



**NOTICE OF PUBLIC MEETING**  
**CITY OF ALBANY**  
**CITY COUNCIL**  
 Council Chambers  
 333 Broadalbin Street SW  
 Wednesday, December 17, 2008  
 7:15 p.m.

**OUR MISSION IS**  
*"Providing quality public services  
 for a better Albany community."*

**OUR VISION IS**  
*"A vital and diversified community  
 that promotes a high quality of life,  
 great neighborhoods, balanced  
 economic growth, and quality public  
 services."*

**AGENDA**

Rules of Conduct for Public Hearing

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. ROLL CALL
4. SCHEDULED BUSINESS

a. Legislative Public Hearing

- 1) DC-03-08/HI-11-08, amending Albany Development Code to add 78 additional properties to the Monteith National Register Historic District. [Pages 1-14]

Action: \_\_\_\_\_ ORD. NO. \_\_\_\_\_

b. Final Decision

- 1) SD-07-07, Fabian Estates, LUBA remand of City approval of a Subdivision Tentative Plat that would divide a 4.52-acre parcel of land into 11 residential single-family lots. [Pages 15-25]

Action: \_\_\_\_\_

- 2) Amending the fee schedule for certain building division fees. [Pages 26-53]
- Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_

c. Business from the Public

d. First Reading of Ordinances

- 1) Amending Albany Municipal Code Title 10.06 to comply with federal regulations regarding the industrial pretreatment program and declaring an emergency. [Pages 54-82]

Action: \_\_\_\_\_ ORD. NO. \_\_\_\_\_

- 2) Repealing Ordinance No. 5424, Albany Municipal Code Chapter 5.14 concerning taxicabs; and declaring an emergency. [Pages 83-94]

Action: \_\_\_\_\_ ORD. NO. \_\_\_\_\_

e. Adoption of Resolutions

- 1) Adopting City of Albany Financial policies. [Pages 95-99]

Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_

- 2) Responding to Comcast's notice and authorizing the City Manager to commence franchise renewal negotiations with Comcast. [Pages 100-101]

Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_

f. Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) November 12, 2008, City Council Meeting [Pages 102-108]
- 2) Authorizing the City of Albany Parks & Recreation Department to apply for an NRPA Achieve Healthy Communities Grant from the National Recreation and Park Association. [Pages 109-110] RES. NO. \_\_\_\_\_
- 3) Authorizing the City of Albany Parks & Recreation Department to apply for a Recreation Trails Program Grant. [Pages 111-112] RES. NO. \_\_\_\_\_
- 4) Initiating the vacation of Willamette Avenue NE. [Pages 113-114]
- 5) Authorizing the Fire Department to accept \$11,859 from the 2008 State Homeland Security Grant Program. [Pages 115-116] RES. NO. \_\_\_\_\_
- 6) Authorizing the Fire Department to accept \$91,155 from the 2008 State Homeland Security Grant Program. [Pages 117-118] RES. NO. \_\_\_\_\_

Action: \_\_\_\_\_

5. BUSINESS FROM THE COUNCIL

6. NEXT MEETING DATE: Work Session January 12, 2009  
Regular Session January 14, 2009

7. ADJOURNMENT

City of Albany Web site: [www.cityofalbany.net](http://www.cityofalbany.net)


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*The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the Human Resources Department in advance by calling (541) 917-7500.*

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TO: Albany City Council

VIA: Wes Hare, City Manager  
Greg Byrne, Community Development Director 

FROM: Anne Catlin, Planner II *alc*

DATE: December 10, 2008, for the December 17, 2008, City Council Meeting

SUBJECT: Proposed Amendment to Article 7 to Expand Monteith Historic District (DC-03-08)

RELATES TO STRATEGIC PLAN THEME: • Great Neighborhoods

Action Requested:

Consider an amendment to the Albany Development Code to increase the boundary of the Monteith Historic District.

Discussion:

The purpose of this legislative public hearing is twofold:

- 1) to amend the Monteith Historic District boundaries to include 78 resources and officially designate them on our Local Historic Inventory; and
- 2) to replace Figure 7-1, a map of the historic districts, with a new Figure 7-1 in Article 7, Historic Overlay Ordinance, of the Albany Development Code.

For a couple of years, staff has been working with consultants to evaluate and then prepare a nomination to the National Register of Historic Places to amend the original Monteith Historic District to include a significant collection of historic properties adjacent to the existing district.

The process began at the grass roots level as our original historic districts did several decades ago. Over the years, several historic property owners have been interested in getting their homes listed on the National Register of Historic Places. As a Certified Local Government through the State Historic Preservation Office, we have received grant money to survey and inventory historic resources outside of our existing historic district boundaries. The surveys indicate a few areas that may have potential for National Register listing. The Landmarks Advisory Commission recommended reviewing areas closest to the Monteith District first where most of the public interest for National designation has been.

The staff report contains a summary of the proposed project, public input, and nomination process. Due to the length of the Monteith District expansion nomination, it is not being included with your Council packet. The nomination, however, is posted in full on the City's website: <http://www.cityofalbany.net/comdev/historic/monteith-expansion.php>. Staff is also happy to make copies of the nomination for you.

In summary, the City took time to ensure there was support for this project before pursuing each phase. In the end, there has been little to no opposition. In fact, in the recent months there has been a lot of enthusiasm from current and prospective property owners about the project.

Historic district expansions are not very common in Oregon, so the original nomination submitted to the State Advisory Committee on Historic Preservation (who makes recommendations to the

DC-01-08, Amendments to Fences

Page 2

December 10, 2008

National Register), was tabled initially. After extensive revisions, staff submitted a nomination that received overwhelming support and praise from the Committee. The nomination was forwarded to the National Register and was listed in the National Register of Historic Places on November 13, 2008.

Budget Impact:

None.

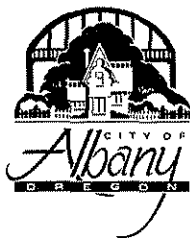
alc

Attachments: Staff Report, Ordinance and Exhibits A and B

c: Files DC-03-08 and HI-11-08

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# Community Development Department

333 Broadalbin Street SW, P.O. Box 490  
Albany, OR 97321

Phone: (541) 917-7550 Facsimile: (541) 917-7598  
[www.cityofalbany.net](http://www.cityofalbany.net)

## STAFF REPORT

### Development Code Amendment and Historic Review of Landmarks Designation

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<b><u>HEARING BODY</u></b>	ALBANY CITY COUNCIL
<b><u>HEARING DATE</u></b>	Wednesday, December 17, 2008
<b><u>HEARING TIME</u></b>	7:15 p.m.
<b><u>HEARING LOCATION</u></b>	City Council Chambers, Albany City Hall, 333 Broadalbin Street SW

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#### **GENERAL INFORMATION**

DATE OF REPORT:	December 10, 2008
FILE:	DC-03-08 and HI-11-08
TYPE OF APPLICATION:	Amending Albany Development Code to replace Figure 7-1, by modifying the boundary of the Monteith National Register Historic District, adding 78 properties to the Local Historic Inventory and Historic Overlay District
REVIEW BODY:	City Council
STAFF REPORT PREPARED BY:	Anne Catlin, Planner II
PROPERTY OWNERS:	Multiple
APPLICANT:	City of Albany
ADDRESS/LOCATION:	9th Avenue, 10th Avenue between Vine and Elm Streets, and 11th Avenue between Calapooia and Elm Streets, one block on 12th Avenue between Calapooia and Vine Streets, and 940 6th Avenue SW
ZONING:	HM (Hackleman Monteith) and ES (Elm Street)
TOTAL LAND AREA:	Approximately 18 acres
EXISTING LAND USE:	Residential
SURROUNDING ZONING:	HM and ES
SURROUNDING USES:	Residential, Office, and Commercial
PRIOR HISTORY:	The Monteith National Register District was listed February 29, 1980. The District was amended in 2000 to expand the time period of significance.

#### **NOTICE INFORMATION**

A notice of public hearing was published in the *Albany Democrat-Herald* on November 26, 2008, and mailed to persons believed to have a particular interest in the proposed amendment on November 21, 2008. At the time this staff report was prepared, the Albany Planning Division had not received written comments from interested parties. One person attended the Landmarks Advisory Commission public hearing on December 3, 2008, but did

not testify. Prospective buyers and a new homeowner in the Monteith District expansion area called or stopped in to express enthusiasm for the proposed District boundary increase.

### **LANDMARKS ADVISORY COMMISSION RECOMMENDATION**

APPROVAL of the proposed Development Code amendments.

### **SUGGESTED CITY COUNCIL MOTION**

Adoption of the attached Ordinance that would amend the Albany Development Code to replace Figure 7-1 with a new Figure 7-1 that shows the boundary increase to the Monteith National Register Historic District, adding 78 properties to the Local Historic Inventory and Historic Overlay District.

### **APPEALS**

The City's decision may be appealed to the Land Use Board of Appeals if a person with standing files a Notice of Appeal with the City within 10 days from the date the City mails the Notice of Decision. In order to be able to appeal on an issue, you must have raised that issue in writing prior to the expiration of the comment period.

### **STAFF ANALYSIS**

**Historic Review Files DC-03-08 and HI-11-08**

### **BACKGROUND INFORMATION**

The Monteith Historic District was Albany's first historic district to be listed in the National Register of Historic Places on February 29, 1980. The District is Albany's largest, containing 54 blocks south and west of downtown. (See Figure 7-1 in Exhibit A to the ordinance.) The original Monteith Historic District included 416 total properties, with the time period of significance identified as 1849 to 1915.

The historic districts were resurveyed between 1996 and 1998. Many positive changes had occurred in the districts since the original surveys done in the 1970s. Additionally, building styles built between 1915 and 1945 were found to significantly contribute to the sense of place and architectural character of the Albany's historic districts. In 2000, the Monteith District National Register nomination was amended to adjust the period of significance to include the years from 1915 to 1945, thus adding single- and multi-family residences constructed in the district as infill during WWI through the end of WWII. A total of 330 resources were contributing under the new period of significance, 1849-1945. These resources include excellent examples of Craftsman, Bungalow, Colonial Revival, Minimal Traditional, and Depression/World War II-Era Cottage styles.

The adjusted period of significance allowed for the consideration of residential areas to the south and west of the Monteith District that were previously excluded because the construction dates of most resources did not fall within the period of significance specified in the 1980 nomination. Many of these properties were constructed between 1915 and 1945, and reflect the continuing growth and development of Albany through the first half of the twentieth century. The purpose of the recent amendment to the Monteith District National Register nomination was to include the previously excluded properties adjacent to the existing district that now fall within the amended period of significance for the Monteith Historic District. This nomination also provides additional context for resources constructed after 1915, which was not provided in the original 1980 National Register nomination.

Within the expansion area, there 79 new resources, with 59 percent of these contributing to the historic character of the district. Architectural styles include examples of Queen Anne, Craftsman, Bungalow, Minimal Traditional, and Ranch styles. Construction dates for this area range from 1900 to 1970.

## COMMUNITY OUTREACH AND TIMELINE

Between 2001 and 2004, University of Oregon students surveyed historic properties in the central area, outside of the historic districts. In 2005, a preservation consultant analyzed the surveyed areas for potential National Register nominations. One recommendation was to expand the Monteith Historic District boundary as there is a large concentration of historic resources similar to those in the Monteith District immediately adjacent to the District's boundaries. The Landmarks Advisory Commission supported this recommendation.

The City held a neighborhood meeting in April, 2006, before pursuing grant funds to hire a consultant team to prepare a National Register nomination to determine if there was interest in pursuing the grant funds to pay for preparation of the nomination. A majority of the property owners in attendance and that submitted their preference to staff were supportive of pursuing the project. There were very few objections.

The City was awarded a grant from the State Historic Preservation Office (SHPO) and a two-person consultant team was hired in August, 2006. In 2007, consultants worked on the Monteith National Register Historic District nomination. In November, 2007, the staff held another public meeting for owners within the Monteith District expansion area. Members of the City Council and the Landmarks Advisory Commission (LAC) also attended and heard comments. Hearing no negative comments about the proposal, the Council and the LAC voted to submit the District expansion nomination to the SHPO for their review process.

The SHPO and City staff worked together to prepare the nomination for the State Advisory Committee on Historic Preservation for their approval. The Committee heard the nomination in February, 2008 and tabled a decision on it, and suggested some revisions to it. The nomination was revised and submitted for their next meeting in June, 2008. It was approved unanimously. The nomination was finalized and sent to the National Register of Historic Places in Washington, DC. The District expansion was approved by staff of the National Register and listed in the Register on November 13, 2008.

## FINDINGS AND CONCLUSIONS

The City began informing property owners of this potential project before it began and all along the way. There has been little opposition to the project and more support for it. Staff has worked closely with consultants and State Historic Preservation Office staff to prepare this nomination for the National Register.

Albany's historic areas document our rich history and help define what Albany is today and the future. The proposed expansion to increase the Monteith District by 78 resources and adding these to our Local Historic Inventory will help to protect our heritage and stability of our historic neighborhoods.

Note: Exhibit B to the Ordinance contains detailed findings and conclusions.

## MONTEITH DISTRICT EXPANSION AREA PHOTOGRAPHS

Attached are photographs representing some of the architectural styles in the Monteith District expansion area.

***Attachments: Ordinance, Exhibit A (Figure 7-1, Albany's Central Area National Register Historic Districts), Exhibit B (Findings and Conclusions)***

Monteith District Expansion Area Photographs



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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP BY AMENDING THE DEVELOPMENT CODE TEXT RELATING TO THE HISTORIC DISTRICT BOUNDARY MAPS (FILE DC-03-08).

WHEREAS, from time to time it is appropriate to amend the Albany Development Code based on changing conditions; and

WHEREAS, Albany is fortunate to have a tremendous wealth of historic buildings that are a unique asset to the citizens of Albany and Oregon; and

WHEREAS, Albany has four National Register Historic Districts; and

WHEREAS, Albany's first district to be listed on the National Register of Historic Places was the Monteith District in February, 1980; and

WHEREAS, historic property residents have expressed interest in their properties being put on the National Register of Historic Places; and

WHEREAS, the City received grant money from the State Historic Preservation Office to survey historic properties outside of the districts between 2001 and 2004 to assess the health and potential of these historic resources; and

WHEREAS, in April, 2006, the City held a neighborhood meeting with property owners in areas adjacent to the Monteith Historic District to find out if there was interest in determining whether or not these areas had potential for being included in the Monteith Historic District or become a new district; and

WHEREAS, there was support to pursue State grant funds to hire a consultant to evaluate an expansion to the Monteith National Register District; and

WHEREAS, the consultant worked with City and State Historic Preservation Office staff to evaluate properties and determine an expansion area to the Monteith District that reflects the existing District in architectural character and development patterns; and

WHEREAS, the City Council and the Landmarks Advisory Commission held a joint meeting November 7, 2007, to present findings and draft a nomination to expand the Monteith District; hear from property owners; and make a decision on whether or not to submit the nomination to the State Historic Preservation Office; and

WHEREAS, there was no objection to pursuing the National Register nomination to expand the Monteith District, the nomination was submitted to the State and reviewed by the State Advisory Committee for Historic Preservation at their February and June, 2008, meetings and approved; and

WHEREAS, the nomination to expand the Monteith District by 78 resources to the southwest corner of the original District was submitted to the National Register of Historic Places and was officially listed in the National Register November 13, 2008; and

WHEREAS, the Development Code needs to be amended to include the Monteith District expansion areas and accept these building on the Local Historic Inventory; and



WHEREAS, on December 3, 2008, the Landmarks Commission held a public hearing on the proposed amendments and then recommended these changes to the City Council, based on their deliberation and findings in the staff report; and

WHEREAS, on December 17, 2008, the Albany City Council held a public hearing on the proposed amendments, reviewed the amendments recommended by the Landmarks Advisory Commission and any testimony presented at the public hearing and then deliberated; and

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The Albany Development Code text is hereby amended as shown in the attached Exhibit A for sections listed below:

**Exhibit A**

ADC Article 7: Replace the current Figure 7-1 Historic Districts Map with a new Figure 7-1 showing the Monteith District expansion area.

Exhibit A, upon the effective date of this Ordinance, shall supercede the corresponding sections of the Development Code. The Figure 7-1 shown in Exhibit A shown as having been struck is removed from the Development Code, and the new Figure 7-1 is added to the Code.

Section 2: The Findings and Conclusions are attached as Exhibit B and are hereby adopted in support of this decision.

