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### 4. PUBLIC UTILITIES AND SERVICES

#### GENERAL

**4.005 Applicability.** Sections 4.010 to 4.060 shall apply generally to the provisions of Sections 4.015 to 4.990.

**4.010 Definitions.**

(1) The following words and phrases shall mean:

Applicant. The person or persons, firm, association, corporation, or other legal entity making application for service from the City under the terms of Sections 4.005 to 4.405.

Customer. An applicant who has been accepted under the terms of the provisions of Sections 4.005 to 4.405 and who receives utility service from the City.

(2) Other terms used herein shall have the same meaning ascribed to them under the definitional section of the City's Zoning Ordinance, as now or hereafter constituted.

**4.015 Administration.**

(1) The Public Works Department shall have charge of the maintenance and operation of the supply, pumping equipment, collection or distribution system, fire hydrants, meters and all other appurtenances of the water, drainage, sewer and geothermal systems under the supervision and direction of the City Manager. The Public Works Director shall supervise all extensions and alterations of the system and shall also be responsible for the reading of all meters. Subject to the approval of the City Manager, the Director or Public Works is authorized to promulgate written rules and regulations reasonably necessary to carry out the responsibilities of this Subsection. Except as otherwise specifically provided for in this Code, the Public Works Director is hereby authorized to administratively develop, adopt and implement drafting standards, grading and erosion control standards and policies, and design standards for: stormwater facilities; wastewater collection, treatment and reclamation facilities; water facilities; geothermal heating facilities; streets, rights-of-way and other related facilities; electrical, controls, instrumentation, street lighting and traffic signal facilities; and other public infrastructure facilities over which the Public Works Director exercises control. Prior to adoption and implementation of those standards, the Public Works Director shall allow opportunity for public comment and input on the proposed standards and shall provide notice to the Council not less than thirty (30) days prior to implementation. [Amended by Ord. No. 02-23, enacted Dec. 17, 2002.]

(2) The Finance Division shall be responsible for the collection of water, sewer, drainage and geothermal bills. All revenues therefrom shall be accounted for in a manner satisfactory to the Council for other municipal deposits. Subject to the approval of the City Manager, the Finance Director is authorized to promulgate written rules and regulations reasonably necessary to carry out the responsibilities of this Subsection.

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(3) The City, through its Finance Division, reserves the right to require one (1) utility account for premises served by two (2) or more City utility services. Such joint accounts shall be in the name of one customer. The City reserves the right to refuse or discontinue service if such a requirement is not complied with.

[Amended by Ord. No. 6614, enacted Jan. 16, 1991.]

### **4.020 Rates, Charges and Fees For City-Operated Utilities.**

(1) The consumption rates, demand charges, capacity charges and customer charges to defray administrative costs, all of which may be imposed for City-operated utilities, shall be established by resolution of the Council and may be revised by resolution of the Council at any time. Provided, however, that all proposed revisions shall be the subject of a public hearing before the Council which shall be advertised by published notice in a newspaper of general circulation in the City on four (4) dates, one (1) week apart, commencing no later than thirty (30) days before the date of the public hearing.

2) Connection charges, service charges and such other utility-related charges and fees that do not constitute part of the monthly City utility billing amounts may be set and modified by the City Manager in accordance with the requirements of Section 1.075.

[Amended by Ord. No. 07-09.]

**4.025 Suspension of Rules.** No employee of the City is authorized to suspend or alter any of the applicable provisions herein without specific approval or direction of the Council, except in cases of emergency involving possible loss of life or property or which would place the system operation in jeopardy.

**4.030 Plumbing Code.** The customer's plumbing, which shall include the customer's service line and all plumbing, piping, fixtures and other appurtenances carrying or intended to carry water, geothermal, sewer, or drainage, shall comply with the plumbing code of the State, as adopted pursuant to ORS Chapter 447.

### **4.035 Notices.**

(1) Notices to customers. Notice from the City to the customer shall be in writing and either mailed or delivered to the customer at his/her last known address. When conditions warrant and in emergencies, the City may notify either by telephone or messenger.

(2) Notices from customers. Notices from the customer to the City may be given by the customer or his/her authorized representative in person or in writing at the office of the Public Works Department in City Hall or to an agent of the City duly authorized to receive notices or complaints.

### **4.038 Application for Service.**

(1) Each applicant for City utility service shall sign an application form provided by the City giving the date of application, location of premises to be served, the date the applicant desires services to begin, purpose for which service is to be used, the address for mailing the bills

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and such other information as the City may reasonably require. In signing the application, the customer agrees to abide by the provisions of this Chapter applicable to the service requested. The application is merely a written request for service and does not bind the City to serve.

(2) At the time application for service is made, the applicant shall establish credit with the City.

(a) Any applicant or present customer who has been scheduled for water service discontinuance under Sections 4.262 to 4.272, or who has had a City utility account turned over to a collection agency shall be required to make a deposit double the average monthly usage during the previous 12-month period or a minimum of Seventy-Five Dollars (\$75.00) at the time of application. No service shall be provided until receipt of said deposit. The minimum deposit may from time to time be modified by written order of the City Manager. These orders shall be filed with the City Council prior to the imposition of any modified deposit, and shall be subject to review and revision by the City Council at the request of any one Councilperson.

(b) At the time the deposit is given to the City, the applicant will be given a receipt for the same. The deposit is not to be considered as a payment on account. In the event the service is discontinued, the deposit shall be applied to the closing bill, if not paid within fifteen (15) days, and any amount in excess of the closing bill shall be refunded. The City will not pay interest on any deposit. After the expiration of one (1) year's continuous water service, the deposit shall be refunded on written request of the applicant, provided during said time period applicant has not been sent three (3) or more delinquent notices under Section 4.050 nor has had water service discontinued under Sections 4.262 or 4.272.

(c) If an account becomes delinquent and it is necessary to turn off the service, the deposit shall be applied to the unpaid balance due in accordance with Section 4.040(2). Service will not be restored to that customer at any address until Section 4.275 has been complied with and the cash deposit replaced or provided to City.

(3) An "Unpaid Accounts" file shall be established into which all unpaid utility accounts shall be placed under the name of the party who actually incurred and owes the unpaid account. No such party shall be given utility service by the City at any address until that applicant first pays such old account in full, plus any and all penalties incurred.

(4) Customers desiring a material change in the size, character or extent of equipment or operation which would result in a material change in the amount of service used shall give the City written notice of such change prior to the change, and the application for service shall be amended and the applicant shall pay all charges, as established by Sections 4.020, 4.419 or 4.250. Customers desiring a change shall fill out an amended application.

(5) The City may refuse to provide service to a person until it receives full payment of any overdue amount and any other obligation related to a prior account.

(6) Repealed

[Amended by Ord. No. 6342, enacted June 15, 1981; Amended by Ord. No. 6400, enacted Aug. 2, 1982; Amended by Ord. No. 6562, enacted Jan. 17, 1989; Amended by Ord. No. 6622, enacted

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July 17, 1991; Amended by Ord. No. 6634, enacted April 15, 1992; Amended by Ord. No. 97-15, enacted May 19, 1997; Amended by Ord. No. 03-01, Amended by Ord. No. 03-01.]

### **4.040 Billing and Payment.**

(1) Sewer, water, drainage, street lighting and geothermal service charges may be billed monthly, bimonthly, or quarterly to the customer and shall be paid at the place and on or before the due date designated upon the bill.

(2) All payments received on a billing pursuant to Subsection (1) shall be applied to amounts remaining due and payable on the customer's sewer account; second to the street lighting account; third to the drainage account; fourth to the geothermal account; and last to the water account.

(3) The City Manager or his/her designee shall have the authority to resolve valid customer disputes concerning billings and/or usage (such as leaks beyond the control of the customer) and to make adjustments in the customers account where necessary.

[Amended by Ord. 6558, enacted Aug. 1, 1988; Amended by Ord. No. 6634, enacted April 15, 1992.]

**4.045** [Repealed by Ord. No. 6621, enacted June 17, 1991.]

### **4.050 Delinquent Accounts.**

(1) A bill sent pursuant to Section 4.040 is delinquent if not paid within fifteen (15) days of the billing date. If a bill is not paid by the due date designated on the bill, a delinquent notice shall be mailed to the customers. If the bill is not paid in full within seven (7) days of the mailing of a delinquent notice, water service may be discontinued by the City. In the event it is a sewer only account, sewer service may be physically disconnected in the public right-of-way, provided certified notice has been given to the customer.

(2) Customers shall be notified of and have the opportunity to be heard by a City official or employee empowered to resolve any valid objections to the billing prior to the disconnection.

(3) In cases of extreme hardship, the Finance Division shall have the discretion of renewing service to a delinquent account upon receipt of a satisfactory installment plan for the payment of the overdue amount, said installment period not to exceed the period of time the account was delinquent. When the extreme hardship is due to incapacitating illness, the Finance Division shall, upon confirmation by the treating physician, renew service and defer the customer's obligation to make payments on the account until such time as the customer is able to resume income-producing activities.

(4) Sewer service which has been physically disconnected shall only be reinstated upon payment of all costs related to the disconnection and re-connection in addition to payment of all delinquent charges.

[Amended by Ord. No. 6562, enacted Jan. 17, 1989; Amended by Ord. No. 93-8, enacted June 16, 1993.]

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### **4.052 Medical Certificate.**

(1) The City shall not disconnect residential service if the customer submits certification from a licensed physician stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household.

(2) An oral certification must be confirmed in writing within ten (10) days by the physician prescribing medical care. Written certifications must include:

(a) The name of the person to whom the certificate applies and the relationship to the customer;

(b) A complete description of the health conditions;

(c) An explanation how the health of the person will be significantly endangered by the termination of service;

(d) A statement indicating how long the health condition is expected to last; and

(e) The signature of the physician prescribing medical care.

(3) If a medical certificate is not submitted in compliance with Sections (1) and (2) of this Section, the City may disconnect service after providing a seventy-two (72) hour notice to the customer.

(4) A medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six (6) months without renewal.

(5) (a) A customer submitting a medical certificate is not excused from paying for utility service. Customers are required to enter into a time-payment agreement with the City where an overdue balance exists.

(b) Where financial hardship can be shown, a customer with a health certificate shall be permitted to renegotiate the terms of a time-payment agreement with the City.

(6) If the customer who has submitted a medical certificate fails to abide by the terms of a time-payment agreement, or refuses to enter into such an agreement, the City may disconnect service to the customer.

[Added by Ord. No. 6622, enacted July 17, 1991.]

**4.055 Remedies for Nonpayment.** If the charges provided for herein are not paid when due, the amount thereof, with any delinquency charges, may be recovered from the customer, in any court of competent jurisdiction, and the City shall be allowed, as costs, a reasonable amount to be fixed by the Court as attorney's fees for the prosecution of the action.

[Amended by Ord. No. 6621, enacted June 17, 1991.]

### **4.060 Extension of Services Outside City.**

(1) Extension of services outside the City shall be at the discretion of the City Council. The City Council reserves the right to refuse, or to contract for, such extensions upon terms beneficial to the City. Contracts for the extension of services may be made conditional upon the applicant's consent to annexation.

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(2) The Health Hazard Abatement Law shall not be applied to the City to require that the City extend services to or annex lands outside the City limits. The City Council may, by resolution, waive this limitation upon finding, following a public hearing, that:

(a) the proposed annexation and extension of services would be in the best interests of the City residents; and

(b) adequate funding exists through grants and/or the financial resources of the area to be annexed to pay the full cost of the services to be extended.

[Amended by Ord. No. 93-3, enacted March 2, 1993.]

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## SEWERS

### GENERAL

**4.100 Purpose and Policy.** Sections 4.100 to 4.113 hereinafter referred to as "Sewer Use Ordinance" set forth uniform requirements for regulating the use of public and private sewers and drains, private sewage disposal, the installation of and connection of building sewers, and the discharge of waters and wastes into the public sewer systems, and providing penalties for violations thereof to enable the City to comply with applicable State and Federal laws required by the Clean Water Act of 1977 and the Treatment Works Construction Grants Program (40 CFR Part 35).

The objectives of this Sewer Use Ordinance are to establish regulations for the following functions:

- (1) The required use of public sewers.
- (2) Private sewage disposal.
- (3) Connection of building sewers.
- (4) The use of public sewers.
- (5) Protection of sewer systems from

damage.

(6) Prescribing the authority of inspectors.

- (7) Setting penalties.

[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

**4.101 Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

**BOD.** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under laboratory procedure five (5) days at twenty degrees (20°) C, expressed in milligrams per liter.

**Building Drain.** Shall mean 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 (5) feet (1.5 meters) outside the inner face of the building wall.

**Building Sewer.** Shall mean the extension from the building drain to the public sewer or other place of disposal.

**Combined Sewer.** Shall mean a sewer that is designed as a sanitary sewer and a storm sewer.

**Director.** Shall mean the City Public Works Director or his duly authorized representative.

**Garbage.** Shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

**Industrial Wastes.** Shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

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Natural Outlet. Shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

Person. Shall mean any individual, firm, company, association, society, corporation, or group.

pH. Shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Properly Shredded Garbage. Shall mean 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 (1/2) inch (1.27 centimeters) in any dimension.

Public Sewer. Shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary Sewer. Shall mean 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 admitted intentionally.

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

Sewage Treatment Plant. Shall mean any arrangement of devices and structures used for treating sewage.

Sewage Works. Shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

Sewer. Shall mean a pipe or conduit for carrying sewage.

Shall. Means mandatory; may be permissive.

Slug. Shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

Storm Sewer. Shall mean a sewer designed to carry only storm waters, surface runoff, street wash waters, and drainage.

Suspended Solids. Shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

Watercourse. Shall mean a channel in which a flow of water occurs, either continuously or intermittently.

