The person or persons owning or occupying improved premises which make use of the city's storm sewer system shall be jointly and severally responsible for the payment of the stormwater user charge imposed by this chapter.

(2) The Coos Bay-North Bend Water Board is hereby authorized and directed to collect all of the stormwater sewer charges herein levied and imposed and to pay the amounts hereof to the city of North Bend each month. For this purpose, the

Coos Bay-North Bend Water Board may include stormwater sewer charges as a part of their periodic billings for water services. Any storm sewer user not receiving water service from the Coos Bay-North Bend Water Board shall be billed each month by the city finance department for sewer charges imposed by this chapter.

(3) Stormwater sewer user charges imposed under this ordinance shall be a debt due to the city of North Bend, and when such debt should become thirty days delinquent, this charge may be collected in a civil action in the name of the city against the owner or occupant of the improved premises using the stormwater sewer system, or any of them. Collections of stormwater sewer user charges may be enforced in the same matter as collections of water charges by the Coos Bay-North Bend Water Board, which shall act as the agent of the city in such collection.

(4) Each owner or occupant of improved premises shall be notified at least annually in conjunction with a regular billing of the rate in that portion of the user charges which are attributable to stormwater sewer services. (Ord. 1965 § 6, 2007)

13.25.070 Furnishing of service – Rates.

Property not used for single-family dwelling purposes is furnished stormwater sewer service in proportion to the amount of the property's impervious surface. For each 2,500 square feet of impervious surface, the said property is furnished service equivalent to that furnished a single-family unit and at the minimum service charge shall be that established for a single-family unit.

(1) The following rates are hereby established for all properties located within the currently developed areas of the city.

Type	Charge per Month Per ERU to Nearest Whole Number of ERUs	Number of ERUs
Single-Family Unit:	\$4.50	1
Multiple-Family Unit:	\$4.50/2,500 sq. ft.	Determine by measurement
Commercial and Industrial Unit:	\$4.50/2,500 sq. ft.	Determine by measurement
Improved Premises or Lots:	\$4.50/2,500 sq. ft.	Determine by measurement
Mobile Home Parks:	\$4.50/ERU	6 ERUs per acre for total area

(2) The foregoing rate shall be reduced for a property where appropriate runoff control measures have been taken and approved by the city engineer. (Ord. 1965 § 7, 2007)

appeal. The decision of the council upon such appeal shall be final and conclusive. (Ord. 1965 § 9, 2007)

13.25.080 Disposition of funds.

(1) All fees collected under the terms of this chapter shall be deposited in a special fund to be known as the storm sewer fund, and the monies in said fund shall be used by the city for the payment of principal and interest of any bonds of said city for the repair, maintenance, and operation of the North Bend stormwater sewer system. The fees collected under the terms of this chapter may also be used for the replacement or reconstruction of any part of the storm sewer treatment system and for any upgrades that should become necessary including the construction of new storm sewer facilities in the future. (Ord. 1965 § 8, 2007)

13.25.090 Review and appeal.

(1) Review by City Engineer. Any stormwater sewer user believing the user fee is unjust and inequitable as applied to his or her particular circumstances or premises may make written application to the city engineer requesting a review of such user fee. The written request shall, where applicable, show the actual estimated average flow of stormwater in comparison with the values upon which the charge is based, including the manner and method in which such measurements were made. The review of the request shall be made by the city engineer, who shall determine if it is substantiated or not, and if the request is determined to be substantiated, the user fees for that user shall be recomputed based on the approved and revised flow and the new charges thus recomputed be applicable beginning with the date that the written request was received by the city engineer.

(2) Appeal. Any person aggrieved by the action of the city engineer in denying or modifying or request for application for a review of user fees shall have the right of appeal of such action to the city council by delivering written notice of such appeal to the city recorder within 15 days after receiving the written notice of the action of the city engineer, and such notice of appeal shall specify therein all facts through reasons to be relied upon in such appeal. The appeal shall be held before the council at its next regular meeting held not earlier than 10 days after the filing of such notice of