Section 3: Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health and safety of the citizens of the City of Albany, an emergency is hereby declared to exist. This ordinance will be in full force and effective immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council: \_\_\_\_\_

Approved by the Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

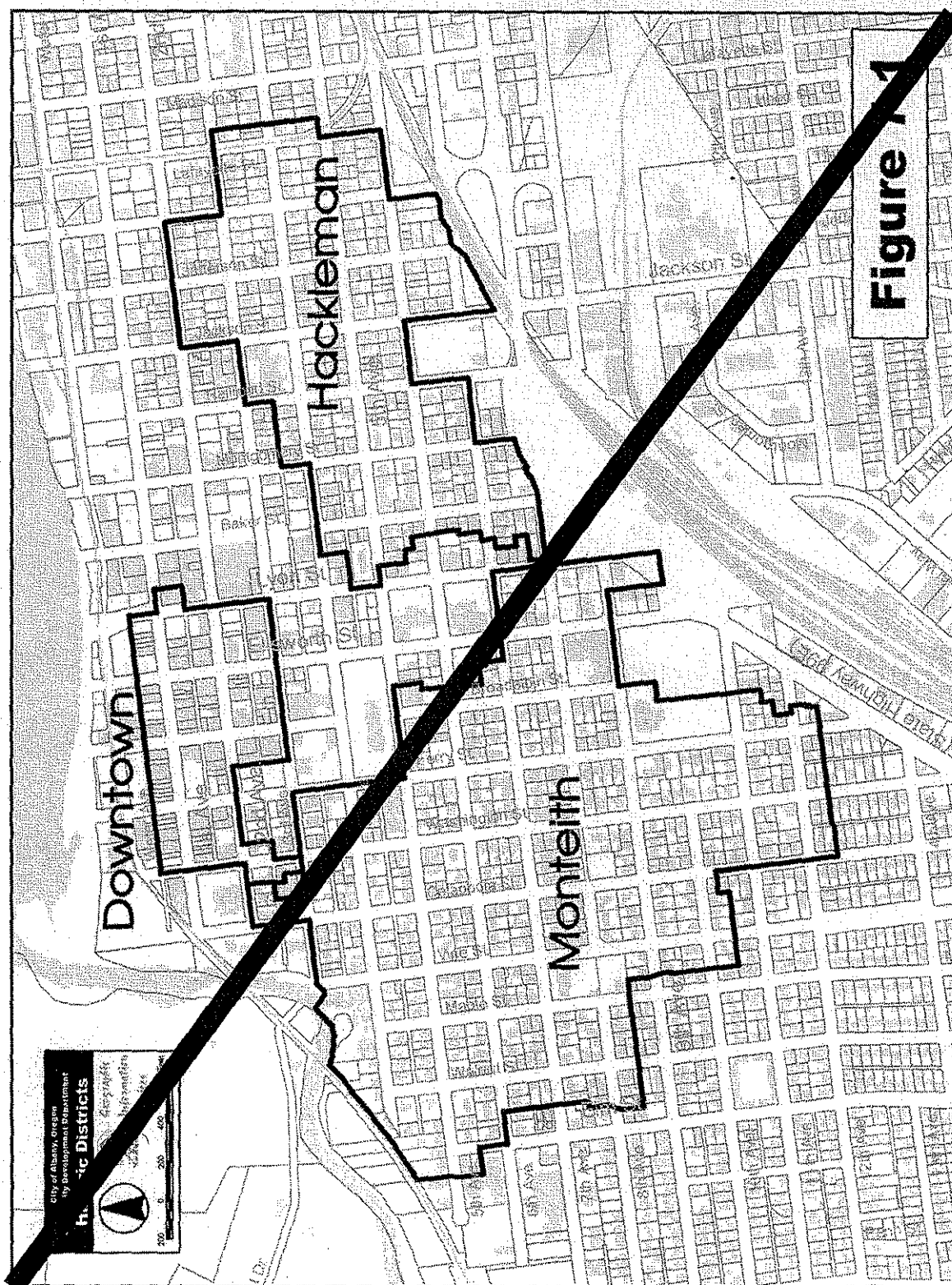
\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Albany Development Code amendment to replace the existing Figure 7-1 in Article 7, Historic Overlay District, with a new Figure 7-1 that reflects the Monteith National Register Historic District expansion area.

REPLACE THIS FIGURE 7-1 WITH THE ONE ON THE NEXT PAGE



# Albany's Central Area National Register Historic Districts

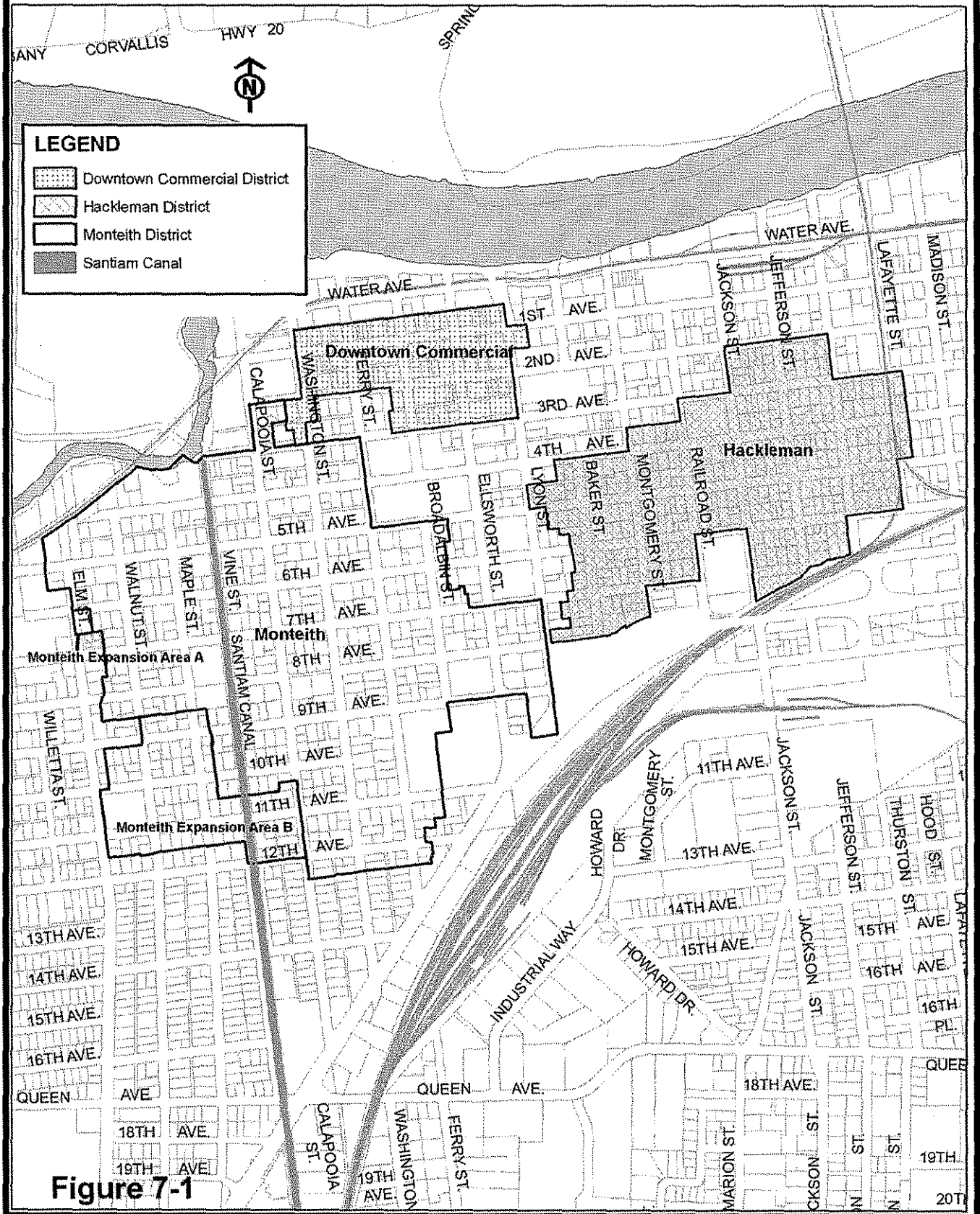


Figure 7-1



## FINDINGS AND CONCLUSIONS

Files DC-03-08 and HI-11-08

Recommended by the Landmarks Advisory Commission on December 3, 2008

Adopted by the Albany City Council on December 17, 2008

The proposed Development Code amendments are found in Exhibit A to the attached Ordinance. The findings and conclusions supporting the changes are Exhibit B to the Ordinance.

## APPROVAL STANDARDS FOR THIS REQUEST

The Albany Development Code (ADC) contains the following review criteria that must be met for this Development Code amendment to be approved. Code criteria are written in *bold italics* and are followed by Findings and Conclusions.

A. Designation of Historic Landmark Review Criteria (*Albany Development Code 7.070*)

In addition to a majority of the properties being at least fifty years of age, the review body must find that one of the following criteria has been met in order to approve a proposed historic landmark or district:

***(1) The proposed Landmark or District has historic significance because:***

- (a) There is an association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;
- (b) There is an association with an event that has made a significant contribution to the city, county, state, or nation;
- (c) There is an association with broad patterns of political, economic, or industrial history in the city, county, state, or nation;
- (d) Existing land use surrounding the resource contributes to the integrity of the historic period represented; or
- (e) The resource contributes to the continuity or historic character of the street, neighborhood, and/or community.

***(2) The proposed Landmark or District has architectural significance because:***

- (a) It is an example of a particular architectural style, building type and/or convention;
- (b) It has a high quality of composition, detailing and/or craftsmanship;
- (c) It is an example of a particular material and/or method of construction;
- (d) The resource retains its original design features, materials and/or character;
- (e) It is the only remaining, or one of a few remaining resources of a particular style, building type, design, material, or method of construction; or
- (f) It is a visual landmark.

***(3) The proposed Landmark or District is listed on the National Register of Historic Places.***FINDINGS

- A1. The original Monteith National Register historic district was listed in 1980 and represented architectural styles and development in Albany between 1849 and 1915. The Monteith District boundaries are irregular and in many areas do not follow streets, blocks, or plat maps. The District expansion area may have been excluded from the original Monteith District boundaries because the original time period of significance for the district went to 1915.
- A2. In 2000, the time period of significance for the Monteith District was expanded to 1945 to recognize the architectural styles built from 1915 through 1945 positively contribute to the architectural character and

**EXHIBIT B**

quality found in the Monteith District. The original Monteith District boundaries and the expansion area to the District both contain a significant collection of architectural styles constructed after 1900 including the Bungalow, Craftsman, Minimal Traditional, Depression/World War II-Era Cottage, and Ranch styles.

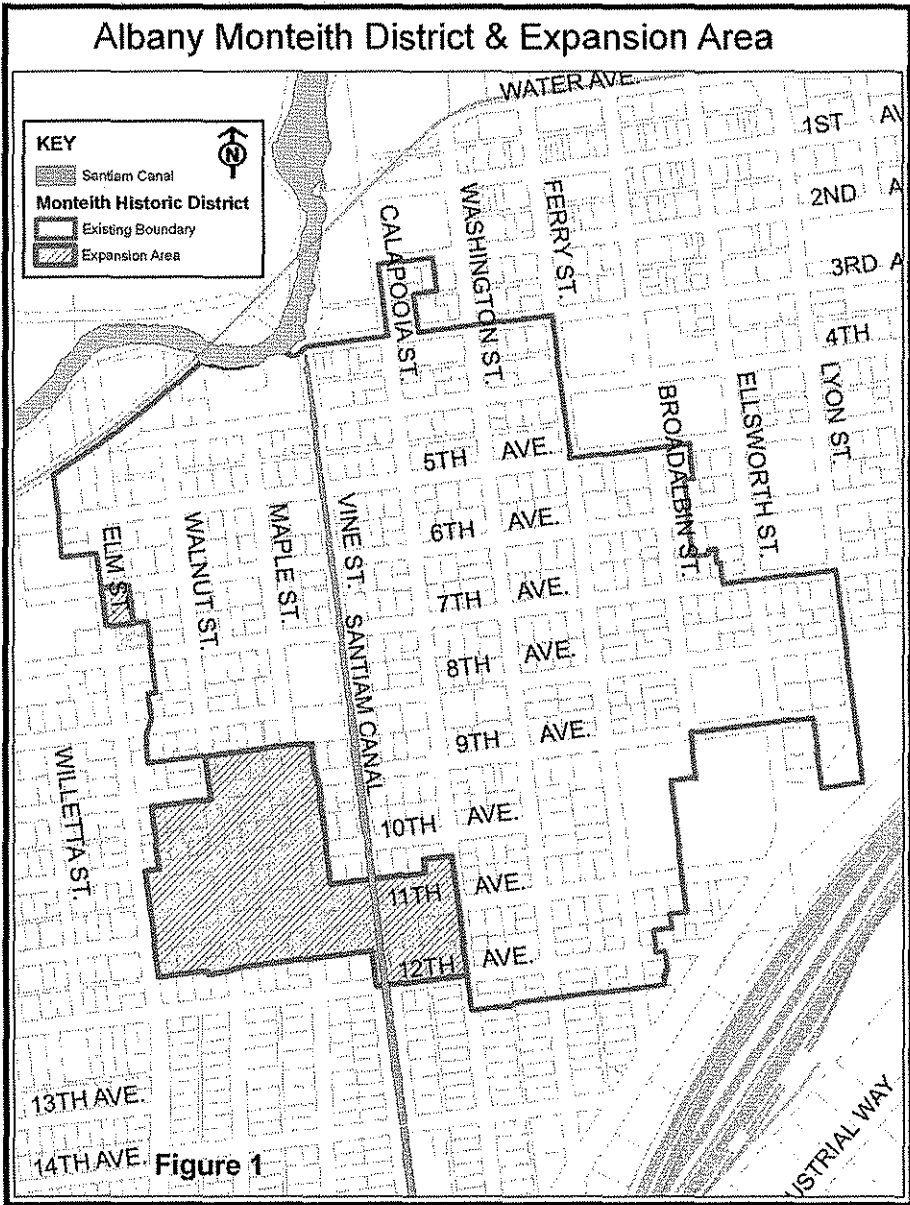
Original Monteith District Construction Statistics

1849 to 1900	29%
1900 to 1920	31%
1920 to 1940	25%
1950 – Current	13%
Vacant/Other	3%

Monteith Expansion Area Construction Statistics

Pre-1900	1%
1900 to 1920	25%
1920 to 1940	24%
1940 to 1945	23%
1946 to 1960	21%
Vacant/Other	3%

- A3. This Monteith expansion area includes 78 resources abutting the south and west edges of original Monteith National Register district that developed during this period and share a similar historic association and feeling in both architecture and street patterns. Fifty-nine percent of these resources contribute to the area’s historic character.



## EXHIBIT B

- A4. The expansion area was eligible for the National Register for local significance in the area of community planning and development, and for its association with the growth and development of Albany in the early-twentieth century. In addition, the expansion area is locally significant for architecture because of its cohesive and largely intact collection of early-twentieth century residential buildings.
- A5. The proposed Monteith District expansion area was listed in the National Register of historic places November 13, 2008.

### CONCLUSION

- A1. The proposed expansion of the Monteith National Register Historic District meets the review criteria.
- B. Development Code Amendment Review Criteria. The Albany Development Code (ADC) contains the following review criteria which must be met for this Development Code amendment to be approved (*Albany Development Code 2.290*).

*(1) The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.*

*The following Comprehensive plan goals and policies relate to this application (from Chapter 2).*

GOAL: Protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors.

#### APPLICABLE POLICIES:

1. Support the identification, recognition, development, and promotion of Albany's historic buildings and districts through City programs or other organizations.
2. Maintain survey information which accurately reflects the historic characteristics and quality of each of Albany's historic structures.

#### APPLICABLE IMPLEMENTATION METHODS:

10. For significant primary structures, create a "landmark district" overlay zone designation which would provide for the protection of significant historic sites and buildings from incompatible development of surrounding properties.

### FINDINGS

- B1.1 The City of Albany has surveyed hundreds of historic properties to identify areas with significant concentrations of historic buildings with high integrity (largely unaltered).
- B1.2 Expanding the boundary of the Monteith National Register Historic District by 78 resources will help to protect the historic integrity of these resources. The proposed Development Code amendment will modify the existing Historic Landmark District overlay zone to include these properties.
- B1.3 Exterior alterations to and demolition of buildings on the National Register require historic review and approval. New construction in the historic districts also requires historic review and approval.
- B1.4 Properties on the National Register are eligible for state financial incentives, which encourage restoration, rehabilitation and routine maintenance of historic resources.

CONCLUSION

- B1.1 The proposed Development Code Amendment to expand the historic overlay boundary meets the goals and policies in the Albany Comprehensive Plan.
- (2) *The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.*

FINDINGS

- B2.1 The proposed amendment will replace existing Figure 7-1 that shows the boundaries of the Central Albany Area National Register Historic Districts with a new Figure 7-1 that includes the Monteith District expansion area.
- B2.2 Relevant purposes of the Development Code state the Code should:
- Serve as the principal vehicle for implementing the City's Comprehensive Plan;
  - Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules; and
  - Protect and enhance the city's aesthetic beauty and character.
- B2.3 The proposed amendment would help protect and enhance the city's unique historic character by adding 78 resources to the City's Local Historic Inventory (and National Register of Historic Places). Recognition and protection of historical landmarks helps preserve a part of the heritage of the City.
- B2.4 The historic review criteria and process outlined in Article 7 of the Code are intended to maintain and restore integrity to Albany's historic resources and support the goals and policies in the Comprehensive Plan.
- B2.5 Most of the Monteith District and the expansion area are located in the Hackleman Monteith (HM) zoning district. The purpose of this zone is primarily to preserve the existing single-family residential character of the Monteith and Hackleman National Register Historic Districts. Adding more resources to the Local Historic Inventory will help preserve the character of the HM zoning district.
- B2.6 Statewide Planning Goal 5 requires that programs be in place to inventory and preserve historic resources. Increasing the boundary of the Monteith District will help meet this statewide planning goal.

CONCLUSION

- B2.1 The proposal to replace the historic overlay map with one that includes a 78-building expansion of the Monteith National Register Historic District meets the goals and policies of Albany's Comprehensive Plan and of Oregon's statewide planning goals.

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TO: Albany City Council

VIA: Wes Hare, City Manager  
Greg Byrne, Community Development Director

FROM: Don Donovan, Planning Manager *DDA*

DATE: December 10, 2008, for the December 17, 2008, City Council Meeting

SUBJECT: File SD-07-07, Fabian Estates Subdivision  
City Council Final Decision

Action Requested:

Make a final decision to approve the Fabian Estates Subdivision Tentative Plat.

Discussion:

The final decision will be made by adopting the "*Findings of Fact and Conclusions of Law*" document attached to this memo. The document references the staff report dated November 5, 2008, that went to City Council. The two documents together support the City Council's decision to approve with conditions the Fabian Estates subdivision. A proposed motion to approve will be on the dais.

The staff report provides the framework for discussion of the three issues that were remanded by LUBA to the City for further consideration. The *Findings of Fact and Conclusions of Law* document addresses the issues that were raised at the November 14, 2008, public hearing and the December 8, 2008, continued hearing.

As is usually the case, the prevailing party's attorneys prepared the last document to support the City Council's decision. In this case, the prevailing party is the applicant. As we have explained in the past, having the prevailing party help prepare the final documents(s) saves staff time and it's also important to have the applicant involved because it is the City's policy to have the applicant defend the decision if it is appealed (again) to LUBA. Staff makes sure that the information presented in the findings accurately represents the facts, the discussion at the public hearing, the City Council's positions on the issues, and the longer term interests of the Council and staff in reviewing development applications.

You will remember that there was discussion during the Council deliberation about what would be an appropriate condition for any tree felling that would be necessary for construction of the Fabian Estates storm drainage system. The discussion in the *Findings of Fact and Conclusions of Law* document begins on page 6. We hope we have accurately captured the City Council's position on felling more trees than were approved in the original Site Plan Review for Tree Felling.

At the conclusion of the Council's deliberation, the Council suggested that staff bring option(s) for consideration. The City Council may wish to consider an option that does not limit with the subdivision decision the number of trees that can be cut to build the storm drainage system. The number of trees that could be cut would be determined as part of the required Site Plan Review. The option is as follows:

- 4.13 Site Plan Review for Tree Felling is required to remove any trees larger than 8 inches in diameter to construct the storm drainage system. The number of trees that may be removed to construct the storm drainage system will be determined as part of the required Site Plan Review for Tree Felling.