[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

**4.102** [Renumbered from 4.105 to 4.102 by Ord. No. 6421, enacted July 30, 1983; Repealed by Ord. No. 6497, enacted Oct. 3, 1985.]

**4.103 Required use of Public Sewers.**

(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 Klamath Falls, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

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(2) It shall be unlawful to discharge to any natural outlet, sanitary sewer or, storm drainage system within the City of Klamath Falls, 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 other provisions of this Chapter. [Amended by Ord. No. 03-08, enacted April 9, 2003.]

(3) Except as hereinafter provided, 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) The person in control of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at his/her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet (60 meters) of the property line.

[Added by Ord. No. 6497, enacted Sept. 3, 1985; Amended by Ord. No. 6621, enacted June 17, 1991; Amended by Ord. No. 03-08, enacted April 7, 2003.]

**4.104** [Repealed by Ord. No. 6497, enacted Oct. 3, 1985.]

### **4.105 Private Sewage Disposal.**

(1) Where a public sanitary sewer is not available under the provisions of Section 4.103, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(2) Before commencement of construction of a private sewage disposal system, the person in control of the premises 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 Section 4.103, a direct connection shall be made to the public sewer in compliance with this ordinance, 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 person in control of the premises 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 article shall be construed to interfere with any additional requirements that may be imposed by the Oregon State Department of Environmental Quality.

[Added by Ord. No. 6497, enacted Sept. 3, 1985; Amended by Ord. No. 6621, enacted June 17, 1991.]

**4.106** [Repealed by Ord. No. 6497, enacted Oct. 3, 1985.]

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### **4.107 Connection of Building Sewers.**

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director.

(2) There shall be two (2) classes of building sewer permits:

(a) For residential and commercial service; and

(b) For service to establishments producing industrial wastes. In either case, the person in control of the premises shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director. A permit and inspection fee for each class shall be established by resolution and shall be paid to the City at the time the application is filed.

(3) All costs and expense incident to the installation and connection of the building sewer shall be borne by the person in control of the premises. The person in control of the premises 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 of 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 Director, to meet the requirements of this Ordinance.

(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 State Building Code 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. (American Standards for Testing Materials) and W.P.C.F. (Water Pollution Control Federation) 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 to the building sewer. Backflow prevention for basements shall be provided in a vault, allowing for inspection and maintenance.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater 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 State Building Code 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

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watertight. Any deviation from the prescribed procedures and materials must be approved by the Director or his representative, in compliance with the State plumbing inspector.

(10) The applicant for the building sewer permit shall notify the Director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director or his representative, in compliance with the State plumbing inspector.

(11) 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 disturbed in the course of the work shall be restored in a manner satisfactory to the City.

[Added by Ord. No. 6497, enacted Sept. 3, 1985; Amended by Ord. No. 6621, enacted June 17, 1991.]

**4.108** [Repealed by Ord. No. 6497, enacted Oct. 3, 1985.]

### **4.109 Use of Public Sewers.**

(1) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling or heating water, or unpolluted industrial process waters to any sanitary sewer.

(2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Director. Industrial cooling water, unpolluted process waters, or heating water may only be discharged to a storm sewer or natural outlet.

(3) No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

(a) Any gasoline benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

(c) Any waters or wastes having a pH lower than 4.0 or greater than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

(e) Any Geothermal Fluid discharge as that term is defined in Code Section 8.254, except as otherwise provided by Sections 8.250 to 8.298 of the Code or permitted by the Public Works Director, or his/her designee. [Added by Ord. 03-08, enacted April 9, 2003.]

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(4) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Director that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Director will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one hundred-fifty degrees (150°) F (64° C).

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred-fifty degrees (150°) F (0° and 65° C).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plated solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the treatment works exceeds the limits established by the Director for such materials.

(f) Any waters or wastes containing phenols or other taste- or odor- producing substances, in such concentrations exceeding limits which may be established by the Director as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable State or Federal regulations.

(h) Any waters or wastes having a pH in excess of 9.0.

(i) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

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(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters. Septic tank waste is prohibited.

(5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or process the characteristics enumerated in Subsection (4) above, and which in the judgment of the Director may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may:

- (a) Reject the wastes,
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
- (c) Require control over the quantities and rates of discharge, and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 4.415 et.seq.

If the Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Director, and subject to the requirements of all applicable codes, ordinances, and laws.

(6) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection.

(7) Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the person in control of the premises at his/her expense.

(8) When required by the Director, the person in control of the premises serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at his/her expense, and shall be maintained by him so as to be safe and accessible at all times.

(9) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance 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

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and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise 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 pH's are determined from periodic grab samples.)

(10) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the industrial concern.

[Amended by Ord. No. 6621, enacted June 17, 1991.]

**4.110** [Repealed by Ord. No. 6497, enacted Oct. 3, 1985.]

**4.111 Protection from Damage.** No unauthorized person shall maliciously, willfully, or negligently break, damage, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**4.113 Powers and Authority of Inspectors.**

(1) The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Director or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) While performing the necessary work on private properties referred to in Subsection (1) above, the Director or duly authorized employees of the City shall observe all safety rules and applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 4.107 and 4.109.

(3) The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**4.115** [Renumbered to 4.106 by Ord. No. 6421, enacted July 30, 1983.]

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**4.125** [Repealed by Ord. No. 6421, enacted July 30, 1983.]

**4.130** [Renumbered to 4.108 by Ord. No. 6421, enacted July 30, 1983.]

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### PRETREATMENT ACT

[Editor's Note: Code provisions 4.1325 to 4.192 originally added by Ord. No. 6421, were amended to the following by Ord. No. 6588, enacted on Jan. 16, 1990.]

### GENERAL PROVISIONS

**4.132 Purpose and Policy.** Sections 4.132 to 4.198, hereinafter referred to as "Pretreatment Act", set forth uniform requirements for discharges of pollutants into the wastewater system for the City of Klamath Falls, Oregon, and enable the City to comply with all applicable state and federal laws required by the Clean Water Act (33 U.S.C. 1251 et seq.), as amended, and the General Pretreatment Regulations (40 CFR, Part 403). The objectives of this Pretreatment Act are:

(1) To prevent the introduction of pollutants into the City of Klamath Falls' wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;

(4) To provide for equitable distribution of the cost of the wastewater system; and

(5) To protect the health of the City employees working in the Klamath Falls sewer collection system and at the wastewater treatment plant.

This Pretreatment Act provides for the regulation of contributors to the wastewater system through the issuance of permits to certain Industrial Users and, through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customers' capacity will not be preempted and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This Pretreatment Act shall apply to the City of Klamath Falls and to persons outside the City who are, by contract or agreement with the City, Users of the City Publicly Owned Treatment Works (POTW) and required by such contract or agreement to comply.

**4.134 Abbreviations.** The following abbreviations shall have the designated meanings:

<u>ASPP</u>	-	Accidental Spill Prevention Plan.
<u>BOD</u>	-	Biochemical Oxygen Demand.
<u>CFR</u>	-	Code of Federal Regulations.
<u>COD</u>	-	Chemical Oxygen Demand.
<u>EPA</u>	-	Environmental Protection Agency.
<u>l</u>	-	Liter.
<u>mg</u>	-	Milligrams.

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<u>mg/l</u>	-	Milligrams per liter.
<u>O&amp;M</u>	-	Operation and Maintenance.
<u>NPDES</u>	-	Nation Pollutant Discharge Elimination System.
<u>POTW</u>	-	Publicly Owned Treatment Works.
<u>SIC</u>	-	Standard Industrial Classification.
<u>USC</u>	-	United States Code.
<u>TSS</u>	-	Total Suspended Solids.

**4.136 Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Pretreatment Act, shall have the meanings hereinafter designated:

Act. The Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

Applicable Pretreatment Standards. For any specified pollutant, City prohibitive discharge standards, City's specific limitations on discharge, State of Oregon Pretreatment Standards or National Categorical Pretreatment Standards (when effective), which ever standard is most stringent.

Authorized Representative of Industrial User. An authorized representative of an Industrial User may be:

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

Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees (20°) centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

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

Categorical Standards. National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a POTW by specific Industrial Dischargers.

City. The City of Klamath Falls, Oregon.

Compatible Pollutant. BOD, suspended solids, pH and fecal coliform bacteria and such additional pollutants as are now or may be in the future specified and controlled in this City's NPDES permit for its wastewater treatment works where said works have been designed and used to reduce or remove such pollutants.

Cooling and Heating Water. Water discharged from any use such as air conditioning, cooling, refrigeration or heating (including geothermal) or to which the only pollutant is heat.

Director. The City's Public Works Director or his duly authorized designee.

Discharger/Industrial Discharger. Any non-residential user who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches and all constructed devices and appliances appurtenant thereto.

Domestic Wastes. Liquid wastes:

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(1) from the non-commercial preparation, cooking and handling of food, or  
(2) containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

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

Garbage. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of food.

Geothermal. Water or other fluid, either artificial or natural, which has been heated by geothermal resources as that term is defined by ORS 522.005.

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

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

Incompatible Pollutant. Any pollutant which is not a "compatible pollutant", as defined in this Section.

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

Industrial Discharge. The introduction of non-domestic pollutants from any source regulated under this Pretreatment Act into the POTW (including holding tank waste discharged into the system).

Industrial Discharger. SEE Discharger/Industrial Discharger.

Industrial User. A source of Industrial discharge.

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

Inflow. Water other than wastewater that enters a wastewater system (including building sewers) from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers or cross connections between storm sewers and sanitary sewer catch basins. Inflow includes, but is not limited to, cooling and heating water, storm water, surface runoff and street wash water.

Interference. An inhibition or disruption of the POTW, its treatment process or operation, or its sludge processes, use or disposal, caused by a discharge which, along or in conjunction with a discharge or discharges from other sources, results in either a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or to the prevention of sewage sludge use or disposal by the POTW in accordance 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 SWDA, (the Clean Air Act and the Toxic Substance Control Act).

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National Pollutant Discharge Elimination System or NPDES Permit. A permit issued to the City pursuant to Section 402 of the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, (33 U.S.C. 1342).

New Source.

(1) The term "New Source" means 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 sources if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

(c) The production of 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 existing source, should be considered.

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

(3) Construction of a new source as defined herein has commenced if the owner or operator has:

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

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

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

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

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

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

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

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Person. Any individual, firm, company, partnership, corporation, association, group or society, including the State of Oregon, and agencies, districts, commissions and political subdivisions created by or pursuant to state law.

Pollutant. Any substance discharged into a POTW or its collection system which is prohibited or limited by Sections 4.138 and 4.139 herein.

Pollution. The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

Pretreatment or Treatment. The reduction of the amount of pollutants or the alterations of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than Pretreatment Standards imposed on an Industrial User.

Pretreatment Standards. All applicable federal rules and regulations implementing Section 307 of the Clean Water Act, as well as, any non-conflicting state or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.

Prohibited Discharges. National Pretreatment Standards specifying harmful discharges which are prohibited.

Public Owned Treatment Works (POTW). A treatment works which is owned, in this instance, by the City. This definition includes any sewers, excluding building sewers, that convey wastewater to the POTW treatment plants, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. A facility providing treatment does not include those facilities whose sole purpose and design is to remove heat from the wastewater stream. For the purpose of this Ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.

Sewage. Water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

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

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

Significant Industrial Discharger. Any Industrial User of the City's POTW who:

- (1) is subject to Categorical Pretreatment Standards in Sections 307(b) (c) of the Act, or
- (2) discharges to the POTW, industrial waste containing any of the toxic pollutants subject to local limits as set forth in Section 4.139 herein, or
- (3) discharges to the POTW, industrial waste containing significant quantities of toxic pollutants as defined pursuant to Section 307 of the Act, or
- (4) discharges to the POTW, industrial waste containing a pollutant or having a characteristic which violates or has the potential to violate any of the General Discharge Prohibitions as set forth in Section 4.138 herein, or

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(5) discharges a waste load, measured as total suspended solids (TSS) of standard five (5) day biochemical oxygen demands (BOD5), which constitutes greater than five percent (5%) of the average daily waste load at the treatment facility receiving the waste, or

(6) discharges a flow greater than five percent (5%) of the total flow carried by the treatment facility receiving the waste, or

(7) is determined by the City to have a significant impact or potential for significant impact, either singly or in combination with other contributing industries, on the wastewater collection and treatment system, the quality of sludge, the system's effluent quality or air emissions, generated by the system.

Slug discharge. Any discharge of a non-routine, episodic nature, including, but not limited to an accidental spill or a non-customary batch discharge.

Standard Industrial Classification (SIC). A classification pursuant to the 1972 Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget and adopted pursuant to Section 4.154.

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

Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering. Expressed in terms of weight per volume (mg/l).

Toxic Pollutants. Pollutants or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under Section 307 of the Act in accordance with Section 502 (13) of the Act.

Treatment Works. Any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes or a liquid nature including intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof excluding facilities for heat removal.

Upset. An exceptional incident in which a Discharger unintentionally and temporarily is in a state of non-compliance with the standards set forth in Sections 4.138 and 4.139 herein due to factors beyond the reasonable control of the Discharger and excluding non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.

User. Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground water, surface water and storm water which may be present, whether treated or untreated, which is discharged into or permitted to enter the POTW.

Wastewater System. The City's Publicly Owned Treatment Works (POTW).

Wastewater Contribution or Discharge Permit. A permit obtained as set forth in Sections 4.154 to 4.170.

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Terms not otherwise defined herein shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

[Amended by Ord No. 94-10, enacted May 5, 1994.]

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### REGULATIONS

**4.138 General Discharge Prohibitions.** No Discharger shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater disposal system or otherwise to the facilities of the City:

(1) Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Any solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to: Grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal entrails or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than five (5.0) or greater than ten (10.0), unless the treatment works is specifically designed to accommodate such wastewater or wastewater having any corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the City.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals or to exceed the limitation set forth in Categorical Pretreatment Standards.

(5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction, are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their manufacture and repair.

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

(7) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.

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

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW which exceeds forty degrees (40°) celcius [one hundred four degrees (104°) Fahrenheit], unless the POTW treatment plant is designed to accommodate such temperature. If, in the opinion of the City, lower temperatures of such wastes could harm either the sewers, sewage treatment processes or equipment; have an adverse effect on the receiving streams or otherwise endanger life, health or property; or constitute a nuisance, the City may prohibit such discharges.

(10) Any slug discharge released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW. In no case shall a slug discharge contain concentrations or quantities of pollutants that exceed, for any time period longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration, quantities or flow during normal operation.

(11) Any unpolluted water including, but not limited to, non-contact cooling water.

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

(13) Any wastewater which, in the opinion of the superintendent, can cause harm either to the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property or constitute a nuisance, unless permitted under special agreement by the superintendent (except that no special waiver shall be given from any applicable pretreatment standard or requirements).

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

(15) Any trucked or hauled pollutants including wastewater from septic tanks.

(16) Polar fats, wax, grease or oils whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C).

(17) Wastestreams with a closed cup flashpoint of less than 140°F or 60°C using the test methods specified in 40 CFR 261.21.

(18) Pollutants which result in the presence of toxic gases, vapors or fumes within the City's wastewater treatment system in a quantity that may cause acute worker health and safety problems.

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

[Amended by Ord No. 94-10, enacted May 5, 1994.]

**4.139 Limitations on Wastewater Strengths.**

(1) National Categorical Pretreatment Standards. National Categorical Pretreatment Standards, as promulgated by the U.S. Environmental Protection Agency (USEPA) pursuant to the Act and as adopted, shall be enforceable by the City and shall be met by all Dischargers of the regulated industrial categories. An application for modification of the national categorical pretreatment standards may be considered for submittal to the regional administrator by the City, when the City's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR, Section 403.7.

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

(3) Right of Revision. The City reserves the right to amend this Pretreatment Act to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Section 4.132.

(4) Dilution. No Discharger shall increase the use of potable or process water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the applicable standards set forth in this Pretreatment Act. The City may impose mass limitations on Dischargers which are using dilutions to meet the applicable pretreatment standards or requirements of this Pretreatment Act or in other cases where the imposition of mass limitations is deemed appropriate by the City.

(5) Local Limits. In addition to Categorical Pretreatment Standards referenced in Subsection (1) above, no Discharger shall discharge wastewater containing concentrations (and/or mass limitations) of substances exceeding those local limits established pursuant to resolution of the City Council. Wherever a Discharger is subject to both a Categorical Pretreatment Standard and a local limit for a given pollutant, the more stringent shall apply.

**4.141 Notification of Hazardous Waste Discharge.** Industrial users discharging a hazardous waste as listed in 40 CFR part 261 in to the POTW shall provide written notice to the Director in conformance with 40 CFR 403.12(p).

[Added by Ord No. 94-10, enacted May 5, 1994.]

**4.142 Accidental Discharges.**

(1) As appropriate, Dischargers shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this Pretreatment Act. Where deemed necessary by the City, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the Discharger's cost and expense. An ASPP showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which Discharger is required to develop an ASPP and require said Discharger to submit the ASPP within sixty (60) days after notification by the City. Each Discharger shall implement its ASPP, as submitted, after such ASPP has been reviewed and approved by the City. Review and approval of such plans and

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operating procedures by the City shall not relieve the Discharger from the responsibility to modify its facility as necessary to meet the requirements of this Pretreatment Act.

(2) Dischargers shall notify the City (wastewater treatment plant) immediately upon the occurrence of a "slug" or accidental discharge of substances prohibited by this Pretreatment Act. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume and corrective actions. Any Discharger who discharges slugs of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal law.

(3) Within five (5) days following an accidental discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this Act or other applicable law.

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

[Amended by Ord No. 94-10, enacted May 5, 1994.]

**4.143 Pretreatment of Wastewater.** Dischargers shall provide necessary wastewater pretreatment, as required to comply with this Pretreatment Act, and shall achieve compliance with all applicable pretreatment standards within the time limitations, as specified by appropriate statutes, regulation and ordinance. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, properly operated and maintained at the Discharger's expense. Detailed plans showing the pretreatment facilities shall be submitted to the City for review and must be acceptable to the City before construction of the facility. The review of such plans shall in no way relieve the Discharger from the responsibility of modifying its facility or operations, as necessary, to produce an effluent acceptable to the City under the provisions of this Pretreatment Act. Within a reasonable time after the completion of the wastewater pretreatment facility, the Discharger shall furnish its operations and maintenance procedures for the City to review. Any subsequent significant changes in the pretreatment facilities or method of operation shall be reported to and be accepted by the City prior to the Discharger's initiation of the changes. [Added by Ord. No. 6588, enacted Jan. 16, 1990.]

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### FEES

**4.144. Purpose.** It is the purpose of Section 4.146(2) to provide for the recovery of costs from Dischargers of the City's wastewater disposal system to compensate the City for the cost of the implementation of the Pretreatment established herein.

[Amended by Ord. No. 07-09.]

### **4.145 Rates, Charges and Fees.**

(1) The consumption rates, demand charges, capacity charges and customer charges to defray administrative costs imposed in conjunction with wastewater services shall be established and revised by resolution in accordance with Sections 4.020 and 4.415 – 4.426.

(2) The City Manager may adopt Pretreatment Program charges and fees pursuant to Section 4.144 and in accordance with the requirements of Section 1.075. These charges and fees may include:

- a) Fees for reimbursement of costs of setting up and operating the City's Pretreatment Program;
- b) Fees for monitoring, laboratory analysis, inspections and surveillance procedures, as required by federal pretreatment requirements;
- c) Fees for reviewing accidental discharge procedures and construction;
- d) Fees for permit applications;
- e) Fees for filing appeals;
- f) Fees for consistent removal by the City of pollutants otherwise subject to Federal Pretreatment Standards;
- g) Other fees as the City may deem necessary to carry out the Pretreatment requirements contained in this Code.

[Amended by Ord. No. 07-09.]

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### ADMINISTRATION

**4.154 Wastewater Dischargers to Comply with Terms of this Pretreatment Act.** It shall be unlawful to discharge sewage, industrial wastes or other wastes to any sewer outlet within the jurisdiction of the City and/or to the POTW without having first complied with the terms of this Pretreatment Act or without having first obtained the City's approval of a compliance schedule submitted by the Discharger.

**4.155 Wastewater Discharge Data Disclosure.**

(1) General Disclosure. All Industrial Dischargers proposing to connect to or to discharge sewage, industrial wastes and other wastes to the POTW shall comply with all terms of this Pretreatment Act.

(2) Disclosure Forms. Significant Industrial Dischargers shall complete and file with the City a data disclosure declaration in the form prescribed by the Director and accompanied by the appropriate fee. Existing significant Industrial Dischargers shall file a disclosure form within sixty (60) days after the notification by the City, and proposed new source Dischargers shall file a disclosure form at least a minimum of ninety (90) days prior to connecting to the POTW. This data disclosure form satisfies the requirements of the Baseline Monitoring Report as described in 40 CFR 403.12(b). The disclosure to be made by the Discharger shall be made on written forms provided by the Director and shall cover:

- (a) Disclosure of name, address and location of the Discharger.
- (b) Disclosure of Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (c) Disclosure of wastewater constituents and characteristics including, but not limited to, those mentioned in this Pretreatment Act, including standards contained in Section 4.138 and 4.139 as appropriate as determined by bona fide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the EPA and contained in 40 CFR, Part 136, as amended.
- (d) Disclosure of time and duration of discharges.
- (e) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variation, if any. All flows shall be measured unless other verifiable techniques are approved by the City due to cost or non-feasibility.
- (f) Disclosure of site plans, floor plans, plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size and location.
- (g) Description of activities, facilities and plant processes on the premises, including all materials which are or may be discharged to the sewers or works of the City, and a brief description of the nature, average rate of production and Standard Industrial Classification of the operation.
- (h) A statement regarding whether or not compliance is being achieved with this Pretreatment Act on a consistent basis and, if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the Discharger to comply with this Pretreatment Act.

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

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

(2) Under no circumstance shall the City permit a time increment for any single step directed toward compliance which exceeds nine (9) months.

(3) Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the Discharger shall submit a progress report to the Director, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the Discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the City.

(j) Disclosure of each product produced by type, amount, process or processes and rate of production.

(k) Disclosure of the type and amount of raw materials utilized including chemicals used in process which may be discharged to the sanitary sewer system, (average and maximum per day).

(l) All disclosure forms shall be signed by a principal executive officer of the Discharger, and when required by the City, of a qualified engineer.

(m) Any pertinent special agreements between the Discharger and the City concerning treatment of discharges, special user charges or rates or any other information deemed necessary by the Director.

(n) List of environmental control permits held by or for the facility.

The City will evaluate the complete disclosure form and the data furnished by the Discharger and may require additional information. The Director may require inspection and sampling manholes and/or flow measuring or recording and sampling equipment to assure compliance with this Pretreatment Act. Within thirty (30) days after full evaluation and acceptance of the data furnished, the Director shall notify the Discharger of the City's acceptance thereof through issuance of a wastewater discharge permit.

(3) Standards modification. The City reserves the right to amend this Pretreatment Act and the terms and conditions hereof in order to assure compliance by the City with applicable laws and regulations. All national categorical pretreatment standards adopted by the EPA after the promulgation of this Pretreatment Act shall be enforceable by the City through this Pretreatment Act. Where a Discharger, subject to a categorical pretreatment standard, has not previously submitted a data disclosure form as required by Subsection (2) above, the Discharger

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shall file a disclosure form with the Director within one hundred eighty (180) days after the promulgation of the applicable categorical pretreatment standard by the EPA. In addition, any Discharger operating on the basis of a previous filing of a data disclosure form shall submit to the Director, within one hundred eighty (180) days after the promulgation of an applicable categorical pretreatment standard, the additional information required by subparagraphs (h) and (i) of Subsection (2). If deemed necessary by the City, where categorical pretreatment standards are more stringent, the wastewater discharge permit will be modified. The Discharger shall be informed of any proposed changes in the Pretreatment Act at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the Pretreatment Act shall include a reasonable time schedule for compliance.

(4) Wastewater discharge permit. The Director shall issue each significant user a wastewater discharge permit, which will be based on information in the data disclosure form and include:

- (a) Any fees and charges to be paid upon initial issuance.
- (b) Limits on the average and maximum wastewater characteristics, pollutant concentrations, loadings or characteristics.
- (c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- (d) Requirements for installation and maintenance of inspection and sampling facilities.
- (e) Special conditions as the City may reasonably require under particular circumstances of a given discharge.
- (f) Compliance schedules.
- (g) Requirements for submission of special technical reports or discharge reports where same differs from those prescribed by this Pretreatment Act.
- (h) Any special agreements the Director chooses to continue or develop between the City and a Discharger.
- (i) When appropriate, self-monitoring requirements including flow monitoring frequency and method, sampling frequencies, numbers, types and standards for tests.
- (j) Authorized points of discharge and regulated processes.
- (k) Requirement for immediate notification to the City where self-monitoring results indicate non-compliance.
- (l) Requirement to report a by-pass or upset of a pretreatment facility.
- (m) Requirement for the significant industrial user who reports non-compliance to repeat the sampling and analysis and submit analysis to the City within thirty (30) days after becoming aware of the violation.

(5) Wastewater discharge permit duration. All wastewater discharge permits shall be issued for a specific time period, not to exceed five (5) years subject to amendment or revocation as provided in this Pretreatment Act.

(6) Limitations on transfer. Wastewater discharge permits are issued to a specific Discharger for a specific operation and are not assignable to another Discharger without the prior written approval of the City or transferable to any other location.

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(7) Application for Re-issuance. At least ninety (90) days prior to the expiration of a discharge permit, the Discharger shall apply for re-issuance of the permit on forms to be provided by the City.  
[Amended by Ord No. 94-10, enacted May 5, 1994.]

### **4.156 Reporting Requirements for Discharger.**

(1) Final Compliance report. Within ninety (90) days following the date for final compliance by the Discharger with applicable pretreatment standards and requirements set forth in this Pretreatment Act or a wastewater discharge permit, or within thirty (30) days following commencement of the introduction of wastewater into the POTW by a new source Discharger, any Discharger subject to this Pretreatment Act shall submit to the Director a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and if not, what additional O&M and/or pretreatment is necessary to bring the Discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the Discharger as defined in 40 CFR 403.12 (i).

(2) Periodic compliance reports.

(a) Any Discharger subject to a pretreatment standard set forth in this Pretreatment Act after the compliance date of such pretreatment standard or in the case of a new source Discharger, after commencement of the discharge to the City, shall submit to the City during the months of June and December, unless required more frequently by the City in the Discharger's wastewater discharge permit, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the applicable pretreatment standards hereto. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period. Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the City may accept reports of average and maximum flows estimated by verifiable techniques. The City, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles or other extenuating factors, may authorize the submission of said reports on months other than those specified above.

(b) Reports of Dischargers shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass, where required by the City. If a Discharger monitors any pollutants more frequently than required by the City, all monitoring results must be included in the periodic compliance reports. The frequency of monitoring by the Discharger shall be as prescribed within the wastewater discharge permit. All analyses shall be performed in accordance with 40 CFR, Part 136 or with any other tests procedures approved by the administrator of the EPA. (Comment: Where the 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question or where the administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the City of Klamath Falls or other parties, approved by the administrator.)