If you have questions about the information in this memo, the staff report, or the Supplemental Findings before the meeting, please let me know.

Budget Impact:

None.

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**BEFORE THE CITY COUNCIL  
FOR THE CITY OF ALBANY, OREGON**

**In the Matter of an Application by )  
Frank Fabian for Tentative Plat )  
Approval for an 11-Lot Subdivision in )  
the Residential Single-Family ("RS- )  
10") Zoning District )**

**FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

**I. PROCEDURAL STATUS.**

The Albany City Council ("City Council") previously approved this tentative plat and site plan application. Petitioners Mark Azevedo and Kathy Cook (the "Petitioners") appealed the City's approval to the Oregon Land Use Board of Appeals ("LUBA"). LUBA remanded the City's tentative plat approval on September 19, 2008. LUBA rejected the sole Assignment of Error concerning the site plan request to remove 129 trees in order to develop the subdivision. Therefore, the City Council finds that only the tentative plat application is before it on remand.

LUBA remanded the application of the City Council to consider three (3) issues:

- Is a 40-foot wide extension of a public road from the terminus of the cul-de-sac to the site's eastern boundary required by Albany Development Code ("ADC") 12.150 and 11.180(2)?
- Has the application satisfied the requirements of ADC 12.530?
- Is Albany Comprehensive Plan ("ACP") Goal 7, Implementation Measure 10, required to be applied to this application?

The applicant requested pursuant to ORS 227.181 that the City Council consider the application on remand. After notice complying with ORS 197.763, the City held an initial evidentiary hearing limited to the three (3) issues described above on November 12, 2008 beginning at 7:15 p.m. The City Council read the announcements required by ORS 197.763(5) and heard testimony from the applicant and opponents of the application. At the conclusion of that public hearing, the City Council held the written record open until November 20, 2008 and continued the public hearing until December 8, 2008. No party objected to this schedule.

At the beginning of the December 8, 2008 public hearing, the six (6) City Councilors were present but the Mayor was absent. The City Council made the

announcements required by ORS 197.763(6). No City Councilors disclosed any *ex parte* contacts or disclosed any bias.

After making the announcements, the City Council opened the hearing for testimony. The applicant, proponents, opponents and a neutral party testified. The City Council closed the public hearing but reopened the public hearing in order for several City Councilors to ask questions of staff. After providing an opportunity for parties to testify in response to the new evidence from staff, the City Council again closed the public hearing. No party requested that the public hearing be continued or the written record held open.

The City Council made a tentative decision to approve the tentative plat with conditions of approval and directed staff to prepare findings for adoption at the public meeting on December 17, 2008. The City Council expressly rejects any issues or testimony unrelated to the three (3) issues described above. Additionally, the City Council hereby incorporates the two (2) staff reports, including all of their attachments, dated November 5, 2008 and December 3, 2008 as findings. Some of the conditions of approval of the subdivision are listed in the staff reports and some are listed in these findings. All of these documents function together. In the event of a conflict between the staff reports and these findings, these findings shall control.

## II. APPROVAL CRITERIA.

### A. ADC 12.150 and 11.180(2).

LUBA held on remand that:

**"...the City must provide a better explanation for why the approved 40-foot easement (1) is consistent with the ADC 12.150 requirement for a "street" extension and (2) satisfies the ADC 11.180(2) requirement that the required access to adjoining developable land allow that land to be developed "in accordance with this Code." (*Azevedo v. City of Albany*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2007-262, September 19, 2008) (slip op. 6).**

ADC 11.180(2) provides that the City may approve a tentative subdivision if "adjoining land can be developed or is provided access that will allow its development in accordance with this Code." Further, ADC 12.150 provides: "Where it is necessary to give access to or permit a future division of adjoining land, streets shall be extended to the adjoining tract. A reserve strip across the end of a dedicated street shall be deeded to the City. In addition, a barricade at the end of the street shall be installed and paid for by the property owners. It shall not be removed until authorized by the City Engineer."



The City finds that the applicant has satisfied these two (2) relevant provisions. The applicant has now proposed to dedicate a 40-foot wide public street right-of-way. (November 5, 2008 staff report, Condition of Approval 1 at p. 9) between the end of the cul-de-sac and the east boundary of the property. The City Council further finds that the 40-foot width is allowed by ADC 12.122(6) which provides for a reduction of typical street width to a narrower width. The City Council finds that a narrower width is justified and ADC 12.122(6) allows the City Council, through a subdivision review process, to consider a narrower street section that does not compromise the goals for street design. In this case, City Council finds that natural features including steep slopes and tree growth warrants the reduction in right-of-way widths so that a narrower street can be constructed and thus will result in less grading and removal of fewer trees.

The City Council also finds that it is timely to require construction of a street within the right-of-way.

The City Council finds that the substantial evidence in the whole record before it demonstrates that the applicant has satisfied these applicable provisions on remand with the following conditions of approval.

- 2.1 The applicant shall dedicate a 40-foot-wide public street right-of-way between the end of Fabian Way and the adjoining parcel to the east.
- 2.2 The applicant shall construct a 22-foot wide concrete street centered in the 40-foot-wide public street right-of-way between Fabian Way and the adjoining parcel to the east.
- 2.3 The applicant shall construct a 40-foot long fence at the easterly end of the 22-foot street.

**B. ACP Goal 7, Implementation Measure 10.**

LUBA held: "We decide only that the City must, on remand, respond to petitioners' allegation that the proposed subdivision is inconsistent with ACP Goal 7, Implementation Measure 10, as required by the last sentence of ADC 1.050 [*However, this provision shall not relieve the proponent of the burden of responding to allegations that the development action requested is inconsistent with one or more Comprehensive Plan policies.*] to require only a finding that the application is consistent with the cited ACP Goal if the ADC specifically requires findings regarding that goal." (Id., slip op 16.)

The City Council finds that ACP Goal 7, Implementation Measure 10 is not a relevant approval criterion for this tentative plat application. First, the City Council finds that ADC 6.180 governs hillside lot development. The City Council determined in the first approval that the applicant had satisfied this standard. The Petitioners did not

challenge those findings. (November 5, 2008 staff report at p. 15). Further, the City Council finds that ADC 6.180 fully implements the ACP for the reasons described in the November 5, 2008 staff report at p. 14. The staff noted that the ACP states in relevant part: "Plan statements (goals, policies, Implementation Methods, and recommendations) identify the intent of the City to accomplish certain results. The different types of statements vary in specificity, with goals being the most general and Implementation Methods being the most specific. The City's obligation under the statements also varies according to the type of statement." Further, the ACP states that implementation methods are "suggestions" to future city decision-makers to implement the ACP's goals and policies and "the listing of any particular implementation method in this Plan does not, by virtue of the listing alone, obligate the City to undertake any particular implementation method."... "Standards will be incorporated into City regulations and policies by separate action, given the constraints of staff time and City priorities, and will not be put into affect by virtue of this Plan alone."

Thus, the City Council finds based on the language of the ACP that implementation methods are not intended to be applicable approval criteria for tentative plat applications but rather are "suggestions" to City decision-makers as to future amendments to the ADC. Moreover, the City Council finds that it has implemented Goal 7, Implementation Measure 10 by enacting ADC 6.180 that governs hillside development standards. The November 5, 2008 staff report at p. 15 explains how that standard has been satisfied by this application.

Further, the City Council notes that ORS 197.195(1) provides that Comprehensive Plan policies and goals may not be used as an applicable standard for a limited land use decision (as defined in ORS 197.015(12)) unless it is expressly incorporated into the ADC. Because the City Council has not acted to expressly incorporate ACP Goal 7, Implementation Measure 10 independent of ADC 6.180, it is not applicable to this tentative plat application which is a limited land use decision.

For the reasons described above, the City Council finds that ACP Goal 7, Implementation Measure 10 is not an independent approval criterion for this application nor does any specific provision of the ADC require that this implementation measure be applied to this application.

### **III. ADC 12.530.**

LUBA held: "We agree with Petitioners that the City erred in approving a tentative subdivision plat that does not show the proposed storm sewer plans and systems and that the City Engineer has not approved any such plans and systems as required by ADC 12.530." Id., slip op 14.

ADC 12.530 provides:

"General Provisions. The review body will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City Engineer. The stormwater drainage system must be separate and independent of any sanitary sewerage system. Where possible, inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development proposal plan. All proposed storm sewer plans and systems must be approved by the City Engineer as part of the tentative plan or site plan review process."

The City Council finds that the applicant has satisfied this standard. First, the City Council finds that adequate provisions for storm and flood water run-off have been made. The evidence before the City Council includes not only the applicant's written evidence but the testimony of the applicant's engineer, Dan Watson, of K&D Engineering. Mr. Watson testified that the site's run-off would be collected and taken downstream to discharge west of Thornton Lake. Mr. Watson testified that the drainage system will collect all water and detain it so that it is discharged from the site at pre-development rates. The City Council finds on this point that the pre-development rates are those identified in the WRG report and that the WRG report notes: "that the applicant's storm drainage plan had 'addressed' to all of the opponents' comments in several documents." The WRG report also stated that "run-off rates for the entire watershed basin were very similar to the applicant's." Further, Mr. Watson testified that there will be no impact to downstream property from this storm drain. In response to a question by Councilor Collins, Mr. Watson testified that the drainage from the Bradley property to the west of the site could be accommodated in the future in the size of the pipes proposed by this plan.

Mr. Watson also testified as to the impact on trees from the storm drain pipe. He noted that the route for the pipe type can bend and snake around trees so that only three (3) trees need to be removed. Further, the applicant could also consider directional boring through the steepest portion of the site. Mr. Watson testified that he had spoken with a specialty contractor for boring and that the specialty contractor had noted that it is feasible to bore for the pipe. The City Council notes that the opponents provided no credible evidence to the contrary on this point.

Moreover, the City Council rejects the opponents' engineer's statement that a wide swath with much tree removal needs to be accomplished in order to provide the storm drain plan from this site to the discharge point. Additionally, the opponent's own engineer testified in a December 2, 2008 letter that was before the City Council that it was his "opinion that the City of Albany standards have been met" by the applicant's

proposal. Finally, the applicant testified that the stormwater plan would provide two (2) water quality elements: a pollution control manhole and a bioswale prior to discharge of the water.

The City Engineer testified to the City Council on December 8, 2008 that he has accepted the applicant's plan by determining that the applicant has made adequate provisions for storm and floodwater run-off.

The City Council further finds that the stormwater drainage system proposed by the applicant is separate and independent of any sanitary sewerage system. Additionally, the City Council finds that the applicant's stormwater plan will not cause surface water to be carried across any intersection nor will it be allowed to flood any street. The City Council also notes that the evidence before it included surface water drainage patterns and proposed storm drainage. Thus, the City Council finds that the applicant has satisfied all relevant requirements of ADC 12.530.

Additionally, the applicant testified as to a number of options to address drainage from Lots 6 and 7. However, the City Council finds that the storm drain plan proposed by the applicant includes a definite plan for collecting drainage from Lots 6 and 7 (i.e., drainage runs into the City street which will be collected into the pipe system, and discharged after passing through the pollution control manhole and bioswale). The discussion of options, the City Council finds, was simply the applicant's way of describing various opportunities to address drainage from Lots 6 and 7 and was not meant to suggest that a definite plan for stormwater had not been proposed for Lots 6 and 7.

The opponents argued that the portion of the system within the subdivision that was private had not been adequately addressed. The applicant testified that a proposed homeowners association ("HOA") will maintain the private portion of the system.

A representative of the owner of the property over which the easement south of West Thornton Lake Drive will be required testified that the owner would likely grant the easement. Thus, the City Council finds that it is feasible to achieve this plan because of testimony regarding the easement. Moreover, the City Engineer testified that it was feasible to install the proposed storm drain plan within the storm drain easement to be requested from the owner of the property.

The opponents also argued that the description of the storm pipe within treed areas undercut the City's previous findings regarding these natural areas. The City Council rejects this argument for two (2) reasons. First, the greenbelt (the area of trees on the subdivision site itself) has not changed since the first approval. Second, the applicant's engineer testified that only three trees will have to be removed to construct the storm drainage system.

As noted in Conclusion 4.4 of the November 5, 2008 staff report, tree removal for construction of the storm drainage system was not approved with the original subdivision and Site Plan Review for Tree Felling applications. The City's tree felling regulations require Site Plan Review if five or more trees larger than eight inches in diameter are to be removed on a parcel, or property in contiguous ownership, larger than 20,000 square feet. A permit from the City Forester must be obtained to remove one to four trees larger than 25 inches in diameter. The City Council limited the number of additional trees that will be permitted to be removed to construct the storm drainage system to three trees.

The City Council finds for the reasons explained above that the applicant has satisfied ADC 12.530. The City Council notes that the plain language of the criterion delegates to the City Engineer the determination as to compliance with the stormwater plan and according to the language of the ADC provision, once the City Engineer has made the determination of adequate provision for storm and floodwater run-off have been provided, the review body "will approve" the development request. The City Council finds that this criterion will be satisfied when the following conditions of approval are met

- 4.1 Before the City will approve the final subdivision plat, the property owner/developer must construct public storm drainage improvements to provide drainage for the new sections of streets in the subdivision and for each lot in the subdivision.
- 4.2 The property owner/developer must obtain a Permit for Private Construction of Public Improvements from the City's Engineering Division to build the required public improvements. Final design details (such as manhole locations, lateral locations, pipe size and grade, etc.) for required public improvements must be reviewed and approved by the City's Engineering Division.
- 4.3 Calculations for detention and pipe sizes must be provided to the City's Engineering Division with the application for the Permit for Private Construction of Public Improvements. Storm drainage at the point of discharge may not exceed the pre-development rate of runoff that flows into the existing drainage from the subdivision property. Detention must be provided for flows up through the 100-year event (5, 10, 25, 50, and 100-year events). Pre-developed conditions used for detention calculations shall be the conditions that existed prior to the tree removal that occurred without permits prior to subdivision approval and any site grading.
- 4.4 The property owner/developer may provide an improvement assurance that guarantees the required public improvements will be made. The improvement assurance must be in accordance with the requirements of ADC 12.590 through 12.610. The City will sign the final plat when the improvements are made, or

when the improvement assurance is provided and all other conditions of approval are met.

- 4.6 The property owner/developer must obtain a NPDES permit for subdivision construction from the Oregon Department of Environmental Quality. In addition, the City requires that, prior to beginning any excavation or fill on the site, the applicant must submit an erosion control/prevention plan to the City of Albany Engineering Division for review and approval.
- 4.7 As shown on the plans that were submitted with the subdivision application, stormwater leaving the proposed development must be piped for its entirety through West Thornton Lake Drive. Stormwater between West Thornton Lake Drive and its point of discharge, located just downstream of the West Thornton Lake outlet, shall be either piped or discharged to an open drainage system as directed and approved by the City Engineer. Exceptions may be provided for water quality facilities to be located between the proposed development and the point of discharge, located just downstream of the West Thornton Lake outlet. Any exceptions must be approved by the City Engineer in the exercise of his or her reasonable and professional discretion. Exceptions to the approved plan that involve the exercise of discretion by the City shall be subject to a Type II review process described in ADC 1.350.
- 4.8 The applicant must secure the approval of the pipe installation, installation of water quality facilities, and/or installation of open drainage systems across those properties between the subdivision property and West Thornton Lake and secure a public easement providing the City with the rights to maintain the storm drain system that is installed.

A 30-foot-wide storm drainage easement will be required between Maier Lane and West Thornton Lake Drive and a 20-foot storm drainage easement will be required between West Thornton Lake Drive and the outfall which is shown just downstream of the outlet from West Thornton Lake. These easements must be centered over the storm drainage facilities. Additional access easements will be required over the proposed access roads. These include a 12-foot-wide access road shown near the northwest corner of Lot 11, the driveway and turnaround on Tax Lot 300 (11-4W-1BB) as shown on the schematic provided by K&D Engineering via e-mail on October 31, 2008, and the 15-foot and 12-foot access roads as shown on sheet 13.b. The existing driveway connecting the depicted locations on sheet 13.b must also be included at a minimum width of 12 feet.

Any modifications to these easement limits must be approved by the City Engineer. Easement dedication documents, including any permissions and restrictions of use within the easements, must be approved by the City Engineer.

- 4.9 The City requires that public storm drainage pipes be at least 10 inches in diameter. Any request for an exception to this standard must be approved by the City Engineer and would be considered during the construction plan review process.
- 4.10 The maximum slope for the access road proposed on Sheet 13.b shall be 12 percent. Any requests by the owner/developer for an exception to this requirement must be approved by the City Engineer.
- 4.11 If improvements to Lots 6 and 7 cannot drain to the street via gravity then they will be required to connect to the private storm drain system terminating on Lot 8 as shown on sheet 13.a. If adequate grade is not available for gravity flow, the lots may be required to pump. Any requests by the owner/developer for an exception to this requirement must be approved by the City Engineer.
- 4.12 The storm drainage system for the subdivision shall incorporate Best Management Practices for treating the stormwater quality prior to it being discharged downstream of West Thornton Lake. Approval of Best Management Practices is at the City Engineer's discretion.
- 4.13 Site Plan Review for Tree Felling is required to remove any trees larger than 8 inches in diameter to construct the storm drainage system. The number of trees that may be removed is limited to a maximum of three trees larger than 8 inches in diameter. The intent of this condition is to limit the total number of trees that can be cut to a maximum of three trees on all of the properties on which the storm drainage system will be built.
- 4.14 Prior to issuance of a Public Works Site Improvement (SI) permit the applicant must obtain all applicable permits from the Oregon Department of Environmental Quality, Oregon Department of State Lands, Army Corps of Engineers, and Benton County.

#### **IV. CONCLUSION.**

For the reasons contained herein, the City Council finds on remand that the applicant has met its burden of proof by substantial evidence demonstrating that the applicable criteria required to be addressed by LUBA's decision have been satisfied.

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TO: Albany City Council

VIA: Wes Hare, City Manager  
Greg Byrne, Community Development Director

FROM: Melanie Adams, Building Official *MMA*

DATE: December 10, 2008, for the December 17, 2008, City Council Meeting

SUBJECT: Revisions to Building Division Fee Schedule

RELATES TO STRATEGIC PLAN THEME: • An Effective Government  
• A Safe City

Action Requested:

Adopt a resolution which brings the Building Division fee schedule into conformance with Oregon Administrative Rules, with an effective date of January 1, 2009.

Discussion:

At the December 8, 2008, City Council meeting, Council directed staff to prepare a revised fee schedule for the Building Division to conform to new Oregon Administrative Rules requiring the use of a consistent statewide form and fee methodology. The attached fee schedule proposal reflects the changes required by the State.

Budget Impact:

Fee amounts have not been changed, except when "bundled" or otherwise adjusted to conform to the new Consistent Form & Fee Methodology rules in OAR 918-50. Fees are designed to be revenue-neutral program-wide.

MMA

Attachments: Exhibit A, Proposed Fee Schedule



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AMENDING THE FEE SCHEDULE FOR CERTAIN BUILDING DIVISION FEES AND REPEALING RESOLUTION NO. 4534.

WHEREAS, building fees were last updated on October 24, 2001, by Resolution No. 4534; and

WHEREAS, the City Council reviewed the existing building fees on November 10, 2008, and held a public hearing on the proposed fees on December 08, 2008; and

WHEREAS, the existing fee schedule does not conform to Oregon Administrative Rules.

NOW, THEREFORE, BE IT RESOLVED that the building inspection, electrical inspection, and related permit fees shown in Exhibit A, attached hereto, are adopted by the City of Albany.

BE IT FURTHER RESOLVED that the updated fee schedule shall become effective January 1, 2009.

BE IT FURTHER RESOLVED that Resolution No. 4534 is hereby repealed.

DATED AND EFFECTIVE THIS 17<sup>th</sup> DAY OF DECEMBER 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## CITY OF ALBANY BUILDING PERMIT FEES

1. **CONSTRUCTION BUILDING PERMITS:**

**Non-Residential & Residential**

Total Valuation**	Fee
\$0 to \$25,000	\$50.00* for the first \$2,000 plus \$7.40 for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$220.00 for the first \$25,000 plus \$5.50 for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$360.00 for the first \$50,000 plus \$4.30 for each additional \$1,000 or fraction
\$100,001 and up	\$575.00 for the first \$100,000 plus \$3.20 for each additional \$1,000 or fraction

\*Maximum of one inspection.

\*\*See Valuation Table located on previous page.

Plus 12% state surcharge

Plus \$1.00 per square foot residential and \$.50 per square foot commercial School Construction Excise Tax.

Plus Document Imaging Charge of \$1.00 per page

2. **PLUMBING PERMITS:**

**New 1 & 2 Family Dwelling**

Fee includes the first 100 ft of water and sewer service, hose bibbs, icemakers, underfloor low-point drains and rain drain packages that include the piping, gutters, downspouts and perimeter system.

Note: A half bath is equivalent to a single bathroom.

One Bathroom & Kitchen.....	\$313.00
Two Bathrooms & Kitchen.....	363.00
Three Bathrooms & Kitchen.....	413.00
Each additional Bath/Kitchen.....	50.00

**Commercial, Multifamily, Manufactured Dwellings, 1 & 2 Family Dwelling  
New\*, Additions, Alterations, Repairs, & Accessory Structures**

\*Excludes 1 & 2 Family Dwelling, see fee schedule above.

Backflow preventer (water).....	\$50.00
Backwater valve (storm sewer).....	50.00

Base permit fee .....	\$50.00
<b>plus Plumbing fixture or items (per fixture or item) .....</b>	<b>10.00</b>
Includes: Absorption valve, clothes washer, dishwasher, drinking fountain, ejectors/sump, expansion tank, floor drain/sink/tub, garbage disposal, hose bibb, icemaker, primer, sewer cap, sink/basin/lavatory, tub/shower/shower pan, urinal, water closet, other fixtures or items not named above.	
 Sewer:	
First 50 feet.....	\$33.00
For each additional 100 feet or portion .....	28.00
 Water service:	
First 50 feet.....	\$33.00
For each additional 100 feet or portion .....	28.00
 Storm and rain drain:	
First 50 feet.....	\$33.00
For each additional 100 feet or portion .....	28.00
Manufactured home space (if not covered by siting fee).....	\$28.00
Gas water heater .....	\$7.00
Plumbing Plan Review – When required or requested .....	25% of the permit fee
Minimum permit fee .....	50.00

**Medical Gas Installation**

Fees based on valuation of installation costs and system equipment, including but not limited to, inlets, outlets, fixtures and appliances (rounded up to the nearest dollar).

Total Valuation**	Fee
\$0 to \$25,000	\$50.00* for the first \$2,000 plus \$7.40 for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$220.00 for the first \$25,000 plus \$5.50 for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$360.00 for the first \$50,000 plus \$4.30 for each additional \$1,000 or fraction
\$100,001 and up	\$575.00 for the first \$100,000 plus \$3.20 for each additional \$1,000 or fraction

\*Maximum of one inspection.

Minimum permit fee .....	\$50.00
Plumbing plan review** .....	25 % of the permit fee

\*\*Plan review is required on all Medical Gas Installations

Plus 12% state surcharge  
Plus Document Imaging Charge of \$1.00 per page

**3. MECHANICAL PERMITS:**

**1 & 2 Family Dwelling/ Manufactured Dwellings:  
New, Additions, Alterations, Repairs, & Accessory Structures**

Base permit fee ..... \$50.00

**Unit Fee Schedule:**

Wood stove – freestanding/insert (pellet stove) ..... \$17.00  
 Gas Stoves – freestanding/insert..... 39.00  
 Additional gas appliances ..... 7.00  
 Air conditioner/compressor or forced-air or gravity-type furnace or burner, including ducts and vents  
   to and including 100,000 Btu/h..... 7.00  
   over 100,000 Btu/h ..... 8.50  
 Each ventilation fan connected to a single duct..... 3.50  
 Other equipment ..... 7.00

**Remodel:**

Each duct line extension..... \$7.00 ea  
 Each gas line extension or outlet..... 7.00 ea

**Commercial & Multifamily: New, Alterations, Additions, Repairs, & Accessory Structures**

The valuation used to determine the commercial mechanical permit fee shall include the value (rounded up to the nearest dollar) of all mechanical materials, equipment, labor, overhead and profit.

Total Valuation**	Fee
\$0 to \$25,000	\$50.00* for the first \$2,000 plus \$7.40 for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$220.00 for the first \$25,000 plus \$5.50 for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$360.00 for the first \$50,000 plus \$4.30 for each additional \$1,000 or fraction
\$100,001 and up	\$575.00 for the first \$100,000 plus \$3.20 for each additional \$1,000 or fraction

\*Maximum of one inspection.

Mechanical Plan Review – When required or requested.....25% of the permit fee

Plus 12% state surcharge  
Plus Document Imaging Charge of \$1.00 per page

4. **PLAN REVIEW:**

**Non-Residential & Residential**

65% of building permit fee PLUS 25% of plumbing when required and mechanical permit fees for the review of applicable requirements such as limit controls, storm drainage, fixture clearances, ventilation, combustion air, etc. Hourly rate for additional or predevelopment consultation plan review/research is \$50.00 per hour. 40% of building permit fee for fire/life safety on commercial permits.

**Plus** land use plan review for building permits:

Minimum ..... \$50/hr (1/2 hr min.)

**Plus** floodplain/flood hazard zone review:

5% of building permit fee when project is within flood hazard zone.

Third-party plan review ..... 50/hr (2 hr min.)

Application for alternate materials and methods; or

Review of non-code state-approved items ..... 50/hr (2 hr min.)

5. **PARKING LOT PERMITS:**

1 - 25,000 square feet ..... \$0.04/sq. ft.

25,001 - 99,999 square feet ..... 0.025/sq. ft.

100,000 and more square feet ..... 0.01/sq. ft.

Remodel/review ..... 0.02/sq. ft.

**plus** \$50/hr review (2 hour min.)

New parking lot plan review ..... 65% of permit fee

**Plus Document Imaging Charge of \$1.00 per page**

6. **MANUFACTURED HOME PERMITS:**

Manufactured home setup ..... \$222.50

**plus** 12% state surcharge ..... 26.70

State fee ..... 30.00

\$222.50 installation fee allows three inspections total. These include the stand and lot preparation, all support blocking, Earthquake-Resistant Bracing System (ERBS), flood and wind anchoring devices, perimeter skirting, underfloor access and ventilation, mechanical crossovers and terminations and temporary steps. This fee also includes electrical feeder, plumbing connections, and all cross-over connections. Accessory structures, utility connections beyond 30 lineal feet and/or new or additional electrical services or plumbing may require additional permits. This permit does not include an electrical service.

**Plus Document Imaging Charge of \$1.00**

7. **MISCELLANEOUS PERMITS/FEES:**

Minimum permit fee.....	\$35.00
Moving a building .....	56.00
Demolition.....	40.00
<b>plus plumbing fee also assessed if sewer is to be capped</b>	
Change of occupancy .....	100.00
<b>plus research fee .....</b>	<b>50.00/hr</b>
Address reassignment or change.....	35.00
Deferred Submittal** .....	25% of building permit fee calculated using
(Applies to both separate and combo permits) .....	value of deferred portion(s)
.....	\$50.00 minimum
Phased Project** .....	In addition to regular permit fees, 10% of total
.....	project building permit fee for each phase.
.....	\$50.00 minimum, not to exceed \$1,500 for each phase.

\*\* In addition to plan review fees.

Reinspection Fee .....	50.00/ hr (1 hr min.)
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**8. MISCELLANEOUS INSPECTIONS:**

Minimum.....	\$50.00
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Investigation Fees: Costs for additional inspections/review/engineering required for investigations needed by the Building Official shall be recovered at cost plus 30% overhead. These activities may include, but are not limited to, actions necessary to issue a new or revised Certificate of Occupancy, costs associated with third-party review, complaint investigation, additional inspections, annual reviews, etc.

**Plus 12% state surcharge**

**Plus Document Imaging Charge of \$1.00 per page**

**9. SIGN PERMITS:**

Base (Minimum).....	\$28.00
Structural inspection and review covered under Construction Permits/Plan Review.	
Freestanding and projecting signs (per sq. ft.).....	0.50
All other signs (per sq. ft.).....	0.40
Temporary Signs (initial cost).....	11.00

**Plus Document Imaging Charge of \$1.00 per page**

**10. ELECTRICAL PERMITS:**

**RESIDENTIAL PER UNIT:**

1000 sq. ft. or less.....	\$94.50
Each additional 500 sq. ft. or portion .....	16.50
Limited energy (in conjunction with above or other permit only) .....	25.00
Each manufactured home/modular service/feeder.....	44.50

SERVICES OR FEEDERS:

Installation, Alterations or Relocation – no circuits included

200 amps or less .....	\$55.50
201 to 400 amps .....	66.50
401 to 600 amps .....	89.00
601 to 1000 amps .....	144.50
1000+ amps or volts .....	333.50
Reconnect only .....	39.00

TEMPORARY SERVICES OR FEEDERS:

Installation, Alterations, or Relocation

200 amps or less .....	\$ 39.00
201 to 400 amps .....	44.50
401 to 600 amps .....	89.00
1000+ amps or volts .....	333.50

BRANCH CIRCUITS:

New, alteration, or extension per panel

Branch circuits with purchase of service or feeder fee.....	\$2.25 each
Branch circuits without purchase of service or feeder fee.....	39.00
Each additional .....	2.25

MISCELLANEOUS:

Service or feeder NOT included

Pump or irrigation circle.....	\$40.00
Sign or outline lighting.....	40.00
Signal circuits or limited energy panel, alteration/extensions .....	40.00
Fire alarm panel, see Section 11	

ADDITIONAL INSPECTION FEES OVER THE ALLOWABLE IN ANY OF THE ABOVE:

Per inspection .....	\$39.00
Miscellaneous hourly fee for inspections and industrial plant inspections .....	65.00

Plus 12% state surcharge

Plus Document Imaging Charge of \$1.00 per page

PLAN REVIEW FEE:

25% of electrical permit, if required (see application).

**11. FIRE SPRINKLER PERMITS:**

## Residential Fire Suppression Systems

*\*Fee includes plan review*

Square Footage	Fee
0 to 2,000 SF	\$200.00
2,001 to 3,600 SF	\$250.00
3,601 to 7,200 SF	\$325.00
7,201 SF +	\$410.00

**Note: WIRSBO systems require licensed plumber to perform work.**

Separate plumbing permit may be required for all systems.

## Commercial Fire Suppression Systems

Add/replace valves, attachments or devices ..... \$ 42.50 each  
 Fire pump installation or replacement (less than 1000 gpm) ..... 100.00 each  
 Fire pump installation or replacement (1000 gpm or more)..... 200.00 each  
 Hood suppression systems (per hood)..... 80.00

**Hydrants (including PIVs)**

1 to 3..... \$180.00  
 More than 3 ..... 60.00 each

**New, lower/raise, and relocate fire sprinkler heads**

1 to 25..... \$75.00  
 26 to 50..... 125.00  
 51 to 100..... 200.00  
 101 to 200..... 285.00  
 201 to 300..... 325.00  
 301 to 500..... 480.00  
 501 to 1000..... 1000.00  
 1001 to 2000..... 1740.00  
 2001 to 3000..... 2250.00  
 3001 to 4000..... 2680.00  
 4001 to 5000..... 3850.00  
 5001 to 6000..... 3000.00  
 over 6000 fire sprinkler heads, for the first 6000 ..... 2000.00  
 each 100 heads or fraction thereof over 6000 ..... 20.00

Each riser..... \$50.00  
 Hydrostatic test (per riser) ..... 40.00  
 Flush test (per test/per riser) ..... 40.00  
 Storage tank (in addition to separate building permit) ..... 150.00

**PLAN REVIEW FEE:**

40% of fire sprinkler permit (\$50.00 minimum).

Revisions ..... \$50.00/ hr (1 hr min.)

Additional inspections/plan review as required by Building Official ..... 50.00/hr

**Plus 12% state surcharge**



Plus Document Imaging Charge of \$1.00 per page

**12. FIRE ALARM PERMITS:**

**\*\*Separate electrical permit required in addition:**

Each riser ..... \$50.00  
Fire alarm control panel..... 50.00

**SIGNAL INITIATING AND NOTIFICATION TYPES:**

Signal initiating devices: detectors, manual pull stations, water flow, tamper switches

1-10..... \$50.00  
11-20..... 75.00  
Each additional 30 (or fraction thereof) ..... 25.00

Notification devices: bells, chimes, strobes, horns, annunciators, etc.

1-10..... \$50.00  
11-20..... 75.00  
Each additional 30 (or fraction thereof) ..... 25.00

Plus 12% state surcharge

Plus Document Imaging Charge of \$1.00 per page

**PLAN REVIEW:**

40 % of fire alarm permit, \$50.00 minimum.

Each permit receives up to 3 rough and up to 2 final inspections, 1 hour each, at no additional charge. Permit fees are based on one hour per inspection.

**PUBLIC WORKS UTILITY FEES/CHARGES** July 1, 2007 through June 30, 2009  
(Updated July 1, 2008)

❖ **WATER System Development Charges:**

Single-Family Residential,	3/4" meter	\$ 2,023
Commercial, or Industrial	1" meter	\$ 3,379
(Based on water meter size)	1½" meter	\$ 6,736
2" meter	\$ 10,783	
3" meter	\$ 21,586	
4" meter	\$ 33,724	

❖ **WATER Service Installation\*\*:**

<u>Water Meter Size</u>	<u>Service Installation Charge (w/meter)</u>	<u>Meter Drop-in Charge</u>
3/4"	\$ 2,950	\$ 160
1"	\$ 2,975	\$ 180
1½"	actual cost	\$ 530
2"	actual cost	\$ 570

\*\**(Water services larger than 2-inches must be constructed privately under a Permit for Private Construction of Public Improvements obtained from the Public Works Engineering Division.)*

❖ **WATER Connection Charges:**

Single-Family Zones	\$ 26/linear foot	(full lot frontage, 50 foot min)
Multi-Family, Comm., Ind. Zones	\$ 36/linear foot	(full lot frontage, 50 foot min)

*One service line installation with a meter box is included if one does not exist. Meter drop-in charge does apply.*

❖ **SANITARY SEWER System Development Charges:**

Residential	\$ 2,376/dwelling unit	
Commercial/Industrial (Low Strength)	\$ 2,376 (first 6 fixtures)	\$ 396 each add'l fixture
Commercial/Industrial (Medium Strength)	\$ 3,458 (first 6 fixtures)	\$ 576 each add'l fixture
Commercial/Industrial (High Strength)	\$ 5,533 (first 6 fixtures)	\$ 922 each add'l fixture

❖ **SANITARY SEWER Connection Charges:**

All uses	\$ 46/linear foot	(full lot frontage, 50 foot min)
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*One service line installation to the property line cleanout is included if one does not exist.*

❖ **North Albany SANITARY SEWER In-Lieu-of Assessments:**

North Albany Interceptor	\$ 2,442 per gross acre
North Albany Collector (in district)	\$ 5,507 each additional lot created (within 150 feet)
North Albany Collector (out of district)	\$ 7,867 per benefit

❖ **STORM DRAINAGE Connection Charges:**

All uses	\$ 42/linear foot	(full lot frontage, 50 foot min)
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**STREET System Development Charges:**

Single-Family Residential	\$ 1,719
Multi-Family/Duplex	\$ 1,207/dwelling unit
Manufactured Home in Park	\$ 896
Institutional, Comm., Office, Indust.	(variable – based on projected traffic volumes)

❖ **STREET Connection Charges:**

All uses	\$ 77/linear foot	(full lot frontage, 50 foot min)
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❖ **North Albany STREET Improvement Assurance Charges:**

Development Adjacent to Collector/Arterial Streets in North Albany	\$ 210/linear foot
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❖ **ENCROACHMENT PERMIT:**

## **PUBLIC WORKS DEFINITION OF FEES**

### **SYSTEM DEVELOPMENT CHARGES:**

System Development Charges (SDCs) are those fees charged to satisfy that portion of new demand on parks, transportation, water, and wastewater services generated specifically by a new development. Adequate funding for growth-driven capital improvements is necessary to maintain health, safety, commerce, and quality of life within a community. In an effort to secure a constant, equitable framework by which SDCs are collected and disbursed the Oregon State Legislature adopted a State law (House Bill 3224) which regulates SDCs.

The bill establishes requirements for the calculation of fees, and specifies that fees collected must be spent on the capital improvement projects for which they have been assessed. The City is required to provide an annual accounting of SDCs showing the amount collected for each system and the projects that were funded.