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**4.158 Monitoring Facilities.** Each Discharger shall provide and operate, at the Discharger's own expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the City. Each monitoring facility shall be situated on the Discharger's premises, except where such a location would be impractical or cause undue hardship on the Discharger, the City may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles.

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

All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within one hundred twenty (120) days of receipt of wastewater discharge permit by Discharger.

**4.160 Inspection and Sampling.** The City may inspect the monitoring facilities of any Discharger to determine compliance with the requirements of this Pretreatment Act. The Discharger shall allow the City or its representatives to enter upon the premises of the Discharger at all reasonable hours for the purposes of inspection, sampling or records examination and copying. The City shall have the right to set up on the Discharger's property such devices as are necessary to conduct sampling, inspection, compliance, monitoring and/or metering operations. [Amended by Ord No. 94-10, enacted May 5, 1994.]

**4.162 Confidential Information.** Information and data furnished to the City with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction, unless the Discharger 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 or proprietary information of the Discharger.

When requested by a Discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Pretreatment Act, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the Discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the City as confidential shall not be transmitted to any governmental agency or to the general public by the City until and unless a thirty (30) day written notification is given to the Discharger.

**4.164 Signatory Requirements.** All applications, reports or other information submitted to the City pursuant to this Act shall be signed and certified in accordance with 40 CFR 403.12(1). [Added by Ord No. 94-10, enacted May 5, 1994.]

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### ENFORCEMENT

**4.184 Emergency Suspension of Service and Wastewater Discharge Permit.** The City may, after informal notice to the Discharger (in writing, in person or by telephone), order the suspension of the wastewater treatment service and revoke the wastewater discharge permit to a Discharger when it appears to the City that an actual or threatened discharge:

- (1) Presents or threatens an imminent or substantial danger to the health or welfare of persons or substantial danger to the environment; or
- (2) Threatens to interfere with the operation of the POTW, or to violate any pretreatment limits imposed by the Pretreatment Act.

Any Discharger notified of the City's suspension order shall immediately cease all discharges. In the event of failure of the Discharger to comply with the suspension order, the City may immediately take all necessary steps to halt or prevent any further discharge by such Discharger into the POTW. The City shall physically cap, block or seal the Discharger's sewer or water line (whether on public or private property) in order to terminate service under this Section. The City shall have the right to enter upon the Discharger's property to accomplish the capping, blocking or sealing of the Discharger's sewer or water line. The City may also commence judicial proceedings immediately thereafter to compel the Discharger's specific compliance with such order and/or to recover civil penalties. The City shall reinstate the wastewater discharge permit and/or wastewater treatment service upon clear and convincing proof by the Discharger of the elimination of the non-complying discharge or conditions creating the threat as set forth above.

**4.186 Discharger Prohibited Conduct.** A Discharger shall not:

- (1) Fail to comply with the requirements of Section 4.156; or
- (2) Fail to factually report accurately the wastewater constituents and characteristics of its discharge;
- (3) Fail to report significant changes in wastewater constituents or characteristics;
- (4) Refuse reasonable access to the Discharger's premises by representatives of the City for the purpose of inspection or monitoring; or
- (5) Violate the provisions of the wastewater discharge permit or the provision of this Pretreatment Act, or any other of the City with respect thereto.

The City may seek any and all of the remedies or penalties provided in this Pretreatment Act (including termination of water or wastewater services and/or revocation of wastewater discharge permit) against any Discharger who violates any of the foregoing prohibitions.

**4.188 Notification of Violation; Administrative Adjustment.** Whenever the City finds that any Discharger has violated the prohibitions in Section 4.186 hereof, the City shall cause to be served upon such Discharger a written notice (either personally or by certified or registered mail, return receipt requested) stating the nature of the alleged violation or violations. The notice may also state what fine, penalty or other remedy the City will seek against the Discharger for such alleged violation(s). Within twenty (20) days of the date of receipt of the notice, the Discharger shall

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respond personally or in writing or by certified or registered mail, return receipt requested, to the City, advising of its position with respect to the allegations. Thereafter, the Discharger shall be given the opportunity to meet with representatives of the City to ascertain the veracity of the allegations, to establish a plan for the satisfactory correction of the violations and preclusion of a recurrence thereof and to pay the fine or otherwise comply with the penalty or remedy being sought by the City for the violation(s). In the event the parties reach agreement at such meeting, the terms of such agreement together with a compliance schedule shall be incorporated into a written administrative order which addresses the violations.

**4.190 Show Cause Hearing.** Where the violation of Section 4.186 hereof is not corrected by timely compliance through the administrative adjustment procedures set forth in Section 4.188, the City may order any Discharger which suffers or permits a violation of Section 4.186 hereof to show cause before the City or its duly authorized representative why the proposed enforcement action which may include service termination should not be taken. A written notice shall be served on the Discharger by personal service, certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the City or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action and directing the Discharger to show cause before the City or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten (10) days before the hearing. Service may be made on any agent, officer or authorized representative of a Discharger. The information and evidence presented at the hearing shall be considered by the City or its designate, which shall then enter appropriate findings of fact, conclusion of law and orders with respect to the alleged violations of the Discharger. Appeal of such orders may be taken by the Discharger within twenty (20) days to the City Council, which may grant a hearing to take additional evidence or render its decision based upon the record of the show cause hearing proceedings.

**4.191 Judicial Proceedings.** Following the entry of any final order by the City with respect to the violation by a Discharger of Section 4.186 hereof under this Pretreatment Act, the City may commence an action for appropriate legal and/or equitable relief in the appropriate local court to enforce the penalty or remedy imposed by the City hereunder.

**4.192 Enforcement Actions; Annual Publication.** A list of all industrial users in significant non-compliance with this Act during the twelve (12) previous months shall be annually published by the City in the Herald and News summarizing the violations and enforcement action undertaken by the City. For purposes of this Section, an industrial user is in significant non-compliance if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six-month period exceeded (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements for each pollutant parameter taken

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during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public).

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare 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 ninety (90) days after the schedule date, a compliance schedule milestone contained in a City discharge permit or enforcement order for starting construction, completing construction or attaining final compliance.

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

(7) Failure to accurately report non-compliance.

(8) Any other violation or group of violations which the City determines will adversely affect the operation or implementation of the pretreatment program.

[Amended by Ord No. 94-10, enacted May 5, 1994.]

**4.193 Right of Appeal.** Any Discharger or any interested party shall have the right to request, in writing, an interpretation or ruling by the City on any matter covered by this Pretreatment Act and shall be entitled to a prompt written reply. In the event that such inquiry is by a Discharger and deals with matters of performance or compliance with this Pretreatment Act for which enforcement activity relating to an alleged violation is the subject, receipt of a Discharger's request shall not stay enforcement proceedings pending. Appeal of any final judicial order entered pursuant to this Pretreatment Act may be taken in accordance with local and state law.

**4.194 Operating Upsets.** Any Discharger which experiences an upset in operations which places the Discharger in a temporary state of non-compliance with this Pretreatment Act shall inform the City thereof within twenty-four (24) hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the Discharger with the City within five (5) days. The report shall specify:

(1) Description of the upset, the cause thereof and the upset's impact on the Discharger's compliance status.

(2) Duration of non-compliance, including exact dates and times of non-compliance, and if non-compliance continues, the time by which compliance is reasonably expected to occur.

(3) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of non-compliance.

A documented and verified bona fide operating upset shall be an affirmative defense to any enforcement action brought by the City against the Discharger for any non-compliance with

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the Pretreatment Act which arises out of violations alleged to have occurred during the period of the upset.

**4.195 Civil Penalties.** Any Discharger who violates an order of the City or who fails to comply with (a) any provision of this Pretreatment Act; or (b) any regulation, rule or permit of the City, issued pursuant to this Pretreatment Act, shall be liable to the City for a civil penalty. The amount of such civil penalty shall be not less than Two Hundred Fifty Dollars (\$250.00) per violation nor more than One Thousand Dollars (\$1,000.00) per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. Such penalties may be collected by judicial actions commenced by the City as provided in Section 4.191. In addition, City may commence an action to terminate the Discharger's wastewater treatment service and/or water service.

**4.196 Recovery of Cost Incurred by the City.** Any Discharger violating any of the provisions of this Pretreatment Act who discharges or causes damage to or impairs the City's wastewater disposal system shall be liable to the City for any expense, loss or damage caused by such violation or discharge. The City shall, by order, bill the Discharger for the cost incurred by the City for any cleaning, repair or replacement work caused by the violation or discharge and for cost incurred by the City in investigating the violation and in enforcing the ordinance against the Discharger, including reasonable administrative costs, fees for testing, attorney fees, court cost and all expenses of litigation. Refusal to pay the assessed costs shall constitute a violation of this Pretreatment Act, enforceable under the provisions of Sections 4.184 to 4.198.

**4.197 Falsifying Information.**

(1) Any person who knowingly makes any false statement, representation or certification in any application, record, report and plan or other document filed or required to be maintained pursuant to this Pretreatment Act, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Pretreatment Act, shall (in addition to civil and/or criminal penalties provided by state law) be guilty of a misdemeanor and shall be prosecuted and punished accordingly.

(2) In addition an industrial user shall be subject to:

(a) the provisions of 18 U.S.C. Section 1001 relating to fraud and false statements;

(b) the provisions of Sections 309(c)4 of the Clean Water Act, as amended governing false statements, representations or certification; and

(c) the provisions of Section 309(c)(6) regarding responsible corporate officers.

[Amended by Ord No. 94-10, enacted May 5, 1994.]

**4.198 General Criminal Penalties.** Any user who knowingly violates any provision of this Pretreatment Act shall be guilty of a misdemeanor and shall be punished accordingly.

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**4.199 Affirmative Defenses.** A discharger shall have the right to rely upon those affirmative defenses provided under 40 CFR 403.5(a)(2), 40 CFR 403.16 and 40 CFR 403.17.  
[Added by Ord No. 94-10, enacted May 5, 1994.]

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### WATER

#### GENERAL

##### **4.205 Title and Scope.**

- (1) Sections 4.205 to 4.405 shall be known as The Water System Act.
- (2) All customers receiving services from the City water system are bound by the provisions of this Act.

**4.210 Definitions.** For the purposes of Sections 4.205 to 4.405, the following words and phrases shall mean:

Customer Service Line. That part of the piping on the customer's property that connects the service to the customer's distribution system.

Service Connection. That part of the water distribution system which connects the meter to the main and which normally consists of corporation stop, service pipe, curb stop and box, meter, meter yoke, and meter box.

**4.215** [Repealed by Ord. No. 6647, enacted Dec. 18, 1992.]

**4.220 Ownership, Installation and Maintenance.** The City shall own and maintain all service connections. The installation and maintenance shall only be performed by authorized employees of the City or by qualified, licensed craftspersons under the direct supervision of Public Works Department staff. No connection to a City water main or service connection will be permitted without the prior approval of the Public Works Department. The customer shall own, install and maintain the customer service line. [Amended by Ord. No. 02-23, enacted Dec. 17, 2002.]

**4.225 Service Connection Charge.** At the time the applicant files for service where no service previously existed, or if he/she files for a change in service, he/she shall submit with the application the service connection charge. This charge is to cover the actual cost to the City of installing the service from the main to and including the meter and the meter housing. *The City Manager is authorized to set and modify the service connection charge in accordance with the requirements of Section 1.075.* The service connection charge is in addition to any Systems Development Charge imposed pursuant to Sections 3.505 to 3.590. [Amended by Ord. No. 6623, enacted July 1, 1991; amended by Ord. No. 07-09.]

**4.230 Size of Service.** The City shall furnish and install, or permit to be installed, a service of such size and at such locations as the applicant requests, provided that such requests are reasonable and that the size requested is one that is authorized by the City. The City may refuse to install a service line which is undersized or oversized, as determined by a study and report of the Public Works Department to the City Manager. [Amended by Ord. 02-23, enacted Dec. 17, 2002.]

**4.235 Changes in Service.** Permanent changes in the location, grade or size of the service line or meter requested by a customer shall be paid by the customer on the basis of actual cost to the City

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of making the change, including administration. The customer shall deposit a sum equal to the estimated cost in advance.

[Amended by Ord. No. 6614, enacted Jan. 16, 1991.]

### **4.240 Length of Service.**

(1) Where the main is in the public right-of-way, the meter shall be placed at the right-of-way line nearest the property to be served for the standard connection fee, provided that the length of service line does not exceed the width of the right-of-way.

(2) Where the main is on an easement or publicly owned property other than designated right-of-way, the services shall be installed to the boundary of the easement or public property by the City, provided that the length of service does not exceed thirty (30) feet.

(3) If, in either case cited above, the length of service line to the meter location exceeds to the maximum stated, the applicant shall pay the extra cost of the line on the basis of actual cost to the City for labor, materials, and equipment, plus fifteen percent (15%) for administrative costs.

### **4.245 Meters.**

(1) Installation of water meters shall be performed only by authorized employees of the City. All meters shall be sealed by the City at the time of installation, and no seal shall be altered or broken except by one of its authorized employees.

(2) The joining of several customers to take advantage of the single minimum charges and large quantity rates shall be prohibited, except under special contract, in writing, with the Council.

(3) If, for any reason, a change in the size of a meter and service is required, the installation shall be accomplished by the basis of a new connection, and the customer's application shall be so amended. Meters or services moved for the convenience of the customer shall be relocated only at the customer's expense.

### **4.250 Water Rates and Demand and Connection Charges.**

(1) Water rates, capacity charges and demand charges shall be established and modified by the Council and computed on the basis of units, one unit equaling 100 cu. ft., as follows:

(a) All consumption of water shall be charged at a flat rate per unit. Cubic feet readings shall be to the nearest 100 cu. ft.

(b) Service to industrial customers, independent water districts, and all other special contracts may be negotiated by the Council.