SDCs are divided into two categories:

- (1) Reimbursement Fees, which pertain to existing capital improvements, or those under construction, and
- (2) Improvement Fees, which pertain to future capital improvements. An SDC can be assessed for either fee category, or for both. Credit may be given against an SDC when a developer is required to construct a qualified public improvement that meets certain conditions.

### **SEWER/WATER/STORM/STREET CONNECTION CHARGES:**

A Connection Charge shall be due and payable when any property connects to the City's sanitary sewers, water, storm drains, and/or improved streets, which no assessment has previously been levied or for which the cost of constructing the sanitary sewer, water distribution facility, storm drain, and/or improved streets has not been paid by the property.

At the time when a development request is initiated, the Finance Department along with the Public Works Department will determine when the sewer/water/storm/streets were built, and how they were paid for to see if a "connection" fee is due. Engineering Services will determine the amount based on the formula in the Municipal Code. **Please call Engineering Services at (541) 917-7676 for information.**

Prior to planning a development or purchasing a piece of property, it is recommended that a check on the property be completed to see if connection fees are due. These fees will not usually show up as an encumbrance in a preliminary title report.

### **NORTH ALBANY MAJOR STREET IMPROVEMENT FUND:**

Development approval for sites fronting arterial and collector roadways in North Albany are

subject to contributing one-half of the cost of a typical local street improvement, including sidewalk and drainage to help pay for the non-over sizing portion of future improvements to major roadways in North Albany. **Please call the Engineering Division at (541) 917-7676 for information.**

**PUBLIC WORKS FILL PERMIT FEE SCHEDULE**

No. Of Cubic Yards	Permit Fees:	Plus Fees Per Add'l. Cubic Yds.	Plan Review Fee:
0- 1,000	\$190.00 1st 100 cubic yds.	\$ 10.50 ea. add'l. 100 cubic yds. or fraction	\$ 187.50 <b>plus \$500.00*</b>
1,001 - 10,000	\$282.00 1st 1,000 cubic yds.	\$ 9.00 ea. add'l 1,000 cubic yds. or fraction	\$195.00 <b>plus \$500.00*</b>
10,001 - 100,000	\$363.00 1st 10,000 cubic yds.	\$ 40.50 ea. add'l 10,000 cubic yds. or fraction	\$195.00 1st 10,000 cubic yds. <b>plus</b> \$15 ea. add'l 10,000 cu.yds. or fraction <b>plus \$800.00*</b>
100,001-200,000	\$727.50 1st 100,000 cubic yds.	\$40.50 ea. add'l 10,000 cubic yds. or fraction	\$330.00 1st 100,000 cu. yds. <b>plus</b> \$9.00 ea. add'l 10,000 cu. yds. or fraction <b>plus \$800.00*</b>
200,001 or more	same as above	same as above	\$424.00 1st 200,000 cu. yds. <b>plus</b> \$4.50 ea. add'l 10,000 cu. yds. or fraction <b>plus \$1,000.00*</b>

**\*Deposit for expected engineering review costs. Unused deposits, or partial credits will be credited to permit at time of issuance. Deposit may be waived by Permitting & Development Services Engineer on small projects that do not require engineering.**

Other Fees: Additional plan review/inspection required because of the uniqueness or size of the project or by changes, additions or revisions to approved plans as determined by the Permitting & Development Services Engineer are: ..... \$65.00 per hour<sup>1</sup>  
(minimum charge-one-half hour).

Inspections outside of normal business hours ..... \$50.00 per hour<sup>1</sup>  
Reinspection fees assessed under provisions of Section 305(g) ..... \$50.00 per hour<sup>1</sup>  
Inspections for which no fee is specifically indicated ..... \$50.00 per hour<sup>1</sup>

**Plus Document Imaging Charge of \$1.00 per page**

**STREET TREE FEES**

**Please call the Engineering Division at (541) 917-7676 for fee calculation.**

**PARKS SYSTEM DEVELOPMENT CHARGES:**

**Please call the Parks and Recreation Department at (541) 917-7777 for information.**

**RESIDENTIAL CONSTRUCTION THAT INCLUDES BEDROOMS:  
Including Manufactured Home Placement Permits**

Per bedroom..... \$255.00  
Per square foot of new construction ..... \$0.49

## PLANNING FEES

Type of Application	Current Fee (c) (7/1/2008 to 6/30/2009)
<b>Adjustment</b> (Type I)	\$63
<b>Annexations</b> – (set by separate resolution)	Varies
<b>Appeals</b>	
Appeal to City Council (Type III)	\$750
Appeal to PC only (Type I-L that had a neighborhood meeting)	\$250
Appeal to Hearings Officer-Expedited Land Div.	\$300 dep./max \$500 (a)
<b>Comprehensive Plan Amendment</b> (Type IV)	
Map Amendment – Without Concurrent Zoning Map Amend.	\$3,129
Map Amendment – Concurrent with Zoning Map Amendment	\$4,381
Text Amendment	\$3,504
<b>Conditional Use 1</b> (Type III)	
New Construction	\$2,505 plus (b)
Existing Building	\$1,626
Parking Lot Modification	\$920
Additional fee if traffic report required	\$626
Additional fee if Design Standards apply	\$274
<b>Conditional Use 2</b> (Type II)	
New Construction	\$1,626 plus (b)
Existing Building	\$920
Parking Lot Modification	\$920
Residential Accessory Building	\$376
<b>Development Code Text Amendment</b> (Type IV)	\$3,393
<b>Historic Review</b>	
Exterior Alteration (Type I and Type I-L)	\$38
New Construction (Type I and Type I-L)	\$38
Demolition/Moving (Type III)	\$626
<b>Interpretation of the Code</b>	
Quasi-Judicial (Type II)	\$626
Legislative (Type IV)	\$1,250
<b>Land Divisions</b>	
<u>Partition</u> (2 or 3 parcels)	
Tentative Plat – (Type I-L, Expedited)	\$2,002
Tentative Plat – (Type III)	\$2,879
Tentative Replat – (Type I-L)	\$250
Final Plat – (Type I)	\$505
<u>Subdivision</u> (4 or more lots)	
Tentative Plat – (Type I-L, Expedited)	\$2,253 + \$50 per lot
Tentative Plat – (Type III)	\$3,129 + \$50 per lot
Additional fee if traffic report required	\$626
Tentative Replat – (Type I-L)	\$250
Final Plat (Type I)	\$630

**Notes:**

(a) Per ORS 197.375;

(b) Plus 0.15% of development's construction value over \$150,000. Construction value excludes the cost of the land.

(c) Same fees apply to modification of an approved project.

(d) The fee for a public hearing on a tentative decision shall be paid by the applicant, not the person requesting the hearing.

**REFUND POLICY:** In cases of withdrawal of an application, refund of fees may be applicable, less costs incurred, as determined by the Director. Generally refunds of 80% will be made for a withdrawn application if it made in writing prior to the City sending out the Notice of Filing or Notice of Public Hearing and preparation of the staff report has not begun. If the notice has been sent but the staff report is not being prepared, then 50% of the application fee will be refunded. No refund will be provided for applications on which work on a staff report has begun.

**Exception:** Refund policy of an appeal of an expedited land division shall follow ORS 197.375 regulations.

There is no fee for land use applications initiated by City of Albany General Fund departments.

## PLANNING FEES (continued)

<b>Land Use Status Letter (Type I)</b>	\$53
<b>Manufactured Home Park (Type I-L)</b>	\$2,253 + \$20 per lot
Additional fee if in floodplain (Type III)	\$876
Additional fee if traffic report required	\$626
<b>Nonconforming Situations (Type II)</b>	
New Construction	\$750
No New Construction	\$376
<b>Planned Development – 3-Step Process</b>	
Preliminary (Type I)	\$1,376
Interim (Type III)	\$3,504
Final (Type I)	\$626
Additional fee if traffic report required	\$626
<b>Property Line Adjustment (Type I)</b>	\$250
<b>Request for Public Hearing (Type II)</b>	\$750 (d)
<b>Revision to Application in Process</b>	\$249
Additional fee if renotification required	\$124
<b>Revised Decision</b>	
Staff Decision (Type I, II or I-L)	\$376
PC or CC Decision (Type III or IV)	\$876
<b>Site Plan Review (c)</b>	
Option A (new construction) (Type I-L)	\$2,379 plus (b)
Option B (modify existing development) (Type I-L)	\$1,626
Option C (change of use-existing development) (Type I)	\$0
Parking Lot Modification (Type I-L, Option B)	\$876
Residential Accessory Buildings (Type I-L)	\$376
Additional fee if traffic report required	\$626
Additional fee if Design Standards apply	\$274
<b>Special Requests-Temporary Uses (Type I)</b>	
Medical Hardship; Temporary Uses; Temporary Residence	\$124
<b>Tree Felling – 5 or more</b>	
Diseased or Dangerous (Type I)	\$38
Concurrent with a development proposal (Type I-L)	\$376
Not concurrent with a development proposal (Type I-L)	\$1,000
<b>Urban Growth Boundary Amendment</b>	\$5,880
<b>Vacation (Type IV)</b>	
Public Street or Alley	\$2,002
Public Easements	\$1,753
<b>Variance (Type II)</b>	
First, or individual variance to a code section	\$750
Each additional concurrent variance to a code section	\$500
<b>Willamette Greenway (Type II)</b>	\$1,126
<b>Zoning Map Amendment (Type IV)</b>	\$3,129

**Notes:**

(a) Per ORS 197.375(6)

(b) Plus 0.15% of construction value over \$150,000. Construction value excludes the cost of the land.

(c) Same fees apply to Modification of an approved project.

(d) The fee for a public hearing on a tentative decision shall be paid by the applicant, not the person requesting the hearing.

**REFUND POLICY:** In cases of withdrawal of an application, refund of fees may be applicable, less costs incurred, as determined by the Director. Generally refunds of 80% will be made for a withdrawn application if it made in writing prior to the City sending out the Notice of Filing or Notice of Public Hearing and preparation of the staff report has not begun. If the notice has been sent but the staff report is not being prepared, then 50% of the application fee will be refunded. No refund will be provided for applications on which work on a staff report has begun.

Exception: Refund policy of an appeal of an expedited land division shall follow ORS 197.375 regulations.

There is no fee for land use applications initiated by City of Albany General Fund departments.



## MAPS AND DOCUMENTS

Purchase is optional.

<b>Development Code (text only)</b> .....	\$25.00
<b>(dividers)</b> .....	5.00
<b>(notebook)</b> .....	5.00

The Development Code contains the City's zoning regulations.

<b>Comprehensive Plan (text only)</b> .....	20.00
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The Comprehensive Plan is the policy guide to decisions about the development of the community.

<b>City of Albany Zoning/Comprehensive Plan Map B</b> .....	5.00
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Size is 2' x 2'

<b>City of Albany Street Map</b> .....	Small 3.00
.....	Large 5.00

Streets, tax lots, city limits and the Urban Growth Boundary. The Health Hazard Boundary is shown on one map.

<b>City of Albany Flood Hazard Boundary Maps (Topographic)</b> .....	5.00
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The Flood Hazard Boundary as shown within the Urban Growth Boundary and city limits – elevation contours at two-foot intervals. Areas of trees and brush, structures, streets, log ponds, lumber and storage yards, waterways, playgrounds, manufactured home parks, crops and cemeteries.  
 Scale is 1" = 100'  
 Size is 2' x 3'

<b>Topographic Maps (North Albany to Tangent)</b> .....	1" = 200', 12" x 18" 0.75
.....	1" = 100', 2' x 3' 1.50

Elevation contours shown at two foot intervals. Areas of trees and brush, structures, streets log ponds, lumber and storage yards, waterways, playgrounds, manufactured home parks, crops and cemeteries.

<b>Linn County Assessor Maps</b> .....	8 1/2" x 11" 0.75
.....	18" x 24" 1.00

Subdivision names, streets, tax lots and some acreage amounts.  
 Scale varies.

<b>Benton County Assessor Maps (North Albany)</b> .....	8 1/2" x 11" 0.75
.....	18" x 20" 1.00

Subdivision names, streets, tax lots and acreage amounts.  
 Scale varies.

<b>Oregon State Highway Map (Millersburg to Tangent)</b> .....	3.00
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Streets, highways and public buildings.  
 Scale is 1"=1,000'  
 Size is 36" x 42"

**CITY OF ALBANY BUILDING PERMIT FEES**

**1. CONSTRUCTION BUILDING PERMITS:**

**1. Non-Residential & Residential**

Total Valuation**	Fee
\$0 to \$25,000	\$50.00* for the first \$2,000 plus \$7.40 for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$220.00 for the first \$25,000 plus \$5.50 for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$360.00 for the first \$50,000 plus \$4.30 for each additional \$1,000 or fraction
\$100,001 and up	\$575.00 for the first \$100,000 plus \$3.20 for each additional \$1,000 or fraction

\*Maximum of one inspection.

\*\*See Valuation Table located on previous page.

~~Total Valuation Fee (value of construction is determined by the Building Official)~~

~~\$0 to \$25,000 ————— \$50.00\* for the first \$2,000 plus \$7.40 for each additional \$1,000 or fraction~~

~~\$25,001 to \$50,000 ————— \$220.00 for the first \$25,000 plus \$5.50 for each additional \$1,000 or fraction~~

~~\$50,001 to \$100,000 ————— \$360.00 for the first \$50,000 plus \$4.30 for each additional \$1,000 or fraction~~

~~\$100,001 and up ————— \$575.00 for the first \$100,000 plus \$3.20 for each additional \$1,000 or fraction~~

~~\*Maximum of one inspection. See No. 8, MISCELLANEOUS INSPECTIONS, for required additional inspections and plan review fees.~~

**Plus 12% state surcharge**

**Plus \$1.00 per square foot residential and \$.50 per square foot commercial School Construction Excise Tax.**

**Plus Document Imaging Charge of \$1.00 per page**

**2. PLUMBING PERMITS:**

**New 1 & 2 Family Dwelling**

Fee includes the first 100 ft of water and sewer service, hose bibbs, icemakers, underfloor low-point drains and rain drain packages that include the piping, gutters, downspouts and perimeter system.

Note: A half bath is equivalent to a single bathroom.

One Bathroom & Kitchen .....\$313.00

EXHIBIT A

Two Bathrooms & Kitchen.....	363.00
Three Bathrooms & Kitchen.....	413.00
Each additional Bath/Kitchen.....	50.00

**Commercial, Multifamily, Manufactured Dwellings, 1 & 2 Family Dwelling  
New\*, Additions, Alterations, Repairs, & Accessory Structures**

\*Excludes 1 & 2 Family Dwelling, see fee schedule above.

Backflow preventer (water) .....	\$50.00
Backwater valve (storm sewer).....	50.00

Base permit fee .....	\$50.00
plus Plumbing fixture or items (per fixture or item).....	10.00
Includes: Absorption valve, clothes washer, dishwasher, drinking fountain, ejectors/sump, expansion tank, floor drain/sink/tub, garbage disposal, hose bibb, icemaker, primer, sewer cap, sink/basin/lavatory, tub/shower/shower pan, urinal, water closet, other fixtures or items not named above.	

Sewer:

First <del>50</del> 50 feet.....	<del>\$33.00</del> 33.00
For each additional 100 feet or portion.....	<del>28.00</del> 28.00

Water service:

First <del>50</del> 50 feet.....	<del>\$33.00</del> 33.00
For each additional 100 feet or portion.....	<del>28.00</del> 28.00

Storm and rain drain:

First <del>50</del> 50 feet.....	<del>\$33.00</del> 33.00
For each additional 100 feet or portion.....	<del>28.00</del> 28.00

Manufactured home space (if not covered by siting fee) .....	\$28.00
Gas water heater.....	\$7.00
Plumbing Plan Review – When required or requested.....	25% of the permit fee
Minimum permit fee .....	50.00

~~Manufactured home space .....~~ ~~28.00~~

~~Minor labels (10).....~~ ~~110.00~~

~~Gas Water Heater.....~~ ~~7.00~~ Medical gas (per outlet)

~~10.00~~

~~plus: medical gas piping .....~~ ~~22.00/floor~~

~~medical vacuum system .....~~ ~~22.00/floor~~

**Medical Gas Installation**

Fees based on valuation of installation costs and system equipment, including but not limited to, inlets, outlets, fixtures and appliances (rounded up to the nearest dollar).

<b>Total Valuation**</b>	<b>Fee</b>
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EXHIBIT A

\$0 to \$25,000	\$50.00* for the first \$2,000 plus \$7.40 for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$220.00 for the first \$25,000 plus \$5.50 for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$360.00 for the first \$50,000 plus \$4.30 for each additional \$1,000 or fraction
\$100,001 and up	\$575.00 for the first \$100,000 plus \$3.20 for each additional \$1,000 or fraction

\*Maximum of one inspection.

Minimum permit fee .....\$50.00

Plumbing plan review\*\* .....25 % of the permit fee

\*\*Plan review is required on all Medical Gas Installations

Plus 12% state surcharge

Plus Document Imaging Charge of \$1.00 per page

3. MECHANICAL PERMITS:

1 & 2 Family Dwelling/ Manufactured Dwellings:

New, Additions, Alterations, Repairs, & Accessory Structures

Base permit fee ..... ~~\$50.00~~ \$50.00

Unit Fee Schedule:

Wood stove – freestanding/insert (pellet stove) .....\$17.00  
 Gas Stoves – freestanding/insert .....39.00  
 Additional gas appliances .....7.00  
 Air conditioner/compressor or forced-air or gravity-type furnace or burner, including ducts and vents  
 to and including 100,000 Btu/h .....7.00  
 over 100,000 Btu/h .....8.50  
 Each ventilation fan connected to a single duct .....3.50  
 Other equipment .....7.00

Remodel:

Each duct line extension .....\$7.00 ea  
 Each gas line extension or outlet .....7.00 ea

~~Other appliance or piece of equipment not named above .....0.00~~

~~Wood stove – freestanding/insert (pellet stove) .....\$17.00~~

~~Gas stoves – freestanding/insert .....39.00~~

~~Additional gas appliances .....7.00~~

~~Air conditioner/compressor or forced-air or gravity-type furnace or burner, including ducts and~~

EXHIBIT A

vents	
to and including 100,000 Btu/h .....	\$7.00
over 100,000 Btu/h .....	8.50
Each ventilation fan connected to a single duct .....	5.00
Other equipment .....	7.00 each
<b>Remodel:</b>	
Each duct line extension .....	\$7.00
Each gas line extension or outlet .....	7.00

**Commercial & Multifamily: New, Alterations, Additions, Repairs, & Accessory Structures**

The valuation used to determine the commercial mechanical permit fee shall include the value (rounded up to the nearest dollar) of all mechanical materials, equipment, labor, overhead and profit.

Total Valuation**	Fee
\$0 to \$25,000	\$50.00* for the first \$2,000 plus \$7.40 for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$220.00 for the first \$25,000 plus \$5.50 for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$360.00 for the first \$50,000 plus \$4.30 for each additional \$1,000 or fraction
\$100,001 and up	\$575.00 for the first \$100,000 plus \$3.20 for each additional \$1,000 or fraction

\*Maximum of one inspection.

Mechanical Plan Review – When required or requested ..... 25% of the permit fee

Plus 12% state surcharge

Plus Document Imaging Charge of \$1.00 per page

4. PLAN REVIEW:

**Non-Residential & Residential**

65% of building permit fee PLUS 25% of plumbing when required and mechanical permit fees for the review of applicable requirements such as limit controls, storm drainage, fixture clearances, ventilation, combustion air, etc. Hourly rate for additional or predevelopment consultation plan review/research is ~~\$50.00~~ \$50.00 per hour. 40% of building permit fee for fire/life safety on commercial permits.

Plus land use plan review for building permits:

Minimum ..... ~~\$50~~ \$50/hr (1/2 hr. min.)<sup>+</sup>

Plus floodplain/flood hazard zone review:

5% of building permit fee when project is within flood hazard zone.



EXHIBIT A

Third-party plan review .....	<del>50</del> 50/hr ( <del>\$100.00</del> 2 hr min.)
Application for alternate materials and methods; or <del>Of R</del> review of non-code state-approved items.....	<del>50</del> 50/hr ( <del>\$100.00</del> 2 hr min.)

5. PARKING LOT PERMITS:

1 - 25,000 square feet .....	\$0.04/sq. ft.
25,001 - 99,999 square feet .....	0.025/sq. ft.
100,000 and more square feet.....	0.01/sq. ft.
Remodel/review .....	0.02/sq. ft.
plus \$ <del>50</del> 50/hr review ( <del>\$100</del> 2 hour min.)	

New parking lot plan review..... 65% of permit fee

Plus Document Imaging Charge of \$1.00 per page

6. MANUFACTURED HOME PERMITS:

Manufactured home setup.....	<del>\$167.00</del> \$222.50
plus 12% state surcharge.....	<del>11.69</del> 26.70
State fee .....	30.00

~~NOTE: See plumbing, electrical and mechanical sections for additional fees.~~

~~\$167~~222.50 installation fee allows three inspections total. These include the stand and lot preparation, all support blocking, Earthquake-Resistant Bracing System (ERBS), flood and wind anchoring devices, perimeter skirting, underfloor access and ventilation, mechanical crossovers and terminations and temporary steps. ~~(this fee does not include plumbing or electrical connection permit fees).~~ This fee also includes electrical feeder, plumbing connections, and all cross-over connections. Accessory structures, utility connections beyond 30 lineal feet and/or new or additional electrical services or plumbing may require additional permits. This permit does not include an electrical service.

Plus Document Imaging Charge of \$1.00

7. MISCELLANEOUS PERMITS/FEES:

Minimum permit fee .....	\$35.00
Moving a building .....	<del>56</del> 56.00
Demolition .....	<del>40</del> 40.00
plus plumbing fee also assessed if sewer is to be capped	
Change of occupancy .....	<del>100.00</del> 100.00
plus research fee.....	<del>\$50</del> 50.00/hr

Address reassignment or change ..... 35.00

Deferred Submittal\*\* ..... 25% of building permit fee calculated using  
(Applies to both separate and combo permits)..... value of deferred portion(s)  
.....\$50.00 minimum

~~deferred~~

Phased Project\*\* ..... In addition to regular permit fees, 10% of total  
..... project building permit fee for each phase.  
.....\$50.00 minimum, not to exceed \$1,500 for each phase.

\*\* In addition to plan review fees.

Reinspection Fee ..... 50.00/ hr (1 hr min.)

8. MISCELLANEOUS INSPECTIONS:

Minimum ..... \$50.00

Investigation Fees: Costs for additional inspections/review/engineering required for investigations needed by the Building Official shall be recovered at cost plus 30% overhead. These activities may include, but are not limited to, actions necessary to issue a new or revised Certificate of Occupancy, costs associated with third-party review, complaint investigation, additional inspections, annual reviews, etc.

Plus 12% state surcharge

Plus Document Imaging Charge of \$1.00 per page

9. SIGN PERMITS:

Base (Minimum)..... \$28.00

Structural inspection and review covered under Construction Permits/Plan Review.

Freestanding and projecting signs (per sq. ft.) ..... 0.50

All other signs (per sq. ft.) ..... 0.40

Temporary Signs (initial cost)..... 11.00

Plus Document Imaging Charge of \$1.00 per page

9. MISCELLANEOUS INSPECTIONS:

Minimum ..... \$500.00

~~Investigation Fees: Costs for additional inspections/review/engineering required for investigations needed by the Building Official shall be recovered at cost plus 30% overhead. These activities may include, but are not limited to, actions necessary to issue a new or revised Certificate of Occupancy, costs associated with third-party review, complaint investigation, additional inspections, annual reviews, etc.~~

Plus 12% state surcharge

10. ELECTRICAL PERMITS:



EXHIBIT A

RESIDENTIAL PER UNIT:

1000 sq. ft. or less.....	<del>\$94.50</del> 94.50
Each additional 500 sq. ft. or portion.....	<del>16.50</del> 16.50
Limited energy (in conjunction with above or other permit only).....	<del>25</del> 25.00
Each manufactured home/modular service/feeder .....	<del>44.50</del> 44.50

SERVICES OR FEEDERS:

Installation, Alterations or Relocation – no circuits included

200 amps or less .....	<del>\$55.50</del> 55.50
201 to 400 amps.....	<del>66.50</del> 66.50
401 to 600 amps.....	<del>89.00</del> 89.00
601 to 1000 amps.....	<del>144.50</del> 144.50
<del>Over 600 amps or</del> 1000+ amps or volts .....	<del>333.50</del> 333.50
Reconnect only .....	<del>39.00</del> 39.00*

TEMPORARY SERVICES OR FEEDERS:

Installation, Alterations, or Relocation

200 amps or less .....	<del>\$ 39.00</del> 39.00
201 to 400 amps.....	<del>44.50</del> 44.50
401 to 600 amps.....	<del>89.00</del> 89.00
1000+ <del>600</del> amps or volts <del>1000 volts</del> .....	<del>333.50</del> 333.50

BRANCH CIRCUITS:

New, alteration, or extension per panel

Branch circuits with purchase of service or feeder fee.....	<del>\$ 2.25</del> 2.25 each
Branch circuits without purchase of service or feeder fee.....	<del>39.00</del> 39.00
Each additional .....	<del>2.25</del> 2.25

MISCELLANEOUS:

Service or feeder NOT included

<del>Minor labels (10)</del> .....	<del>\$110.00</del>
Pump or irrigation circle .....	<del>40.00</del> \$40.00
Sign or outline lighting .....	<del>40.00</del> 40.00
Signal circuits or limited energy panel, alteration/extensions .....	<del>40.00</del> 40.00
Fire alarm panel, see Section 11	

ADDITIONAL INSPECTION FEES OVER THE ALLOWABLE IN ANY OF THE ABOVE:

Per inspection .....	<del>\$39.00</del> 39.00
Miscellaneous hourly fee for inspections and industrial plant inspections.....	<del>65.00</del> 65.00

Plus 12% state surcharge

Plus Document Imaging Charge of \$1.00 per page

PLAN REVIEW FEE:

25% of electrical permit, if required (see application).



11. FIRE SPRINKLER PERMITS:

**Residential Fire Suppression Systems**

*\*Fee includes plan review* **SYSTEMS AND DEVICES:**

Add/replace valves, attachments or devices.....	\$ 42.50 each
Fire pump installation or replacement (less than 1000 gpm).....	100.00 each
Fire pump installation or replacement (1000 gpm or more).....	200.00 each
Hood suppression systems (per hood).....	80.00

Hydrants (including PIVs)

1 to 3.....	\$180.00
More than 3.....	60.00 each

New, lower/raise, and relocate fire sprinkler heads

1 to 25.....	75.00
26 to 50.....	125.00
51 to 100.....	200.00
101 to 200.....	285.00
201 to 300.....	325.00
301 to 500.....	480.00
501 to 1000.....	1000.00
1001 to 2000.....	1740.00
2001 to 3000.....	2250.00
3001 to 4000.....	2680.00
4001 to 5000.....	2850.00
5001 to 6000.....	3000.00
over 6000 fire sprinkler heads, for the first 6000.....	2000.00
each 100 heads or fraction thereof over 6000.....	20.00

Each riser..... 50.00

Hydrostatic test (per riser)..... 40.00

Flush test (per test/per riser)..... 40.00

Storage tank (in addition to separate building permit)..... 150.00

**Plus 12% state surcharge**

Square Footage	Fee
0 to 2,000 SF	\$200.00
2,001 to 3,600 SF	\$250.00
3,601 to 7,200 SF	\$325.00
7,201 SF +	\$410.00

**Note: WIRSBO systems require licensed plumber to perform work.**

**Separate plumbing permit may be required for all systems.**

**Commercial Fire Suppression Systems**

Add/replace valves, attachments or devices.....	\$ 42.50 each
Fire pump installation or replacement (less than 1000 gpm).....	100.00 each
Fire pump installation or replacement (1000 gpm or more).....	200.00 each
Hood suppression systems (per hood).....	80.00
Hydrants (including PIVs)	
1 to 3.....	\$180.00
More than 3 .....	60.00 each
New, lower/raise, and relocate fire sprinkler heads	
1 to 25.....	\$75.00
26 to 50.....	125.00
51 to 100.....	200.00
101 to 200.....	285.00
201 to 300.....	325.00
301 to 500.....	480.00
501 to 1000.....	1000.00
1001 to 2000.....	1740.00
2001 to 3000.....	2250.00
3001 to 4000.....	2680.00
4001 to 5000.....	3850.00
5001 to 6000.....	3000.00
over 6000 fire sprinkler heads, for the first 6000.....	2000.00
each 100 heads or fraction thereof over 6000 .....	20.00
Each riser .....	\$50.00
Hydrostatic test (per riser).....	40.00
Flush test (per test/per riser) .....	40.00
Storage tank (in addition to separate building permit) .....	150.00

PLAN REVIEW FEE:

40% of fire sprinkler permit (~~\$50~~50.00 minimum).

Revisions .....

\$~~50~~50.00/ hr. (1+ hr min.)

Additional inspections/plan review as required by Building Official .....

~~50~~50.00/hr

Plus 12% state surcharge

Plus Document Imaging Charge of \$1.00 per page

**12. FIRE ALARM PERMITS:**

**\*\*Separate electrical permit required in addition:**

Each riser .....	<del>\$50.00</del> 50.00
Fire alarm control panel.....	<del>50.00</del> 50.00

SIGNAL INITIATING AND NOTIFICATION TYPES:

Signal initiating devices: detectors, manual pull stations, water flow, tamper switches

1-10 .....	<del>\$50.00</del> 50.00
11-20 .....	<del>75.00</del> 75.00
Each additional 30 (or fraction thereof).....	<del>25.00</del> 25.00



EXHIBIT A

Notification devices: bells, chimes, strobes, horns, annunciators, etc.

1-10 .....	<del>\$50.00</del> 50.00
11-20 .....	<del>75.00</del> 75.00
Each additional 30 (or fraction thereof).....	<del>25.00</del> 25.00

Plus 12% state surcharge

Plus Document Imaging Charge of \$1.00 per page

PLAN REVIEW:

40 % of fire alarm permit, ~~\$50.00~~50.00 minimum.

Each permit receives up to 3 rough and up to 2 final inspections, 1 hour each, at no additional charge. Permit fees are based on one hour per inspection. ~~Permit fees are based on one hour per inspection.~~



TO: Albany City Council

VIA: Wes Hare, City Manager  
Diane Taniguchi-Dennis, P.E., Public Works Director *Diane Dennis*

FROM: Mike Wolski, Assistant PW Director/Operations Manager  
Herb Hoffer, Environmental Services Manager

DATE: December 11, 2008, for the December 17, 2008, City Council Meeting

SUBJECT: Adoption of Revisions to Albany Municipal Code Chapter 10.06  
Albany's Pretreatment Program Plan to meet EPA Pretreatment Streamlining Regulations

RELATES TO STRATEGIC PLAN THEME: ● An Effective Government  
● A Safe City

Action Requested:

City Council approval is needed for related revisions to the Albany Municipal Code Chapter 10.06 (Attachment A). This information was part of the December 8, 2008, Council meeting agenda, but due to time restraints, was not presented.

Discussion:

These mandatory and optional changes to Albany's Industrial Pretreatment Program are in response to the revised Federal Environmental Protection Agency (EPA) streamlining regulations. The revised EPA regulations require changes to the Albany Municipal Code Chapter 10.06 and these changes need Council approval.

EPA made changes to the pretreatment regulations found in 40 CFR Part 403 effective November 14, 2005, and these revisions are termed the "Streamlining Regulations." The revisions were developed to align more closely with EPA's permitting regulations and provide pretreatment programs greater flexibility. The Oregon Department of Environmental Quality (DEQ) provided guidance throughout the State of Oregon allowing flexible schedules tailored to specific jurisdictions. Albany submitted a streamlining plan to DEQ that outlined revisions to our pretreatment program (proposed ordinance modifications, revisions to the enforcement response plan, and other procedural changes), and we followed this up with a submittal of our program revisions. Albany's program changes including the proposed AMC revisions were submitted to DEQ for review, and DEQ approval was obtained in a letter dated July 21, 2008.

Environmental Services staff invited potentially affected industrial sewer users, including all permit holders, to a public information meeting held on July 23, 2008. Along with the meeting notification, information on the regulation changes was provided. Several industrial representatives attended the meeting and there were no significant concerns expressed regarding the proposed program changes. In addition, the Albany Municipal Code Chapter 10.06 changes were reviewed by the City Attorney, and he approved the revisions in October 2008.

In general, the EPA regulatory revisions affect the way Cities monitor and regulate industrial sewer users that discharge wastewater to treatment systems, and DEQ has classified these changes as non-substantial. Included in this memorandum are staff proposals for adoption of specific required and optional changes allowed under the rule. The Code changes include other minor revisions needed to comply with EPA's Model Ordinance.

The following pretreatment program documents have been revised to comply with the EPA streamlining regulations:

- Albany Municipal Code Chapter 10.06, *Wastewater Collection and Treatment System – Regulation of Industrial Wastes*
- Standard Operating Procedures (SOPs) used by the pretreatment program including SOPs for sampling, inspections, receipt of reports, and the City's Enforcement Response Plan
- Industrial Wastewater Discharge Permit template

### Background

#### **Albany's Pretreatment Program**

The Environmental Services section of Public Works manages the Industrial Pretreatment Program as mandated by the Clean Water Act and promulgated in Federal Regulations 40 CFR Part 403. Our local authority to operate the pretreatment program is in Albany Municipal Code Chapter 10.06. Programs in the state of Oregon are subject to Oregon DEQ oversight under the authority of the EPA. Provisions of AMC Chapter 10.06 allow the City to:

- Identify Significant Industrial Users (SIUs) in the system.
- Deny or control pollutants entering the system.
- Require compliance with applicable pretreatment standards.
- Control through permit or other mechanism discharges into the system.
- Require compliance schedules and industry self-monitoring.
- Carry out inspections & sampling of SIUs.
- Carry out enforcement including assessment of civil penalties.

#### **Albany's pretreatment streamlining revisions**

The new rule contains twelve change categories; eight are optional and four are required. The following is a summary of the major elements of the rule. A brief description of each rule change and staff proposal/rationale is included below:

- 1. Pollutants not Present** – Provides Publicly Owned Treatment Works (POTWs) the authority to grant monitoring waivers to certain facilities if they can document that specific pollutants are not present at the facility or anywhere in the wastestream.

Required/Optional: **Optional**

Staff proposal: **Adopt**

Discussion: Environmental Services staff proposes to allow industrial dischargers that meet qualifying requirements to take advantage of this streamlining rule. Facilities must follow EPA's procedure to demonstrate that a pollutant is not present and provide certification statements.

- 2. General Control Mechanisms** – Authorizes POTWs to use general control mechanisms (e.g. special permits) to regulate multiple industrial dischargers that share common characteristics.

Required/Optional: **Optional**

Staff proposal: **Do not adopt**

Discussion: This streamlining rule has limited or no applicability to the Albany program. Specifically, this option was developed for use by very large cities with numerous permit holders that have very similar permitting requirements. Albany does not have groups of industrial dischargers that share common characteristics.

- 3. Best Management Practices (BMPs) as Local Limits** – Clarifies that jurisdictions can use BMPs as an alternative to numeric limits that are developed to protect the treatment plant, water quality, and sewage sludge.

Required/Optional: **Optional**

Staff proposal: **Adopt**

Discussion: Environmental Services proposes to allow industrial dischargers that meet qualifying requirements to take advantage of this streamlining rule. BMPs are management and operational procedures that are intended to prevent pollutants from entering a facility's wastestream. BMPs can be useful in instances where sampling and measurement of pollutants is difficult, where discharges are episodic in nature, and where other discharge control options are inappropriate.

- 4. Slug Discharge Control Plans** – Clarifies certain requirements regarding the frequency of review including on-site industrial facility inspections to evaluate the adequacy of controls for slug discharges (exceptional high strength or uncontrolled overflows) into the sanitary sewer.

Required/Optional: **Required**

Staff proposal: **Adopt**

Discussion: Currently Albany requires review and revision, if needed, of all slug discharge control plans every two years, as stated in SIU permits. This revision will allow review of slug discharge plans once per permit cycle if staff determines this is warranted. Permit cycles are generally four years.

- 5. Use of Equivalent Concentration Limits** – Provides the City with the discretion to authorize the use of equivalent concentration limits in lieu of mass based discharge limits for certain industrial categories, and allows the conditional use of equivalent mass limits in lieu of concentration-based limits where appropriate to facilitate adoption of water-conserving technologies.