(c) A customer charge may be imposed and collected at the discretion of the Council for the purpose of defraying the costs of meter reading, billing, accounting, and other administrative costs. The Council may also, in its discretion, impose a capacity charge. [Previous subparagraph 3 repealed by Ord. No. 6621, enacted June 17, 1991; Added by Ord. No. 02-02, enacted Feb. 5, 2002.]

(2) A new account fee shall be collected for a new account. A new account is the initial process of application for service, setting up the billing procedure, reading of the meter, and

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turning on the water or any part thereof and at a single location for a given customer. The City Manager is authorized to set and modify the new account fee in accordance with the requirements of Section 1.075.

(3) A Systems Development Charge shall be collected pursuant to Sections 3.505 to 3.590 and Council resolutions adopted thereunder.

[Amended by Ord. No. 6614, enacted Jan. 16, 1991; Amended by Ord. No. 6621, enacted June 17, 1991; Amended by Ord. No. 6623, enacted July 1, 1991; Amended by Ord. No. 07-09.]

### **4.255 Meter Readings.**

(1) Meters shall be read and customers billed on the basis of the meter reading to the nearest 100 cubic feet. No charge shall be made for amounts from 1 to 49 cubic feet, and the charge for amounts from 50 to 99 cubic feet shall be for 100 cubic feet.

(2) The Finance Division shall keep an accurate account on its books of all readings of meters, and such account may be offered at all times, places, and courts as prima facie evidence of the use of water service by the customer.

### **4.260 Discontinue of Service - On Customer Request.**

(1) A customer about to vacate any premises supplied with water service by the City shall give the City written notice at least two days prior thereto, specifying the date service is to be discontinued. The customer shall be responsible for all water supplied to such premises until water service is actually discontinued by the City or two (2) days after the City receives notice, whichever occurs first.

(2) At the time the customer expects to vacate The premises where service is supplied or when service is to be discontinued, the meter shall be read and a bill rendered which is payable immediately. In no case shall the bill be less than the bimonthly minimum.

**4.262 Discontinue of Service - Nonpayment of Bills.** A customer's water service shall be discontinued if the water bill is not paid in accordance with the procedures listed in Sections 4.035 and 4.040.

### **4.264 Discontinuance of Service - Improper Customer Facilities.**

(1) The City may refuse to furnish water and may discontinue services to any premises without prior notice where plumbing facilities, appliances, or equipment using water are dangerous, unsafe, or not in conformity with the State Plumbing Code as adopted pursuant to ORS Chapter 447.

(2) Cross Connections.

(a) A cross connection is any physical connection between the City's system and another source and includes those cross connections prohibited by the State Health Division and the U.S. Public Health Service.

(b) The City shall not knowingly permit any cross connection and shall discontinue service to any premises where a cross connection exists. Service shall not be restored until the cross connection is eliminated. Customers using water from one or more sources in addition to receiving water from the City on the same premises shall maintain separate systems for

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each; and the City's water supply facilities shall be separated from any and all other systems by an air gap of not less than one foot, or, if in the ground, by not less than five (5) feet.

(c) In those instances where it is impossible or impractical to determine whether the conditions described in this Section have been complied with, the City may make the installation of an approved back flow preventer unit a condition of continued service in order to afford the greatest measure of health protection from contamination for all persons using the water system.

**4.266 Discontinuance of Service - Unauthorized Turn On.** When water service has been discontinued for any reason and the water is turned on by the customer or other unauthorized person, the water may then be shut off at the main or the meter removed. Any unauthorized turn-on or connection is punishable as provided by Section 4.990.

**4.268 Discontinuance of Service - Noncompliance with Provisions.** The City may, upon five days notice, discontinue service to a customer's premises for failure to comply with any of the provisions of Sections 4.205 to 4.380. This notice will be an exception to the provisions of Section 4.035.

**4.270 Discontinuance of Service - Water Waste.** When water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the City may discontinue service if such conditions are not corrected after due notice by the City Manager.

**4.272 Discontinuance of Service - Service Detrimental to Others.** The City Manager may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

**4.275 Restoration of Service.**

(1) Restoration of service following discontinuance for nonpayment of bills shall be made after payment of past-due charges, a service fee and an additional after-hours fee if the restoration of service is completed outside of normal business hours. The service fee may be assessed when an account is scheduled for disconnect, whether or not the service is actually disconnected. The service fee, after-hours fee, and other fees and charges deemed appropriate by the City Manager may be adopted or modified by the City Manager *in accordance with the requirements of Section 1.075.* (2) Restoration of service after discontinuance of service for unsafe facilities, water waste, fraud, abuse, or for noncompliance with any of the provisions of Sections 4.205 to 4.380 shall only be made after assurance that the irregularity will not recur. The service fee and other fees and charges deemed appropriate by the City Manager as provided for in subparagraph (1), plus any other expenses due or past due that the City may have incurred to correct the irregularity, shall be paid prior to restoration of service.

(3) Where a meter has been removed as abandoned or because of change, misuses or tamping, restoration of service shall be conditioned upon payment of the cost to set a new meter. [Amended by Ord. No. 94-03, enacted March 10, 1994; Amended by Ord. No. 01-04, enacted March 6, 2001; Amended by Ord. No. 07-09.]

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**4.280 Access to Property.** All duly appointed employees of the City, under the direction of the Public Works Director, shall have free access at all reasonable hours of the day to any and all parts of and premises, to which water is or may be delivered, for the purposes of inspecting connections, the conditions of conduits and fixtures, and the manner and extent in which the water is being used. The City does not, however, assume the duty of inspecting the customer's lines, plumbing and equipment, and shall not be responsible therefore.

**4.285 Responsibility for Customer Equipment.**

(1) The City shall not be liable for any loss or damage of any nature whatsoever caused by any defect in the customer's lines, plumbing or equipment, nor shall the City be liable for loss or damage due to interruption of service or temporary changes in pressure.

(2) The customer shall be responsible for valves on the premises being turned off when the water service is turned on.

**4.290 Responsibility for City Equipment.** City equipment on the customer's premises remains the property of the City and may be repaired, replaced or removed by authorized City employees at any time without consent of the customer. No payment shall be made to the customer for the right to install, maintain, replace or remove City equipment on the premises. The customer must exercise reasonable care to prevent damage to equipment and must in no way interfere with its operation. The customer must keep vicious dogs or other animals secured or confined to avoid interference with the utility operation and maintenance.

**4.295 Damage to City Equipment.** The customer shall be liable for any damage to equipment owned by the City caused by an act of the customer or his/her tenants, agents, employees, contractors, licensees or permittees. Damage to equipment shall include, but not be limited to, breaking of seals and locks, tampering with meters, injury to meters, including but not limited to damages by hot water, steam, or freezing, and damaged meter boxes, curb stops, meter stops, and other service appurtenances.

**4.300 Fire Hydrants.**

(1) No person or persons other than those designated and authorized by the City shall open any fire hydrant belonging to the City, attempt to draw water from it, or in any manner damage or tamper with it. No tool other than a special hydrant wrench shall be used to operate a hydrant valve. In cases where a temporary service has been granted and receives water through a fire hydrant, an auxiliary external valve shall be provided to control the flow of water.

(2) When a fire hydrant has been installed in the locations specified by the proper authority, the City has fulfilled its obligation. If a property owner or other party desires to change the size, type or location of the hydrant, he/she shall bear all costs of such changes. Any change in the location of the fire hydrant must be approved by the Public Works and Fire Departments.

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**4.305 Fire Protection Service.** Fire protection facilities shall be allowed inside and/or outside of a building under the following conditions:

(1) When a building has a fire protection service which is separate from the regular service to the building, an approved proportional meter or detector check may be used in place of a service meter. The person in control of the building shall agree in writing that water supplied through this service will not be used for any purpose except for extinguishing a fire. If registration is recorded on the meter or detector check, the installation of a service meter or the removal of the service may be required.

(2) No charge shall be made for water used in the extinguishing of a fire if the owner reports the use to the City in writing within 10 days of the fire.

(3) Water may be obtained from fire protection facilities for filling a tank connected with the fire services, but only if written permission is secured from the City in advance and an approved means of measurement is available. The rate of general use shall apply.

[Amended by Ord. No. 6621, enacted June 17, 1991.]

**4.310 Outside City Service.** Service to customers outside the City limits shall be provided subject to the following conditions:

(1) A customer shall comply with and be bound by the provisions of Sections 4.205 to 4.380.

(2) For those customers not on line on May 1, 1978:

(a) The quantity of water supplied is the amount of excess water available.

(b) Pressure and other conditions are to be at the risk of the customer without guarantee, and the City shall have no liability for failure to provide service or for any failure of the system.

**4.315 Limitations on Use.** The City Manager may limit the use of water in times of shortage to all or any portion of the system.

**4.320 Meter Accuracy.** All meters shall be tested prior to installation. No meter shall be placed in service or allowed to remain in service which is known to have an error in registration in excess of two percent (2%) under conditions of normal operation.

**4.325 Meter Test.**

(1) A customer may request the City to test the meter serving his/her premises. The City shall require the customer to deposit a testing fee which shall be an estimate of the cost of testing the meter as determined by the order of the Public Works Director. The test shall be conducted within seven (7) days of the request. The deposit shall be returned to the customer if the test reveals the meter to over-register more than two percent (2%) under conditions of normal operation. If the meter is operating satisfactorily, or if the meter under-registers, the deposit shall be retained by the City. Customers may, at their option, witness any meter tests which they request.

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(2) If, upon comparison with past water usage, it appears that a meter is not registering properly, the City may, at its option, test the meter and adjust the charges accordingly if the meter either over-registers or under-registers. No charge for meter testing shall be made to the customer for a meter test initiated by the City.

(3) Meter tests shall be conducted in accordance with standards of practice established by the American Water Works Association.

[Amended by Ord. No. 6614, enacted Jan. 16, 1991; Amended by Ord. No. 6622, enacted July 17, 1991.]

### **4.330 Adjustment of Bills for Meter Error.**

(1) No credits or debits on charges made prior to testing of the meter shall be borne by the City or the customer should the tested meter show variance, high or low, from the accuracy defined in Section 4.325.

(2) The City shall bill the customer for water consumed while the meter was not registering. The bill shall be computed upon an estimate of consumption based upon the customer's prior use during the same season of the year, or upon a reasonable comparison with the use of other customers receiving the same class of service during the same season and under similar circumstances and conditions.

(3) When an under or over billing occurs, the City shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to some cause, the date of which it can be fixed, the over or undercharge shall be computed back to such date. If no date can be fixed, the City shall refund the overcharge or rebill the undercharge for no more than six (6) months' usage. In no event shall an over or under billing be for more than three (3) years' usage.

[Amended by Ord. No. 6622, enacted July 17, 1991.]

**4.335 Unusual Demands.** When an abnormally large quantity of water is desired for filling a swimming pool, pond, or for other purposes, arrangements must be made with the City at least two (2) days in advance of taking such water. Permission to take water in unusual quantities shall be given only if the City water facilities and other consumers are not inconvenienced.

**4.340 Resale of Water.** Except by special arrangement with the City, no customer shall resell water received from the City, nor shall water be delivered to premises other than those specified in the application for service.

**4.345 Abandoned and Nonrevenue-producing Services.** When a service connection to a premises has been abandoned or not used for a period of six (6) months or longer, the City may remove it. New service shall be placed only upon the customer's application and payment of all applicable charges.

[Amended by Ord. No. 6622, enacted July 17, 1991.]

**4.350** [Repealed by Ord. No. 6614, enacted Jan. 16, 1991.]

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**4.352 Main Extensions.** Water main extensions to areas or property not presently served shall be installed under procedures and standards established by the Public Works Director and shall be at the expense of the developer or other party or parties requesting the extension. Drawings shall be submitted to and approved by the Public Works Director prior to the start of construction. The size and location of mains shall be approved by the City and all mains shall be located in public rights-of-way or within dedicated easements. The party requesting the extensions shall reimburse the City's cost of construction inspection. Each project shall be installed by City approved contractors and the main extensions shall become the property of the City following final inspection and acceptance by the City.

[Amended by Ord. No. 6614, enacted Jan. 16, 1991.]

**4.355 Location of Extensions.** Water main extensions shall be made only on rights-of-way, easements, or publicly owned property. Easements or permits secured for main extensions shall be obtained in the name of the City or transferred to the City, along with all rights and title to the main, at the time the service is provided to the customers paying for this extension.

**4.360 Interruptions in Service.** The City shall not be liable for damage resulting from the interruption of service or from a lack of service. Temporary suspension of service by the City for improvements and repairs will be necessary occasionally. Whenever possible, and when time permits, all customers affected shall be notified prior to shutdowns.

**4.365 City Ownership of System.** All water mains, valves, fittings, hydrants, and other appurtenances, except "customer service lines" as defined in Section 4.210 shall be the property of the City.

**4.370 Special Contracts.** When the applicant's requirements for water are unusual or large, such as an independent water district, or the requirements necessitate considerable special or reserve equipment or capacity, the City, by authorization of the Council, reserves the right to make special contracts, the provisions of which are different from and have exceptions to the regularly published water rates, rules and regulations. The special contract shall be in writing, signed by the applicant and approved by the Council and City Attorney, and signed by the Mayor and Recorder.

**4.375 Unauthorized Service Extensions.** Service extensions from an existing service to other occupancies or ownerships than that for which the existing service was intended is prohibited. Separate residences shall not receive service through a single meter except under special considerations approved by the Council.

**4.380 Easements.** Each applicant and user gives and grants to the City an easement and right-of-way through, on and across his/her property for the installation and maintenance of water mains and the necessary valves and equipment for water service.

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### WATER CURTAILMENT PLAN

**4.390 Definitions.** The following words and phrases whenever used in Sections 4.390 to 4.395 shall be construed as defined in this Section unless from the context a different meaning is clearly intended.