Required/Optional: **Optional**

Staff proposal: **Adopt**

Discussion: Application of this revision is limited to specific Federal industrial categories, and one industry in Albany could be affected (Absorbent Technologies Inc). Concentration based limits would encourage water conservation at this industry and potentially simplify the regulatory burden on pretreatment staff and the industry.

- 6. Grab vs. Composite Samples** – Clarifies and updates sampling requirements.

Required/Optional: **Required**

Staff proposal: **Adopt**

Discussion: Provides additional flexibility to the City in certain sampling situations. Allows the City to reduce and/or modify sampling requirements in certain situations for industrial dischargers.

- 7. Significant Noncompliance (SNC) Publication** – Allows DEQ-required publication of industrial dischargers which are found to be in SNC, in any paper of general circulation within the jurisdiction that provides meaningful public notice.

Required/Optional: **Optional**

Staff proposal: **Do not adopt**

Discussion: This rule does not affect Albany, since there is one paper of general circulation within the jurisdiction, the *Albany Democrat-Herald*, and we already publish the public notice in this newspaper.

- 8. Changes to the SNC Definition** – Clarifies the definition of SNC as it applies to violations of instantaneous and narrative requirements, as well as late reports.

Required/Optional: **Required**

Staff proposal: **Adopt**

Discussion: EPA amended applicability of SNC, limiting SNC applicability to SIUs, unless other non-domestic users cause pass through or interference, cause the City to exercise its emergency authority to halt or prevent a discharge; cause imminent endangerment to human health, welfare, or the environment; or adversely affect the pretreatment program. EPA expanded the SNC definition to include any numeric pretreatment standard or requirement, including instantaneous limits. EPA also changed the rule regarding SNC for late required reports, extended the 30-day deadline to 45 days for SNC.

- 9. Removal Credits** – Provides updated references relating to requirements that POTWs must meet to adjust removal credits for Combined Sewer Overflows (CSOs).

Required/Optional: **Optional**

Staff proposal: **Do not adopt**

Discussion: Currently Albany has not issued removal credits, and we do not anticipate any effects from this regulation change. This option does not pertain to our program since we do not have combined sewers.

- 10. Miscellaneous Changes** – Updates or corrects provisions on signatory requirements, net/gross calculations, and requirement to report all monitoring data.

Required/Optional: **Required**

Staff proposal: **Adopt**

Discussion: Albany must ensure that rule revisions regarding signatory requirements and duly authorized representatives are incorporated in legal authority and permits. Albany must ensure that applicable legal authority revisions are made to comply with the changed language for net/gross calculations. Albany must ensure that applicable legal authority revisions and any applicable permit revisions are made to require reporting of all monitoring data.

- 11. Equivalent Mass Limits for Concentration Limits** – Allows the City to calculate an equivalent mass limit for industrial user permits for those pretreatment standards that are expressed in terms of concentration.

Required/Optional: **Optional**

Staff proposal: **Do not adopt**

Discussion: The eligibility conditions for an industry to use equivalent mass units are complex, including requirement of a water conservation plan, wastewater flow measurement, records of production rates, and other conditions. Production and discharge levels are not allowed to fluctuate significantly. Staff believes that industries are better served by maintaining pretreatment equipment and meeting the applicable concentration limits.

- 12. Classification Scheme for Certain Industries** – Allows greater flexibility in classification of federal categorical industries (industries that fall under specific federal standards), including options for POTWs to create Non-Significant Categorical Industrial Users (NSCIUs), and Middle Tier Categorical Industrial Users.

Required/Optional: **Optional**

Staff proposal: **Do not adopt**

Discussion: This streamlining rule has limited applicability to Albany's program. Currently there are no industries in our area with discharges that meet EPA's designated criteria for categorization as Middle Tier Categorical Industrial Users (CIUs). We believe that our current requirements for inspection and monitoring of CIUs are appropriate. Also, Albany has several very complex Non Discharging Categorical Industrial Users (NDCIUs), and we do not want to open the door for selected wastestreams from these NDCIUs under the tiered program.

**Summary**

Environmental Services staff studied EPA's regulatory revisions to 40 CFR Part 403, and we conferred with DEQ and industrial sewer users on our plan for adoption of required and selected optional program changes. The changes are supported by revisions to AMC Chapter 10.06. A program revision package was submitted to DEQ for review and approval, and DEQ approval was obtained allowing us to proceed with the changes. Changes are considered minor or non-substantial by DEQ. Staff requests Council adopt these revisions to AMC Chapter 10.06.

**Budget Impact:**

No significant budget impacts are expected. Additional staff time has been required to develop and incorporate the regulation changes into the pretreatment program permitting process.

HH:kw



AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE TITLE 10.06 TO COMPLY WITH FEDERAL REGULATIONS REGARDING THE INDUSTRIAL PRETREATMENT PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS, the Federal Environmental Protection Agency (EPA) has revised industrial pretreatment regulations affecting the City of Albany's pretreatment program; and

WHEREAS, the City of Albany desires industrial wastewater pretreatment regulations found in the Albany Municipal Code to be current and compliant with Federal and State regulations; and

WHEREAS, the City of Albany desires to amend the Municipal Code dedicated to industrial pretreatment regulations.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Title 10.06 of the Albany Municipal Code is hereby amended to incorporate the language herein:

**Chapter 10.06**  
**WASTEWATER COLLECTION AND TREATMENT SYSTEM – REGULATION**  
**OF INDUSTRIAL WASTES**

Sections:

- 10.06.010 General provisions.
- 10.06.020 Abbreviations.
- 10.06.030 Definitions.
- 10.06.040 Regulations.
- 10.06.050 Hauled waste.
- 10.06.060 Administration.
- 10.06.070 **Reporting and Monitoring Requirements.**
- 10.06.0780 Pretreatment facilities.
- 10.06.0890 Enforcement.
- 10.06.090100 Penalties.
- 10.06.100110 Severability.

**10.06.010 General provisions.**

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

(1) Purpose and Policy. This chapter sets forth uniform requirements for discharges into the wastewater treatment system and enables the City of Albany (City), to protect public health and the environment in conformity with all applicable State and Federal laws relating thereto.

The objectives of this chapter are:

- (a) To protect the health of the City employees working in the City wastewater treatment system;
- (b) To prevent the introduction of pollutants into the City wastewater treatment system that will interfere with the normal operation of the system, or contaminate the resulting sludge;

(c) To prevent the introduction of pollutants into the City wastewater treatment system that do not receive adequate treatment in the publicly owned treatment works (POTW) and that will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;

(d) To improve the opportunity to recycle and reclaim wastewater and sludge from the system; and

(e) To allow the use of fees and charges to recover the costs of operation, maintenance, and administration of the wastewater treatment system.

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

(3) Compliance with Standards. Pollutants shall be accepted into the City wastewater treatment system subject to regulations and requirements as may be promulgated by State and Federal regulatory agencies or the City of Albany for the protection of wastewater facilities and treatment processes, public health and safety, receiving water quality, and avoidance of nuisance. As a minimum, users of the City wastewater treatment system shall comply with the applicable pretreatment standards. Pretreatment standards shall be developed to ensure that at a minimum the City and users comply with Sections 307(b) and 307(c) of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and the regulations promulgated pursuant to these sections of the Act.

(4) Permit Conditions. Wastewater discharge permit conditions shall be predicated on federal, state, and local regulations and requirements and on the results of analysis of the type, concentration, quantity, and frequency of discharge including the geographical relationship of the point of discharge to the POTW. These permit conditions shall be reevaluated upon expiration of the permit and may be revised from time to time as required to remain consistent with local, state, or federal laws, regulations, and requirements or to meet any emergency. Wastewater discharge permits may include, but shall not be limited to, conditions pertaining to discharge standards, self-monitoring requirements, treatment methods, housekeeping practices, inventory storage, manufacturing methods, etc., that are intended to protect the waters of the State.

(5) This chapter shall apply to the City of Albany and to persons outside the City of Albany who are, by contract or agreement with the City of Albany, users of the City of Albany POTW. Except as otherwise provided herein, the Director of Public Works of the City of Albany shall administer, implement, and enforce the provisions of this chapter. (Ord. 5637, 2006).

#### **10.06.020 Abbreviations.**

The following abbreviations shall have the designated meanings:

- ASPP – Accidental Spill Prevention Plan;
- ASTM – American Society for Testing and Materials;
- BOD – Biochemical Oxygen Demand;
- BMP – Best Management Practice;**
- CFR – Code of Federal Regulations;
- COD – Chemical Oxygen Demand;
- CWA – Clean Water Act;
- DEQ – Oregon Department of Environmental Quality;
- EPA – U.S. Environmental Protection Agency;
- L – Liter;
- mg – Milligrams;
- mg/L – Milligrams per liter;
- NDCIU – Nondischarging Categorical Industrial User;
- NPDES – National Pollutant Discharge Elimination System;
- O & M – Operation and Maintenance;
- POTW – Publicly Owned Treatment Works;
- SIC – Standard Industrial Classification;
- SWDA – Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.;

TSS – Total Suspended Solids;  
USC – United States Code. (Ord. 5637, 2006).

### 10.06.030 Definitions.

For the purposes of this section, the following words, phrases, abbreviations, terms and their derivatives shall be construed as specified in this section. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine, and the feminine the masculine:

- (1) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- (2) Applicable Pretreatment Standards. For any specified pollutant, City prohibitive discharge standards, City's specific limitations on discharge, State of Oregon Pretreatment Standards, or Categorical Pretreatment Standards (when effective), whichever standard is most stringent.
- (3) Applicant. A person who applies for sewer service or a sewer connection.
- (4) Approval Authority. The Oregon Department of Environmental Quality (DEQ).
- (5) ~~Authorized or Duly Authorized Representative of Industrial User. An authorized representative of an industrial user shall be:~~
  - (a) **If the user is a corporation:**
    - (i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - (ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulation; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b) **If the user is a partnership or sole proprietorship:** a general partner or proprietor, respectively.
  - (c) **If the user is a Federal, State, or local governmental facility:** a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - (d) **The individuals described in (a)-(c) above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for the environmental matters for the company, and the written authorization is submitted to the Director.**
    - ~~(a) A principal executive officer of at least the level of vice president, if the industrial user is a corporation;~~
    - ~~(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or~~
    - ~~(c) 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.~~
- (6) **Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in AMC 10.06.040(1). BMPs include but are not limited to treatment requirements,**

**operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.**

- (7) ~~(6)~~Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).
- (8) ~~(7)~~Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
- (9) ~~(8)~~Categorical Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) that applies to a specific category of industrial users and that appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471, incorporated herein by reference.
- (10) ~~(9)~~City. The City of Albany, a municipal corporation of the State of Oregon.
- (11) ~~(10)~~City Manager. The person designated by the Albany City Council to act as the administrative head of the City government and who is charged with certain duties and responsibilities by this chapter or the duly authorized representative.
- (12) ~~(11)~~Commercial User. Any person who contributes, causes or permits the contribution of wastewater into the City's POTW that by nature of the services rendered is of a dissimilar volume or chemical makeup than that of a domestic user. Examples of commercial users may include but are not limited to restaurants, grocery stores, and car washes.
- (13) ~~(12)~~Control Authority. The Director of Public Works for the City of Albany.
- (14) ~~(13)~~Cooling Water. The water discharged from any use such as air conditioning, cooling, or refrigeration, to which the only pollutant added is heat.
- (15) ~~(14)~~Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.
- (16) ~~(15)~~Director/Director of Public Works. The person designated by the City Manager to supervise the Public Works Department and who is charged with certain duties and responsibilities by this chapter or the duly authorized representative.
- (17) ~~(16)~~Discharge. The discharge or introduction of pollutants into the municipal wastewater treatment system from any nondomestic user.
- (18) ~~(17)~~Discharger/Industrial Discharger. Any nondomestic user who discharges an effluent into the wastewater treatment system by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- (19) ~~(18)~~Domestic Sewage or Domestic Waste. The liquid and waterborne wastes derived from the ordinary living processes, free from industrial wastes, and of such character as to permit satisfactory disposal, without special treatment, into the public sewer or by means of a private sewage disposal system.
- (20) ~~(19)~~Domestic User. Any person who discharges only domestic waste.
- (21) ~~(20)~~Domestic Water Supply. Any water supply system that serves potable water and may include for the purposes of this chapter, wells that supply potable water.
- (22) ~~(21)~~Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.
- (23) ~~(22)~~Garbage. The residue from the preparation and dispensing of food, and from the handling, storage, and sale of food products and produce.
- (24) ~~(23)~~Grab Sample. A sample that is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (25) ~~(24)~~Hauled Waste. Waste including septage, wastewater, or chemical toilet waste that is hauled for discharge into the City wastewater treatment system.
- (26) ~~(25)~~Indirect Discharge. The discharge or the introduction of pollutants from an industrial user into a POTW.
- (27) ~~(26)~~Industrial User. Any person, including a waste hauler, that discharges wastewater that is not domestic waste.

- (28) ~~(27)~~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.
- (29) **Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.**
- (30) ~~(28)~~Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources:
- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
  - (b) Is a cause of a violation of any requirements of the NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.
- (31) **Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR Part 403.5.**
- ~~(29)National Pretreatment Standard. National pretreatment standard is defined in 40 CFR 403.3(j) as any regulation containing pollutant discharge limits promulgated by EPA under Section 307(b) and (c) of the Clean Water Act applicable to industrial users, including the general and specific prohibitions found in 40 CFR 403.5.~~
- (32) ~~(30)~~Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- (33) ~~(31)~~New Source.
- (a) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act that will be applicable to such sources if such standards are thereafter promulgated in accordance with that section, provided that:
    - (i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
    - (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
    - (iii) 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.
  - (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
  - (c) Construction of a new source as defined herein has commenced if the owner or operator has:
    - (i) Begun, or caused to begin as part of a continuous on-site construction program:
      - (1) Any placement, assembly, or installation of facilities or equipment; or
      - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for placement, assembly, or installation of new source facilities or equipment; or

- (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.
- (34) ~~(32)~~ Nondischarging Categorical Industrial User (NDCIU). Any facility or industry having a connection to the City sewer system and having industrial processes that would otherwise be subject to national categorical pretreatment standards, but having no process wastewater discharge.
- (35) ~~(33)~~ Other Wastes. Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastes.
- (36) ~~(34)~~ Pass Through. The occurrence of an indirect discharge that exits the POTW into waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (37) ~~(35)~~ Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.
- (38) ~~(36)~~ pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (39) ~~(37)~~ Plumbing Fixture. Approved receptacle or devices intended to receive water, liquids or other permissible wastes, and that discharge the same into the soil pipe, waste pipe or special waste pipe with which they are connected and shall include all floor drains.
- (40) ~~(38)~~ Pollutant. Any dredged spoil, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
- (41) ~~(39)~~ Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into a POTW.
- (42) ~~(40)~~ Pretreatment Requirement. Any substantive or procedural requirement **related to pretreatment imposed on a User, other than a Pretreatment Standard.** ~~other than a national pretreatment standard, imposed on an industrial user.~~
- (43) **Pretreatment Standards or Standards. Prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.**
- (44) ~~(41)~~ **Prohibited Discharges Standards or Prohibited Discharges.** Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the Director. **substances; these prohibitions appear in AMC 10.06.040(1).**
- (45) ~~(42)~~ Publicly Owned Treatment Works (POTW). Any wastewater treatment works and the sewers, conveyances, and appurtenances discharging thereto, owned and operated by the City.
- (46) ~~(43)~~ Septage. Either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Septage does not include liquid or solid material removed from a septic tank, cesspool, or similar holding tank that receives industrial waste and does not include grease removed from a grease trap at a restaurant.
- (47) ~~(44)~~ Service Lateral. Any pipe between the main sewer lines of the City and the user's plumbing facilities.
- (48) ~~(45)~~ 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.
- (49) ~~(46)~~ Sewer. Any pipe, conduit, ditch, or other device used to collect and transport wastewater from the generating source.

- (50) (47)Sewerage. The system of sewers and appurtenances for the collection, transportation, and pumping of wastewater.
- (51) (48)Sewer Connection Permit. A permit issued to connect buildings or structures to a public sewer.
- (52) (49)Sewer, Public. A sewer provided by or subject to the jurisdiction of the City. It also includes sewers within or outside the City boundaries that serve one or more persons and ultimately discharge into the City sanitary sewer system, even though those sewers may not have been constructed with City funds.
- (53) (50)Sewer, Sanitary. A sewer that conveys only wastewater and into which storm, surface, and groundwaters are not intentionally admitted.
- (54) (51)Sewer, Storm. A sewer that conveys storm, surface, and groundwaters and into which wastewaters are not intentionally admitted.
- (55) (52)Sewer System Facility Plan. The current version of the facility plan for the development of the wastewater treatment plant and sanitary sewer system as amended or updated.
- (56) (53)Sewer Use Charge. The assessment levied on all users of the public sewer system.
- (57) (54)Shall, May. "Shall" is mandatory; "may" is permissive.
- (58) (55)Significant Industrial User. Except as provided in subdivision (c) of this subsection, the term "significant industrial user" shall mean:
- (a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR I, Subchapter N; ~~and or~~
  - (b) Any other industrial user that:
    - (i) Discharges a process waste stream that makes up five percent of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - (ii) Discharges to the POTW a process wastewater flow of 25,000 gallons or more per average work day (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
    - (iii) ~~Is designated as significant by the City on the basis that the industrial user has a reasonable potential for causing pass-through or interference, adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.~~
  - (c) Upon finding that an industrial user meeting the criteria in subdivision (b) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.
- (59) (56)Significant Noncompliance. A **Significant Industrial User (or any other Industrial User that violates paragraph (c), (d), or (h) below)** is determined to be in significant noncompliance if its violation meets one or more of the following criteria:
- (a) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken **for the same pollutant parameter** during a six-month period exceeded (by any magnitude) ~~the daily maximum limit or the average limit for the same pollutant parameter; a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in AMC 10.06.030(29).~~
  - (b) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equaled or exceeded the product of the **numeric Pretreatment Standard or Requirement including Instantaneous Limits as defined by AMC 10.06.030(29)** ~~daily maximum limit or the average limit~~ multiplied by the applicable criteria TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
  - (c) Any other violation of a ~~p~~**Pretreatment Standard or Requirement as defined by AMC 10.06.030(42) and 10.06.030(43)** ~~effluent limit (daily maximum, or longer-termed average, Instantaneous Limit, or narrative standard)~~ that the ~~City Director~~ determines has caused, alone or in combination with other discharges, interference or pass through, (including endangering the health of City personnel or the general public);



- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the **City Director's** exercise of its emergency authority to halt or prevent such a discharge;
  - (e) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (f) Failure to provide within ~~30~~ **forty-five (45)** days after the due date, required reports such as baseline monitoring reports, ~~90-day compliance~~ reports **on compliance with categorical Pretreatment Standard deadlines**, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (g) Failure to accurately report noncompliance; or
  - (h) Any other violation or group of violations, **which may include a violation of Best Management Practices**, that the **City Director** determines will adversely affect the operation or implementation of the City's pretreatment program.
- (60) ~~(57)~~ **Slug Load or Slug Discharge.** Any pollutant (including BOD) released in a nonroutine, episodic, or noncustomary batch discharge at a flow rate or concentration that has the potential to cause **interference or pass through**, cause a violation of the specific discharge prohibitions in AMC 10.06.040, or in any other way violate the **POTW's regulations, Local Limits, or permit conditions.**
  - (61) ~~(58)~~ **Storm Water.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.
  - (62) ~~(59)~~ **Total Suspended Solids.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.
  - (63) ~~(60)~~ **Toxic Pollutant.** One of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of Section 307 (33 U.S.C. 1317) of the Act.
  - (64) ~~(61)~~ **Treatment Plant.** That portion of the municipal wastewater treatment system designed to provide treatment to wastewater.
  - (65) ~~(62)~~ **Upset.** An exceptional incident in which an industrial user unintentionally and temporarily is in a state of noncompliance with the standards set forth in AMC 10.06.0980(6)(a) due to factors beyond the reasonable control of the industrial user, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.
  - (66) ~~(63)~~ **User.** Any person who contributes, causes, or permits the contribution of wastewater into the City's POTW.
  - (67) ~~(64)~~ **Utility.** The City of Albany, a municipal corporation of the State of Oregon.
  - (68) ~~(65)~~ **Wastewater.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, that is contributed into or permitted to enter the POTW.
  - (69) ~~(66)~~ **Wastewater Discharge Permit.** As set forth in AMC 10.06.060.
  - (70) ~~(67)~~ **Wastewater Treatment System.** Any wastewater treatment works and the sewers, conveyances, and appurtenances discharging thereto, owned and operated by the City. Same as publicly owned treatment works (POTW).
  - (71) ~~(68)~~ **Waters of the State.** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the State, or any portion thereof. (Ord. 5637, 2006).