Administrator. Public Works Director or his or her designee.

Billing period. That period used by the City for the reading of water meters consisting of approximately thirty (30) calendar days.

City water. Water sold or delivered through the City's water system.

Customer. That person designated in City records to receive bills for water service.

Nonessential commercial uses. Uses of the water for commercial purposes in excess of the following amounts are determined to be nonessential and are prohibited:

(1) The use of water for schools, parks, recreation areas, golf courses, community food gardens, residential gardens, cemeteries and similar recreation or memorial type facilities in excess of seventy-five percent (75%) of prior water consumption.

(2) The use of water for nursery operations, restaurants, shopping centers, filling stations and other commercial uses in excess of seventy-five percent (75%) of prior water consumption.

Nonessential industrial uses. Uses of water for industrial purposes in excess of the following amounts are determined to be nonessential and are prohibited.

(1) The use of water for manufacturing, food processing, cooling or cleaning of equipment in excess of seventy-five percent (75%) of prior water consumption.

(2) The use of water for agricultural irrigation in excess of seventy-five percent (75%) of prior water consumption.

Nonessential residential uses. Uses of water for residential purposes in excess of the following daily usage allotment are determined to be nonessential.

(1) One or two residential units.

Daily Usage Allotment.

- One permanent resident - 120 gallons.
  - Two permanent residents - 200 gallons.
  - Three permanent residents - 280 gallons.
- Each additional permanent resident - 80 gallons.

(2) Multi-residential units.

Daily Usage Allotment.

Each permanent resident - 80 gallons.

Each water user or customer in whose name a water service is supplied to a residence or residences or apartments or other dwelling units, shall upon request of the City Administrator, advise the City under penalty of perjury, the number of permanent residents using water supplied to the residence, residences, apartments or other dwelling units. If the water user or customer fails to advise the City Administrator, each residence, apartment or dwelling unit shall be permitted the water allocation herein provided for one permanent resident.

The usage allotments established for three (3) or more residential units should be based on the number of residential units rather than number of persons because the method of computation

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of allotments will more accurately reflect the true number of permanent residents living in the units over a period of time in light of the turnover and vacancy rates, the difficulty of ascertaining the true number of permanent residents residing and the available census and other statistical data.

Other nonessential uses. All other uses of water not expressly set forth in Sections 4.390 to 4.395 in excess of seventy-five percent (75%) of prior water consumption are determined to be nonessential and are prohibited.

Outside plants. Irrigation of grass, lawns, ground-cover, shrubbery, gardens, crops, vegetation and trees not located within a fully enclosed building.

Permanent resident. A person who resides at the dwelling at least five (5) days a week, nine (9) months a year.

Prior year water consumption. The amount of water consumed in the same time period as the first previous non-water curtailment year shall be determined by the City from its records. Where no such records exist, the amount shall be the average use of similar existing services as determined by the City from its records.

Suburban area. Outside the City limits.

Urban area. Inside City limits.

Waste. Includes:

(1) To use City water to irrigate outside plants between the hours of 10:00 a.m. and 8:00 p.m. (except for drip irrigation) or in such a manner as to result in runoff for more than five (5) minutes.

(2) To use City water to wash sidewalks, walkways, streets, driveways, parking lots, open ground or other hard surfaced areas except where necessary for public health or safety.

(3) To allow City water to escape from breaks within a plumbing system for more than twenty-four (24) hours after the person who owns or is in control of the system is notified or discovers the break.

(4) To use City water to wash cars, boats, trailers, aircraft or other vehicles by hose without using a shutoff nozzle except to wash such vehicles at commercial or fleet vehicle washing facilities using water recycling equipment.

(5) To serve City water for drinking at a restaurant, hotel, cafe, cafeteria or other public place where food is sold, served or offered for sale, to any person unless expressly requested by such person.

(6) To use City water to clean, fill or maintain decorative fountains, lakes or ponds unless all such water is recirculated.

(7) Except for purposes of building construction, to use City water for construction, compaction, dust control, cleaning or wetting or for building washdown (except in preparation for painting).

(8) To use City water for filling swimming pools or for filling toy, play or other pools with a capacity in excess of one hundred (100) gallons provided, however, that water may be added to swimming pools to replace volume lost due to evaporation.

[Added by Ord. No. 93-4, enacted March 31, 1993.]

**4.391 Application.** The provisions of Section 4.390 to 4.395 shall apply to all customers using water provided by the City of Klamath Falls.

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[Added by Ord. No. 93-4, enacted March 31, 1993.]

### **4.392 Determination of Water Shortage.**

(1) The City Administrator is authorized to institute emergency water curtailment measures upon determination that a water shortage emergency condition exists. Such determination shall be based on an analysis of the demand for water in the distribution system and the quantity of deliverable water available and storage recover capabilities.

(2) The determination of the City Administrator under this Section shall be effective until the next Council meeting following such determination, at which time the Council shall either ratify or invalidate the determination.

(3) The City Administrator is authorized to terminate water curtailment measures upon determination that a water shortage emergency condition no longer exists. The termination shall become effective at the next Council meeting following the determination of the City Administrator at which time the Council shall either ratify or invalidate the determination.

[Added by Ord. No. 93-4, enacted March 31, 1993.]

**4.393 Water Curtailment Levels.** Depending on the severity of the potential water shortage, the City Administrator may implement the following water curtailment levels. During any level, no person shall waste City water.

(1) Level 1. The City Administrator will issue a broad request for voluntary reduction in water use by all city water users. The request will include a summary of the current water situation, along with the reasons for the requested cutback in use and a statement that mandatory cutbacks will be needed if the voluntary efforts do not reduce peak water use by ten percent (10%).

(2) Level 2. The City Administrator will issue a restriction on outside water use in the suburban area according to odd/even water days and prohibit waste of water.

(3) Level 3.

(a) The City Administrator will issue a restriction on outside water use according to odd/even water days in the urban area.

(b) The City Administrator will, in the suburban area, prohibit nonessential residential, commercial, industrial and all other nonessential water uses. No City water will be used to water outside plants except for trees, shrubs and food plants.

(c) The City Administrator will place a moratorium on new water service connections and water main extensions within the distribution system.

(4) Level 4. The City Administrator will, in the urban area, prohibit nonessential residential, commercial, industrial and all other nonessential water uses. No City water will be used to water outside plants except for trees, shrubs and food plants.

[Added by Ord. No. 93-4, enacted March 31, 1993.]

### **4.394 Penalties and Discontinuance of Service.**

(1) The City Administrator may, after written notice by certified mail or personal staff warning, disconnect the water service of any customer or private user that violates Sections 4.390 to 4.395 on two (2) or more days. Service so disconnected shall be restored only upon payment of

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any turn-on charge hereby fixed at Thirty-five Dollars (\$35.00) during office hours or Sixty Dollars (\$60.00) after office hours and any other costs incurred by the City of Klamath Falls in the discontinuance of service and the giving of suitable assurance to the City that the action causing the discontinuance will not be repeated.

(2) In addition to the foregoing, the City may, prior to restoration of service, install a flow restrictive device on the customer's service supply line that limits the rate of water flow or total quantity used.

(3) The City Administrator is hereby authorized to enforce the provisions of this Section.

[Added by Ord. No. 93-4, enacted March 31, 1993.]

### **4.395 Variances.**

(1) The City Administrator may, in writing, grant temporary variances for uses of water otherwise prohibited after determining that due to unusual circumstances to fail to grant such variance would:

(a) Cause an emergency condition affecting health, sanitation or fire protection of the applicant or the public.

(b) Result in unemployment or decreased production, after confirmation by the City that the account has instituted all applicable water efficiency improvements.

(2) The City Administrator shall approve or deny the request for exemptions and may impose conditions. Such conditions may include the amount volume restrictions may be exceeded and that all applicable plumbing fixtures or irrigation system be replaced or modified for maximum water conservation. If the City Administrator and the applicant are unable to reach accord on the exemption or if the applicant is dissatisfied with the City Administrator's decision, the applicant may appeal to the Council pursuant to Section 1.025 and the Council will make the final determination. Any variance that has been ratified by Council may be revoked by later action of the City Council.

(3) No such variance shall be retroactive or otherwise justify any violation of Sections 4.390 to 4.395 occurring prior to issuance of temporary variance.

[Added by Ord. No. 93-4, enacted March 31, 1993.]

**PUBLIC BUILDING GEOTHERMAL ACT**

**4.400 Title and Scope.**

(1) Sections 4.400 to 4.408 shall be known as the Public Building Geothermal Act.

(2) All public customers receiving services from the City geothermal system are bound by provisions of this Act.

[Added by Ord. No. 6450, enacted March 8, 1984.]

**4.402 Definitions.** The following terms, as used in Sections 4.400 to 4.408 mean:

BTU. British Thermal Unit.

Customer. A public entity which receives geothermal heat from the City.

[Added by Ord. No. 6450, enacted March 8, 1984.]

**4.404 Service Charges.** Upon activation of a service account, the customer shall become responsible for the applicable service charges, which shall be set by Council resolution in accordance with Subsection 4.020:

(1) Demand charge: the minimum per month for each active service account, exclusive of heat rate and metered heat consumption. Such charge shall include amounts to cover monitoring of the system and development of a contingency reserve fund.

(2) Public facility heat rate based on the meter BTU of heat consumed.

[Added by Ord. No. 6450, enacted March 8, 1984; Amended by Ord. No. 6477, enacted Nov. 11, 1984.]

**4.406 Terms and Conditions of Heating Service.**

(1) The City reserves the right to cease operation of the heating system, or any part thereof, and cancel such services as may be provided by the system, for reasons of emergency maintenance or because of adverse impact upon the geothermal reservoir as authorized by the City Manager. Adverse impact is defined as test results outside the parameters established by the computer model developed from the data collected during the 1983 reservoir test supervised by a United States Geological Survey hydrologist. The City Manager shall diligently endeavor to provide the earliest and widest possible customer notice prior to such emergency actions;

(2) The City may, by Council resolution, establish regular seasonal periods of heating service operation and inoperation;

(3) The City shall assume no liability whatsoever, direct or implied, for any customer damages or injuries incurred as a result of heating service interruption or cancellation, when such interruption or cancellation is due to circumstances beyond the control of the City, or due to operational actions authorized by this Act;

(4) The City shall not warrant or guarantee the temperature or chemical quality of the fluid delivered to customer, nor assume any liability whatsoever, direct or Implied, for corrosion, scaling, or similar physical degradation of user pipelines or private heating or cooling equipment utilized beyond each service connection. [Added by Ord. No. 6450, enacted March 8, 1984.]

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**4.408 Additional Terms and Conditions.** In addition to those terms and conditions set forth in Section 4.406, all City heating services shall be subject to those like terms and conditions of water service set forth in Sections 4.260 to 4.295, hereby specifically made applicable to geothermal heating service.

[Added by Ord. No. 6450, enacted March 8, 1984.]

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## SEWER USER RATE

### GENERAL

**4.415 Purpose and Policy.** Sections 4.415 to 4.425 hereinafter referred to as "User Rate Ordinance" set forth uniform requirements for establishing a system of user charges based on actual or estimated use of wastewater treatment services, in which each user class pays its proportionate share of operation and maintenance (including replacement) costs. This enables the City to comply with applicable State and Federal laws required by the Clean Water Act of 1977 and the User Charge Regulations (40CFR, Part 35.929). The objectives of this User Rate Ordinance are:

(1) To establish classes of users having similar flows and wastewater characteristics; i.e., levels of biochemical oxygen demand, suspended solids, etc.

(2) To assign to each class, its share of the waste treatment works operation and maintenance costs based on the proportional contribution of the class to the total treatment works loading.

(3) To establish procedures for management of the Sewer Fund and for rate reviews and customer notification which will distribute the cost of operation and maintenance of the wastewater treatment works to the pollutant source and will promote self-sufficiency of treatment works with respect to operation and maintenance costs. This User Rate Ordinance provides for the financial management of the Sewer Fund, for the allocation of costs to user classes, and for the setting of fees for the equitable distribution of cost to the classes based on their use of the treatment systems. This User Rate Ordinance shall apply to the City of Klamath Falls and to persons outside the City who are, by contract or agreement with the City, Users of the City Publicly Owned Treatment Works (POTW), and are required by such contract or agreement to comply.

[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

**4.416 Abbreviations.** The following abbreviations shall have the designated meanings.

<u>BOD</u>	Biochemical Oxygen Demand		
<u>CRF</u>	Code of Federal Regulations		
<u>EPA</u>	Environmental Protection Agency		
<u>l</u>	liter		
<u>mg</u>	milligrams		
<u>mg/l</u>	milligrams per liter		
<u>O &amp; M</u>	Operations and Maintenance		
<u>NPDES</u>	National Pollutant Discharge Elimination System		
<u>POTW</u>	Publicly Owned Treatment Works	<u>TSS</u>	Total

Suspended Solids

[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

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**4.417 Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this User Rate Ordinance, shall have the meanings hereinafter designated:

Act. The Clean Water Act (33 U.S.C. 1251 et. seq, as amended).

Biochemical Oxygen Demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days of twenty degrees (20°) centigrade, expressed in terms of weight and concentration (mg/l).

Collector Sewer. The common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewater directly from facilities which convey wastewater from individual systems, or from private property.

Combined Sewer. A sewer that is designated as a sanitary sewer and a storm sewer.

Director. The City Public Works Director or his duly authorized representative.

Environmental Protection Agency. The U.S. Environmental Protection Agency or, where appropriate, the Administrator or other duly authorized official of said agency.

Industrial User. Any nongovernmental, nonresidential user of a publicly owned treatment works 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: A, B, D, E. I.

Operation and Maintenance. Activities required to assure the dependable and economical function of the treatment works:

(a) Maintenance: Preservation of functional integrity and efficiency of equipment and structures.

(b) Operation: Control of unit processes and equipment. Includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

Premises Served. Any lot, tract, or parcel of land using a City sewer, or within 200 feet of an available sewer when the premises are put to a use which requires sewage facilities, though not connected with such facilities.

Replacement. Expenditures for obtaining and installing equipment accessories, or appurtenances which are necessary to maintain the capacity and performance during the service life of the treatment works for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Residential Customers. All customers who own or occupy buildings and structures that are used solely as individual dwelling units.

Sanitary Sewer. 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 admitted intentionally.

Storm Sewer. A sewer designed to carry only storm waters, surface runoff, street wash water, and drainage.

Treatment Works. Any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial waste to

## Klamath Falls City Code

implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the useful life of the works.

**User Charge.** A charge levied on users of a treatment works, or that portion of the ad valorem taxes paid by a user, for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works under Sections 204 (b) (1) (A) and 201 (h) (2) of the Act and subpart 35.

**Water User.** Any person who uses any private or public water supply and whose premises are served by the City sewer system.  
[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

**4.418 Designation of User Classes.** Classes of users are established by grouping and designating in separate categories, those users having similar flows and wastewater characteristics; i.e., levels of BOD, TSS, etc. The classes are established as follows:

**Residential I:** Single-family and duplex dwelling.

**Residential II:** Multifamily dwellings, which include apartments, trailer courts with a single metered connection, or any other unit comprised of three (3) or more dwelling units.

**Commercial I:** Users of a commercial nature which discharge wastewater having a strength of 0 to 400 mg/l, with strength defined as BOD or TSS concentration, whichever is higher.

**Commercial II:** Those users discharging wastewater in quantity exceeding 25,000 gallons per day or having a strength exceeding 400 milligrams per liter.

[Added by Ord. No. 6497, enacted Sept. 3, 1985; Amended by Ord. No. 6518, enacted Nov. 17, 1986; Amended by Ord. No. 94-32, enacted Oct. 20, 1994.]

**4.419 Assessment of Charges.** Just and equitable charges and fees shall be paid for the use of all existing and future sewer systems of the City by each person in control of premises served or by the water users upon such premises. The charges and fees shall consist of the following:

(1) **Sewer Connection Fee.** The sewer connection fee shall be established by Council resolution and shall include the Systems Development Charge imposed by Sections 3.505 et.seq. together with the City's connection cost represented by the average cost of inspecting and installing sewer connections.

(2) **User Service Charges.** The user charges distribute the cost of operation and maintenance of the treatment works to each user class in proportion to the contribution of each class to the total waste water loading of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user class contribution to ensure a proportional distribution of operation and maintenance costs to each user class.

[Added by Ord. No. 6497, enacted Sept. 3, 1985; Amended by Ord. No. 6621, enacted June 17, 1991; Amended by Ord. No. 6623, enacted July 1, 1991; Amended by Res. 03-05, enacted Feb. 4, 2003.]

## Klamath Falls City Code

### 4.420 User Charges.

(1) The user charges shall be based on the following factors for each class:

**Residential I & II and Commercial I:** The sewer service charge may be based on the level of water usage or a flat monthly rate.

**Commercial II:** The sewer service charge shall be based on the level of water usage plus a strength surcharge.

(2) A monthly charge based on consumption may provide for a minimum usage charge and may be structured to provide a flat rate during the irrigation season based on the actual charges during the non-irrigation season. For new service accounts during the irrigation season, a flat monthly rate may be established to be used until actual non-irrigation measurements are available.

(3) In the event a consumption rate basis is adopted for Commercial I and provisions for an irrigation season adjustment is adopted, the Director is authorized to place those Commercial I users who do not have irrigation needs, into a year round consumption based billing.

(4) Consumed water shall be measured by City of Klamath Falls water meters. If the meter is not functioning charges shall be based on the previous average use.

(5) In cases where a water user uses the City's sewer system but has a water source or any part thereof metered privately or by a supplier other than the general water system supplier, such water user shall, upon written request, report the amount of water used in any given period to the City or its designated agent. The City or its agent may inspect and read such meters at all reasonable times for purposes of determining water consumption.

(6) In cases where a water user uses the sewer system of the City, but whose water source or any part thereof is not metered and for geothermal water discharged to the City sewer system, such person, upon written notice from the Public Works Department, shall at his/her own expense install an appropriate water meter or meters in order to measure the amount of water consumed, or install an appropriate meter or meters, in order to measure the actual flow contributed into the City's sewer system.

(7) Charges to persons and businesses located in the City of Klamath Falls for sewer service not furnished but which abuts the property line shall be fifty percent (50%) of the monthly charge that would be required for persons or businesses in that classification that are furnished sewer service unless a waiver is granted and further provided that the person or business makes written application for the fifty percent (50%) rate to the Department of Public Works and the Department approves said application after first determining that there is no sewer hookup. The reduced rate shall only become effective for the billing periods after the date of the application.

[Added by Ord. No. 6497, enacted Sept. 3, 1985; Amended by Ord. No. 6551, enacted April 4, 1988; Amended by Ord. No. 94-32, enacted Oct. 20, 1994; Amended by Res. 03-05, enacted Feb. 4, 2003.]

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**4.421 Sewer Capital Expansion Fund.** The Sewer Capital Expansion Fund is established to provide accounting of revenue from wastewater Systems Development Charges, improvement fees. Expenditures from this fund shall only be used for capacity increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. [Added by Ord. No. 6497, enacted Sept. 3, 1985; Amended by Ord. No. 6623, enacted July 1, 1991.]

**4.422** [Repealed by Ord. No. 6623, enacted July 1, 1991.]

**4.423 O & M Allocation.** Procedures shall be established to insure that the user charge system generates sufficient revenue to offset the cost of all pretreatment works operation and maintenance. The following guidance shall apply:

- (1) The distribution of O & M costs to user classes in proportion to each user class contribution to total wastewater loading shall be accomplished as follows:
  - (a) Determine user service charge revenue required by considering projected O & M costs, equipment replacement, miscellaneous user charge revenue, any surplus funds from user charges in the previous year.
  - (b) Establish system loading and class loading values from treatment plant and billing data.
  - (c) Allocate cost to system processes and loadings.
  - (d) Using system loadings and costs, compute unit costs. (\$/1000 Gal. Flow, \$1,000 lbs. BOD, etc.)
  - (e) Determine loading attributable to user classes.
  - (f) Apply unit costs to class loading values to compute total costs allocated to each class, \$/year.
  - (g) Using the annual costs for each class and the annual basis of the rate schedule for that class (monthly, per hcf, etc.) compute the user charge rate for each class.
  - (h) Apply any excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year, and adjust the rate accordingly.
- (2) For the first year of operation, O & M costs shall be based upon experience for the existing treatment works.
- (3) The user charges shall be reviewed annually as described in Section (1) above, and revised periodically to reflect actual treatment works operation and maintenance costs.
- (4) Each user shall be notified annually in conjunction with a regular bill, of the rate and portion of charges attributable to wastewater treatment services.

[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

**4.424 Appeal.** Those users classified as Residential II or Commercial I or II who disagree with the classification as established by the City of Klamath Falls shall serve written notice upon the City along with a deposit of One Hundred Dollars (\$100.00) requesting that the sewer service charges be adjusted because the metered flow of water contains non-sewer flows that should be excluded from the billing rate, or to request a change of classification because of the sewage

## Klamath Falls City Code

strength. The Public Works Director shall initiate a procedure to determine the amount of non-sewer flow or the strength of sewage discharged by a commercial establishment. Users requesting a change shall be responsible for all costs incurred, which include, but are not limited to, the following: Testing services, professional engineering or scientific services, excavation costs, labor costs, and administrative costs. If the deposit is not sufficient to cover the cost incurred in the aforementioned tests, the City shall bill the user for the balance. If the deposit is more than the costs incurred in performing the tests, the balance shall be remitted to the User. The decision of the Public Works Director shall be final, subject only to the Appeal procedure described below.

[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

**4.425 Administration and Uniform Appeal and Hearing Procedure.** Administrative details and Hearing Procedures shall be as described in Sections 4.005 through 4.060 and Sections 1.025 through 1.050 respectively.

[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

**4.426 Enforcement.** The administration of the User Charge System and the enforcement and collection of user charges shall be the responsibility of the Finance Division in cooperation with the Department of Public Works. Specific actions regarding billing and payment, delinquent accounts, nonpayment shall be as prescribed in applicable Sections 4.005 through 4.060.

[Added by Ord. No. 6497, enacted Sept. 3, 1985.]

## FRANCHISES

**4.505 Special Enabling Ordinances.** The Council may adopt special ordinances and amend such ordinances from time to time providing the technical, procedural, and administrative criteria for the issuance of franchises, when such services are performed for other persons for hire or profit, for the following:

- (1) Cable television.
- (2) Garbage removal.
- (3) Telephone.
- (4) Electricity.
- (5) Gas.
- (6) Motor buses as defined in ORS 483.014(1).
- (7) Such other businesses which case law or statute authorizes the City to

franchise.

**4.510 Special Franchising Ordinances.** The Council, pursuant to criteria established by special enabling ordinance as provided in Section 4.505 may issue franchises by special ordinance for conducting the public services enumerated in Section 4.505.

**4.515 Franchise Required.** No person shall operate or maintain within the City a public service of the kind enumerated in Section 4.505 for which a franchise special enabling ordinance pursuant to that section has been enacted without having first obtained a franchise from the City. No franchise issued by the City shall be exclusive.

**4.520 Compliance with Franchise.** No person who has obtained a franchise pursuant to Section 4.510 shall conduct, operate or maintain the public service franchise in any manner inconsistent with the terms, provisions or regulations of the special enabling ordinance criteria enacted pursuant to Section 4.505.

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### **STREET LIGHT UTILITY DISTRICTS**

**4.600 to 4.665** [Repealed by Ord. No. 93-21, enacted Jan. 1, 1994.]

### **STREET LIGHTING UTILITY ACT**

**4.700 Title.** Section 4.700 to 4.730 shall be known as the Street Lighting Utility Act. [Added by Ord. No. 93-21, enacted Jan. 1, 1994.]

#### **4.705 Purpose and Intent.**

(1) The principal purpose of street lighting is to produce quick, accurate and comfortable vision at night. These qualities combine to safeguard, facilitate and encourage vehicular and pedestrian traffic. The Council also finds that good street lighting provides several economic and social benefits to the public, including:

- (a) Reduction in night accidents
- (b) Safer and easier pedestrian traffic.
- (c) Prevention of crime and aiding police protection.
- (d) Facilitation of traffic flow.
- (e) Promotion of business and industry during night hours.
- (f) Promotion of community spirit and growth.

(2) It is the intent of this Act to provide a utility based funding mechanism to pay for benefits conferred on City residents by street lights using the authority conferred upon the City by Charter Sections 4 and 5; and further to bring all neighborhoods within the City up to acceptable lighting levels.

(3) The structure of this lighting utility is intended to be a fee for service and not a charge against property. The person responsible for paying the City's water and sewer utility charges is responsible for paying the street light fee which in most cases is the occupant of improved property. Therefore, the fee is not necessarily imposed on the owner of the property and no provision is made herein for making unpaid charges a lien on the owner's property.

[Added by Ord. No. 93-21, enacted Jan. 1, 1994.]

#### **4.710 Imposition of Street Lighting Fee.**

(1) Except as the fees may be reduced or eliminated under Subsection 4.725(2), the obligation to pay street lighting fees arises when a person responsible uses street lighting services. It is presumed that street lighting services are used whenever there is an improved occupied premises.

(2) Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the City, the person(s) paying the City's water and/or sewer utility charges shall pay the street lighting fee of Two Dollars (\$2.00) per month. A request for water or sewer service will automatically initiate appropriate billing for street lighting services. If there is no water or sewer service to the property or if water and sewer service is discontinued, the street lighting fees shall be paid by the person(s) occupying the property. [Added by Ord. No. 93-21, enacted Jan. 1, 1994.]

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**4.715 Collection.** Street lighting utility fees shall be collected monthly. Statements for the user fee shall be on the City utility billing sent and fees collected pursuant to Sections 4.035 and 4.055. [Added by Ord. No. 93-21, enacted Jan. 1, 1994.]

**4.720 Dedication of Funds.** All street lighting utility fees and those revenues derived from the additional electric franchise fee shall be placed in a separate fund and shall be used only for the installation, maintenance, administration and operation of street lights and for no other purpose. [Added by Ord. No. 93-21, enacted Jan. 1, 1994.]

**4.725 Exemptions.**

(1) There shall be no charge for those neighborhoods which are not lighted by City street lights until such time as street lights are installed.

(2) Upon application by the customer and verification, the monthly street lighting utility fee shall be reduced to One Dollar (\$1.00) per month for those residential premises at which no occupant owns or operates a motor vehicle.

(3) Any residential area of the City shall be excluded from the provision of street lights and from the monthly Two Dollar (\$2.00) fee under the following conditions:

(a) The area to be excluded consists of at least four (4) City blocks or five (5) intersections, and

(b) At least Fifty-One percent (51%) of the utility customers in the area sign a petition to be excluded.

Petitions showing the area to be excluded, locating the lights to be removed and listing the area's utility customers from whom signatures shall be collected shall, on request, be prepared by the City Attorney's office.

[Added by Ord. No. 93-21, enacted Jan. 1, 1994.]

**4.730 Lighting Standards.**

(1) The May 1, 1989 Street Lighting Modernization Plan proposed by Pacific Power & Light Company is hereby adopted as the City's Master Plan for street lighting. New lights shall be added and existing street lights upgraded in conformance with said plan.

(2) Within sixty (60) months from the date of this Act, all lighting within the City shall be brought up to the standards of the master plan.

(3) The Public Works Department may make minor modifications from the Plan to accommodate changed or extenuating circumstances or reasonable requests from the affected neighborhood residents provided the purposes of this Act continue to be met.

[Added by Ord. No. 93-21, enacted Jan. 1, 1994.]

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### **PENALTIES**

#### **4.990 Penalties.**

(1) A violation of any provision of Sections 4.020 to 4.380 shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00).

(2) (a) When not otherwise provided by the special enabling ordinance enacted pursuant to Section 4.505, a violation of any provision of Sections 4.505 to 4.520 or any of the provisions or ordinances enacted thereunder shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00).

(b) Each day's violation as determined by Subsection (2) (a) shall constitute a separate violation.

(c) As an additional penalty for a violation as determined by Subsection (2) (a), the Council may, upon notice and an opportunity to be heard, revoke the franchise granted under Section 4.510.

**4.992 Pretreatment Penalties.** Any User who willfully or negligently fails to comply with any provision of the Pretreatment Act, and the order, rules, regulations, and permits issued thereunder, shall be fined not more than One Thousand Dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Pretreatment Act or the orders, rules, regulations and permits issued hereunder. [Added by Ord. No. 6421, enacted June 30, 1983; Amended by Ord. No. 6648, enacted Dec. 18, 1992.]

**4.994 Falsifying Information.** Any person who knowingly makes any false statements, represent-ation or certification in any application, record, report plan or other document filed or required to be maintained pursuant to the Pretreatment Act, or Wastewater Contribution Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the Pretreatment Act, shall, upon conviction, be punished by a fine of not more than One Thousand Dollars (\$1,000.00).

[Added by Ord. No. 6421, enacted June 30, 1983; Amended by Ord No. 6648, enacted Dec. 18, 1992.]

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**SCHEDULE 4-A**

**WATER RATES, CHARGES AND FEES**

**Nature or Action**

**SERVICE CONNECTION CHARGE**

<u>Meter Size</u>	<u>Fee</u>
5/8" & 1" (Meter and appurtenances only, no permitting or Mechanical excavating required)	\$ 225.00
5/8" & 1" Complete installation	\$1,050.00
1 1/2" Complete installation	\$1,500.00
2" Complete installation	\$1,850.00

Costs resulting from pavement replacement, concrete replacement or landscape reconstruction are in addition to these basic charges. Pavement, concrete or landscaping costs will be billed to the applicant at cost, plus a 15% administrative fee.

Persons requesting a service size larger than 2" shall submit construction plans, signed by an Engineer licensed in Oregon, to the Public Works Department. Plan approval and construction will proceed as described in the City of Klamath Falls, Department of Public Works, Design Standards Manual. All costs associated with the Plan approval and the construction process shall be the responsibility of the applicant.

[Res. No. 3335; Amended by Res. No. 02-37, effective June 5, 2002.]

**SYSTEMS DEVELOPMENT CHARGE**

Res. No. 3354

(addressed in Schedule 3.-B).

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### WATER SERVICE CHARGES

[Amended by Res. No. 3163, effective Jan. 19, 1988; Amended by Res. No. 3301, effective May 21, 1990; Amended by Res. No. 93-33, effective Nov. 1, 1993; Amended by Res. No. 94-33, effective No. 1, 1994; Amended by Resolution No. 96-34 & Adm. Order dated 1-2-97; Amended by Adm. Order dated 1-1-99; Amended by Adm. Order dated 1-1-00; Amended by Adm. Order dated 1-2-01; Amended by Adm. Order dated 1-1-02; Amended by Res. No. 02-06, effective Feb. 15, 2002, Amended by Res. No. 02-06, effective Feb. 15, 2002; Amended by Adm. Order dated 1-2-03; Amended by Adm. Order dated 1-2-04; Amended by Adm. Order dated 1-3-05, Amended by Adm. Order dated 1-3-06; Amended by Adm. Rate Order dated 1-2-07; Amended by Res. No. 07-34, enacted 9-5-07; Amended by United Rate Order dated 1-2-08.]

Customer Charge: \$1.22 (all meter sizes)

<u>Meter Size</u>	<u>Capacity Charge</u>	<u>Consumption inside City Consumption</u>	
			<u>outside City</u>
5/8"	\$ 1.25	\$1.70 per unit	\$2.01 per unit
1"	\$ 3.14	\$1.70 per unit	\$2.01 per unit
1 1/2"	\$ 6.24	\$1.70 per unit	\$2.01 per unit
2"	\$ 9.99	\$1.70 per unit	\$2.01 per unit
3"	\$18.72	\$1.70 per unit	\$2.01 per unit
4"	\$31.21	\$1.70 per unit	\$2.01 per unit
6"	\$62.43	\$1.70 per unit	\$2.01 per unit
8"	\$99.86	\$1.70 per unit	\$2.01 per unit

Annual Cost of Living Increase - (Resolution 94-7 & 96-34)

Effective January 1st of each calendar year the sewer service charges and water service charges shall be adjusted to reflect the annual percentage increase or decrease in the cost-of-living as measured by the National (U.S. City Average) CPI-U for the preceding September to September period.

#### TURN-ON/TURN-OFF (New Account Fee)

Between 8:00 a.m. & 4:30 p.m.	\$15.00	Res. No. 2862
All other times	\$35.00	By order of 12-8-81
Irrigation Meters	No Charge	Res. No. 2681

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**Nature or Action**

**Fee**

**Basis**

**PRIVATE FIRE SERVICE**

[Amended by Res. #98-37, effective 9-21-98; Amended by Rate Order dated 1-3-00; Amended by Res. #00-20, effective April 17, 2000; Amended by Rate Order dated 1-2-01; Amended by Rate Order dated 1-2-02; Amended by Res. No. 02-06, effective Feb. 15, 2002; Amended by Adm. Rate Order dated 1-2-04; Amended by Adm. Rate Order dated 1-3-05, Rate Order dated 1-3-06; Amended by Adm. Rate Order 1-2-07.]

**PRIVATE FIRE SERVICE:**

**Monthly Charge**

1½" connection or smaller	\$ 4.54
2" connection	\$ 8.00
3" connection	\$12.61
4" connection	\$17.98
6" connection	\$35.90
8" connection	\$53.82
10" connection	\$89.73
Maintenance	\$10.00/month

Fire hydrant installation - \$2,000.00 deposit – City will bill customer for additional labor and material (concrete, asphalt & landscape repairs) plus 15% administrative fee.  
Fire Hydrant Fee [rescinded by Res. No. 98-37, effective 9-21-98.]



## SCHEDULE 4-B

### SEWER CHARGES AND RATES

#### SYSTEMS DEVELOPMENT CHARGE

[Repealed by Res. No. 96-36, effective Sept. 16, 1996; Amended by Ord. No. 02-27, enacted Jun 5, 2002 (addressed in Schedule 3-b)]

#### SEWER SERVICE CHARGES

[Amended by Res. No. 3163, effective Jan. 19, 1988; Amended by Res. No. 3301, effective May 21, 1990; Amended by Res. No. 93-33, effective Nov. 1, 1993; Amended by Res. No. 94-33, effective No. 1, 1994; Amended by Resolution No. 96-34; Amended by Adm. Order dated 1-2-97; Amended by Adm. Order dated 1-1-99; Amended by Adm. Order dated 1-1-00; Amended by Res. No. 00-13 dated 3-20-00; Amended by Resolution No. 00-25 dated 5-15-00; Amended by Ord. No. 00-71, effective 1-1-01; Amended by Adm. Order dated 1-2-01; Amended by Rate Order dated 1-2-02; Amended by Rate Order dated 1-2-03; Amended by Res. No. 03-05, enacted Feb. 4, 2003; Amended by Rate Order dated 1-2-04; Amended by Res. No. 04-17; Amended by Rate Order dated 1-3-05, Amended by Rate Order dated 1-3-06; Amended by Rate Order dated 1-2-07; Amended by Rate Order dated 1-2-08.]

#### SEWER SERVICE CHARGE

<u>CUSTOMER CLASS</u>	<u>DESCRIPTION</u>	<u>RATE</u>
Residential I	Single Family Dwelling	\$4.88 per hcf per month*
Residential II	Multi-Family Dwelling	\$3.79 per hcf per month*
Commercial I	Commercial	\$4.87 per hcf per month*
Commercial II	Industrial	\$2.40 per hcf per month** plus strength surcharge

There shall be a two (2) unit minimum charge each month for all users.

\*Charges are based on actual water consumption during billing period 12 of one year through billing period 3 of the next year ("winter season"). Monthly charges for billing periods 4 through 11 of each year ("irrigation season") shall be a flat monthly charge equal to the average of monthly water unit usage for the prior "winter season". Commercial I users which do not have landscaping requiring irrigation water shall pay charges based on actual water usage through the entire year.

\*\* Strength Surcharge to be calculated on an individual basis.

FLAT RATES:

NEW ACCOUNTS: A flat rate shall be charged for new accounts opened April 1 to October 31 of each year when there are not at least 3 readings during the "winter season" to calculate an average for "irrigation season" billings. New account flat rates shall be as follows:

<u>DESCRIPTION</u>	<u>RATE</u>
Single Family	\$39.04
Duplex	\$39.04
Multi-Family	\$41.69

INADEQUATE WINTER HISTORY: If an account has fewer than 3 actual consumption readings during the "winter season," because water is not being consumed, the account shall be charged the new account flat rate during the "irrigation season," or, at customer request, a charge based on actual water consumption.

The following shall have the meaning ascribed:

Multi-Family Dwelling: a structure containing three or more residential dwelling units.

Commercial: All non-residential, non-industrial users.

Industrial: A significant Industrial Discharger as defined by Klamath Falls City Code Section 4.136.

hcf: One hundred cubic feet.

**Annual Cost of Living Increase - (Resolution 94-7)**

Effective January 1st of each calendar year the sewer service charges and water service charges shall be adjusted to reflect the annual percentage increase or decrease in the cost-of-living as measured by the national (U.S. City Average) CPI-U for the preceding September to September period.

SCHEDULE 4-C

UTILITY REBATE

<u>Criteria</u>	<u>Rebate</u>	<u>Basis</u>
Low income senior citizens:	\$65.00 per utility account	Res. No. 3223

Income: Current levels by family size under Section 8 of the Housing assistance guidelines of the U.S. Department of Housing and Urban Development for low income persons in Klamath County.

Sixty (60) years of age or older.

A resident within the City corporate boundary.

The principal resident of the service address.

[Amended by Resolution No. 00-21, enacted April 18, 2000.]



## **SCHEDULE 4-D**

### **MICHIGAN STREET** **GEOHERMAL**

[Added by Res. No. 3064, effective November 18, 1985; Amended by Res. No. 93-36, effective December 1, 1993.]

Thermal Load. Using the Simplified Energy Analysis (SEA) Version 5 computer program developed by Ferreira and Kalasinsky, Associates, Inc. of Norton, Maine, the annual thermal load of each Michigan Street residence serviced by the City's geothermal system shall be computed based on the following criteria.

- a. square footage of the resident,
- b. the number, size and type of windows,
- c. the insulation and other weatherization features; and
- d. the number of stories.

Rate Change. Using the computed annual thermal load of each residence, a geothermal service charge shall be imposed equal to seventy-five percent (75%) of the cost of supplying such a thermal load by use of natural gas, according to local natural gas rates. This annual service charge shall then be divided in to twelve (12) equal monthly charges which the City shall bill on its monthly utility billing, or in the alternative, in such manner as mutually agreed to by the City and Customer.

Adjustments. In the event changes to the residence alter the criteria listed in Section 1 or in the event the local natural gas rate is changed, the thermal load shall be recalculated and adjustments shall be made to the service charge to reflect such changes.

Service Contracts. The Public Works Department is directed to compute the annual thermal loads and the resulting service charges to be incorporated into individual service contracts prepared by the City Attorney. The City Manager is authorized to execute such service contracts on behalf of the City. No geothermal service shall be provided to any residence beyond

January 1, 1994, except through a service contract prepared pursuant to the terms of this resolution.



## **SCHEDULE 4-E**

### **GEOOTHERMALLY HEATED SIDEWALKS**

[Added by Res. No. 96-1, effective February 6, 1996.]

The annual energy charge for sidewalk and crosswalk snowmelting for the downtown area shall be \$.25/square foot of heated area.

The Urban Renewal District shall be responsible for the energy charge assessed for all crosswalks and for the sidewalk corners at all intersections. The District shall be billed annually.

The City utility customers for the premises adjacent to heated sidewalk areas shall be responsible for the energy charge for the sidewalk. These utility customers shall be billed at a flat monthly rate equal to  $\frac{1}{12}$  of the annual energy charge attributable to the sidewalk adjacent to their premises. This geothermal billing shall be included on the customers monthly City utility bill.

The energy charge is applicable to those premises currently being served with adjacent geothermally heated sidewalks and to those premises which may be included in the system in the future. In the event the customer fails to pay in full the billing by the date due, the City may discontinue geothermal heating service adjacent to the premises, or seek such other relief as may be available by law. Collection shall generally be governed by Code Sections 4.005 to 4.060.



**SCHEDULE 4-F**

**LOCAL LIMITS**

[Added by Resolution No. 3313, Enacted July 16, 1990.]

Local limits pursuant to Klamath Falls City Code Section 4.139(5) of the City's Pretreatment Act shall be as follows:

<b><u>CONSTITUENT</u></b>	<b><u>LOCAL LIMIT, MG/L</u></b>
Arsenic	2.8
Cadmium	0.26
Chromium	3.0
Copper	2.1
Cyanide	1.3
Lead	1.4
Mercury	0.005
Nickel	6.7
Silver	0.35
Zinc	2.6