#### **10.06.040 Regulations.**

(1) **Discharge Prohibitions.** No user shall contribute or cause to be discharged, directly or indirectly, any pollutant or wastewater that will cause interference or pass through. These general prohibitions apply to all users of the publicly owned treatment works (POTW) whether or not the use is subject to



categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements. Furthermore, no user may contribute the following substances to the POTW-wastewater treatment system:

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

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

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

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

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

(f) Any substance that may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under 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.)

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

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

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

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

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

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

(m) Wastewater containing substances not amenable to treatment or reduction by the wastewater treatment system processes employed, or are amenable to treatment only to such degree that the

wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(n) Fats, wax, grease, or oils whether emulsified or not, containing substances that may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit (zero degrees Celsius and 65 degrees Celsius).

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

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

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

(r) Any wastewater, residual solvents, or solvent-contaminated waste from dry cleaning machines, as well as solvent-contaminated wastewater from any auxiliary operation at dry cleaning facilities.

**(s) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through.**

(2) Limitations on Wastewater Strength.

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

(i) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users, in accordance with AMC 10.06.040(2)(a)(ii).

(ii) The Director may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the Director. When converting any mass limits to concentration limits, documentation will be made that dilution is not being substituted for treatment as prohibited by AMC Chapter 10.06.040(2)(d). The Director will document how the equivalent limits were derived for any changes from mass limits to concentration and make this information publicly available upon request.

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

(iv) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(v) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

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

(c) Right of Revision. The City reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in AMC 10.06.010.

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

(e) Specific Pollutant Limitations.

(i) No nondomestic user shall discharge wastewater containing restricted substances into the ~~POTW publicly owned treatment works~~ in excess of limitations specified in its wastewater discharge permit or published by the Director. The Director shall publish and revise from time to time standards for specific restricted substances, **termed Local Limits, including designation of affected nondomestic users.** These standards shall be developed in accordance with 40 CFR 403.5 and shall implement the objectives of this chapter. Standards published in accordance with this section will be deemed pretreatment standards for the purposes of Section 307(d) of the Act.

(ii) **The Director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of AMC 10.06.040(1).**

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

(3) Accidental Discharges. As appropriate, industrial users shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where deemed necessary by the City, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's cost and expense. An accidental spill prevention plan (ASPP) or **slug discharge control plan** showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which industrial users are required to develop an ASPP and require said industrial users to submit the ASPP within 60 days after notification by the City. Each industrial user shall implement its ASPP as submitted after such ASPP has been reviewed and approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the industrial user from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

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

(i) Description of discharge practices, including nonroutine batch discharges;

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge that would violate any of the standards in AMC 10.06.040(1);

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

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

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

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

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

(4) Special Agreements. The City reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the wastewater treatment system. In no case will a special agreement waive compliance with a pretreatment standard. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. Industrial users may also request a variance from the categorical pretreatment standard from U.S. EPA. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by U.S. EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13. (Ord. 5637, 2006).

#### **10.06.050 Hauled waste.**

All hauled waste including septage must be discharged at the City of Albany wastewater treatment plant. All discharges at any other point within the wastewater treatment system, including sanitary sewer manholes, are hereby prohibited. Administration and enforcement of hauled waste permits shall be the same as industrial permits, AMC 10.06.060, **10.06.070**, and **10.06.090** and ~~10.06.080~~.

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

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

(a) A valid Oregon Department of Environmental Quality septage hauling permit if applicable; and

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

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

(3) Permit fees and treatment rates for hauled waste shall be established by Council resolution. (Ord. 5637, 2006).

#### **10.06.060 Administration.**

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

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

(3) Wastewater Discharge Permit Requirement. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set forth in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with other requirements of Federal, State, and local law.

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

(4) ~~Disclosure Forms~~ **Wastewater Discharge Permit Application.** ~~Significant industrial~~ **All users required to obtain a wastewater discharge permit must submit a permit application** ~~shall complete and file with the City a data disclosure declaration in the form prescribed by the City, and accompanied by the appropriate fee.~~ Existing significant industrial users shall file a ~~disclosure form~~ **permit application** within 60 days after the notification by the City and any proposed industrial user that is a

new source shall file a ~~disclosure form~~ **permit application** a minimum of 90 days prior to connecting to the POTW. This ~~data disclosure form~~ **permit application** shall satisfy the requirements of the baseline monitoring report as described in 40 CFR 403.12(b). The ~~disclosure to be made by the industrial user~~ **permit application** shall be made on written forms provided by the City and shall include the following information:

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

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

(c) Wastewater constituents and characteristics including but not limited to those mentioned in this chapter, including standards contained in AMC 10.06.040(1) and (2) 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) Time and duration of discharges.

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

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

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

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

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

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

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

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

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

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

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

(l) ~~(m)~~ List of environmental control permits held by or for the facility.

**(m) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on AMC 10.06.070(1)(b)(iii).**

(5) **Evaluation of Disclosure Permit Application.** The City will evaluate the complete ~~disclosure form~~ **permit application** and data furnished by the industrial user and may require additional information. Within 60 days of receipt of a complete permit application, the Director will determine whether or not to issue a wastewater permit. If no determination is made within this time period, the application will be deemed denied. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in AMC 10.06.040, and that in the judgment of the Director may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may take any of the following actions:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of AMC 10.01.070.

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

(7) **Categorical Standards Promulgation.** Where an industrial user, subject to a categorical pretreatment standard, has not previously submitted a ~~data disclosure form~~ **permit application** as required by subsection (4) of this section, the industrial user shall file a ~~disclosure form~~ **permit application** with the City within 180 days after the promulgation of the applicable categorical pretreatment standard by the EPA. In addition, any industrial user operating on the basis of a previous filing of a ~~data disclosure form~~ **permit application** shall submit to the City within 180 days after the promulgation of an applicable categorical pretreatment standard a **permit application**, and the additional information required by subsections (4)(h) and (i) of this section. If deemed necessary by the City, where categorical pretreatment standards are more stringent, the wastewater discharge permit will be modified. The industrial user shall be informed of any proposed changes in the chapter at least 30 days prior to the effective date of change. Any changes or new conditions in the chapter shall include a reasonable time schedule for compliance.

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

- (a) Wastewater permits must contain the following conditions:
  - (i) A statement that indicates permit duration, which in no event shall exceed five years.
  - (ii) A statement that the permit is nontransferable without prior notification to and approval from the City and provisions for furnishing the new owner or operator with a copy of the existing permit.
  - (iii) Effluent limits, **including Best Management Practices**, applicable to the user based on applicable **Pretreatment Standards in Federal, State, and local law**.
  - (iv) Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants **(or Best Management Practice(s))** to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
  - (v) Statement of applicable penalties for violation of Pretreatment Standards and Requirements, and compliance schedules.
  - (vi) **The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with AMC 10.06.070(1)(b)(3). Any grant of the monitoring waiver by the Director must be included as a condition in the user's permit.**
  - (vii) **Requirements to control slug discharge, if determined by the Director to be necessary.**

- (b) Permits may contain, but need not be limited to, the following:
  - (i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.



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

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

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

~~(iv)(v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.~~

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

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

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

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

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

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

~~(xi)(xii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in subsection (14)AMC 10.06.070(6) of this section and affording the Director, or his representatives, access thereto.~~

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

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

~~(xv) Requirements for the immediate notification of excessive, accidental, or slug loads, or any discharge that could cause any problems to the wastewater treatment system.~~

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

~~(xiv)(xvi) Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and State and Federal laws, rules, and regulations; the term of the permit.~~

~~(9)(8) Wastewater Permit Modifications. The Director may modify the permit for good cause including, but not limited to, the following:~~

~~(a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.~~

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

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

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

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

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

~~(g) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13.~~

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

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

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

(10)(9) Permit Reissue. Industrial users issued permits are required to reapply to the City a minimum of 90 days prior to the expiration date of their existing permit. Reapplication shall be made on a form provided by the City.

### 10.06.070 Reporting and Monitoring Requirements.

#### (1)(10) Reporting Requirements for Industrial Users.

(a) Final Compliance Report. Within 90 days following the date for final compliance by the industrial user with applicable categorical pretreatment standards and requirements set forth in this chapter or a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source, any industrial user subject to this chapter shall submit to the City a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall include a statement, signed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operations and maintenance (O&M) and/or additional pretreatment is required in order to meet the pretreatment standards and requirements.

#### (b) Periodic Compliance Reports.

(i) Any significant industrial users subject to a pretreatment standard shall, at a frequency determined by the Director, but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge that are limited to such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. **In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP), the user must submit documentation required by the Director or the pretreatment standard necessary to determine the compliance status of the user.** All periodic compliance reports must be signed and certified in accordance with **AMC 10.06.070(11)** subsection ~~(11)~~ of this section.

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

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

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

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

(3) Sample Collection. Data collected to satisfy reporting requirements must be based on appropriate sampling and analysis performed during the period covered by the report, and must be representative of conditions occurring during the reporting period.



(a) Except as indicated in (b) and (c) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

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

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in AMC 10.06.060(4) and AMC 10.06.070(1)(a), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by AMC 10.06.070(1)(b), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

~~(4)(12)~~ Notification and Resampling. In the event an industrial user's monitoring results indicate a violation has occurred, the industrial user must immediately (within 24 hours of becoming aware of the violation) notify the City and resample its discharge. The industrial user must report the results of the repeated sampling within 30 days of discovering the first violation. Resampling by the industrial user is not required if the City performs sampling at the user's facility at least once a month, or if the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the industrial user. If the City performed the sampling and analysis in lieu of the industrial user, the City will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

~~(5)(13)~~ Inspection and Sampling. The City may inspect the monitoring facilities, and all parts of the premises of any industrial user to determine compliance with the requirements of this chapter. The industrial user shall allow the City or its representatives to enter upon the premises of the industrial user at all reasonable hours for the purposes of inspection, sampling, or records examination or copying. The Director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. The City shall have the right to set up on the industrial user's property such devices as are necessary to conduct sampling, inspection compliance, monitoring, and/or metering operations.

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

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

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

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

~~(6)(14)~~ Record Keeping. Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under 40 CFR 403.12(e), of information obtained pursuant to any monitoring activities required by the ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, documentation supporting any monitoring waiver for pollutants not present established under AMC 10.06.070(1)(b)(iii), and documentation associated with Best Management Practices established under AMC 10.06.040(2)(e)(ii). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning compliance with the Albany Municipal Code, or where the industrial user has been specifically notified of a longer retention period by the Director.

~~(7)(15)~~ Report of Changed Conditions. Each industrial user is required to notify the City of any planned significant changes to the industrial user's operations or pretreatment systems that might alter the nature, quality, or volume of its wastewater.

(a) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater permit application under AMC 10.06.060(4) subsection (4) of this section, if necessary.

(b) The City may issue a wastewater permit under AMC 10.06.060(7) subsection (7) of this section or modify an existing wastewater permit under AMC 10.06.060(8) subsection (8) of this section.

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

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

~~(8)(16)~~ Notification of Significant Production Change. An industry operating under a wastewater discharge permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the City within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the City of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

~~(9)(17)~~ Confidential Information. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from City inspection and sampling activities shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State laws.

(a) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

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

~~(10)(18)~~ Notification by Industrial Users Discharging Hazardous Waste. In compliance with 40 CFR 403.12(p), industrial users shall notify the Director, EPA, and DEQ in writing of any discharge into the

municipal wastewater system of a substance that, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. The City may request additional information on the nature and concentration of the discharge, and may prohibit such discharge of wastewater containing hazardous waste.

**(11)(19) Signatory Requirements Certification Statements.** All applications, reports, or information to the City shall be signed and certified in accordance with 40 CFR 403.12(l)

**(a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver.** The following certification statement is required to be signed and submitted by users submitting permit applications including baseline monitoring reports in accordance with AMC 10.06.060(4); users submitting final compliance reports under AMC 10.06.070(1)(a); users submitting reports on compliance with the categorical Pretreatment Standard deadlines under AMC 10.06.070(1)(b); users submitting compliance reports required by AMC 10.06.070(1); and users submitting an initial request to forego sampling of a pollutant on the basis of AMC 10.06.070(1)(b)(iii). The following certification statement must be signed by an authorized representative as defined in AMC 10.06.030:

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

**(b) Certification of Pollutants Not Present.** Users that have an approved monitoring waiver based on AMC 10.06.070(1)(b)(iii) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under AMC 10.06.070(1)(b). (Ord. 5637, 2006).

#### **10.06.070080 Pretreatment facilities.**

(1) Pretreatment Plans Required. Industrial users shall provide necessary wastewater pretreatment as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards within the time limitations as specified by appropriate statutes, regulation, and ordinance. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, properly operated, and maintained at the industrial user'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 industrial user from the responsibility of modifying its facility or operations as necessary to produce an effluent acceptable to the City under the provisions of this chapter. Within a reasonable time after the completion of the wastewater pretreatment facility, the industrial user shall furnish its operations and maintenance procedures for the City to review.

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

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

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

**(3) Grease Interceptor Requirements.**

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

(b) The owner of every commercial or industrial facility with one or more grease-generating activities including food service facilities, serviced by a sewer connection line found to have a grease blockage, a history of grease blockage, or accelerated line maintenance resulting from grease disposal shall install or cause to be installed, upon notification by the Director, an approved grease interceptor.

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

(d) The owner of any facility with a grease interceptor installation shall maintain the grease interceptor at all times in a manner that shall prevent fat waste, oil, or grease from being carried into the sewer system. Authorized City employees shall be allowed access to grease interceptors for the purpose of inspection and/or to verify compliance with this chapter. Fat waste, oil, or grease removed from such a facility shall not be disposed of in the sanitary sewer or the storm drain system, and recovered grease shall be stored in a manner to prevent spillage or runoff to the sanitary sewer or storm drain system. A record of disposal shall be maintained for review upon request by the City. (Ord. 5637, 2006).

**10.06.080090 Enforcement.**

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

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

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

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

(2) Industrial User Prohibited Conduct. An industrial user shall not:

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

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

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

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

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

(3) Procedure. The procedures set forth below apply in those situations where emergency suspension of service pursuant to subsection (1) of this section is not needed. Ordinarily, the enforcement procedure outlined below will be followed in the order hereinafter set forth, **and enforcement will generally be in accordance with the City's enforcement response plan.** Notwithstanding the foregoing, the City reserves the right and discretion to impose any of the sanctions listed below for any violation should the City deem such action appropriate or necessary in the individual circumstances.

(a) Notification of Violation. Whenever the City determines that any industrial user has violated or is violating the provisions of subsection (2) of this section, the City may serve upon such industrial user a written **Notice of Violation** stating the nature of the violation(s). Where directed to do so by the notice, a plan for the satisfactory correction of the violation(s) will be submitted to the City by the industrial user, within a time frame as specified in the **Notice of Violation**. **Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.**

(b) Administrative Order. Whenever the City determines that any industrial user has violated or is violating any provision of this chapter of the Albany Municipal Code or an industrial wastewater discharge permit issued and approved hereunder, or has violated any directives or orders issued and approved hereunder, the City may serve upon such industrial user a written administrative order stating the nature of the violation(s) and imposing sanctions. This notice shall be served upon the industrial user either by personal service to any owner, operator, authorized agent, or any employee of the industrial user at any office maintained by the industrial user either within or outside of the City of Albany. Service of the notice may also be accomplished by mailing the notice, via registered or certified mail, return receipt requested, to the industrial user at any office maintained by the industrial user either within or outside of the City of Albany.

These sanctions may include:

- (i) An order requiring corrective action.
- (ii) An order setting civil penalties **as described in AMC 10.06.100** in the event corrective action is not undertaken as ordered in subsection (3)(b)(i) of this section.
- (iii) An order imposing civil penalties **as described in AMC 10.06.100** in lieu of, or in addition to, an order of corrective action.
- (iv) An order requiring payment of City costs incurred as a result of a violation.
- (v) An order requiring a compliance schedule containing milestones and applicable reporting requirements, or requiring an industrial user to submit a compliance schedule for approval by the City.
- (vi) Revocation of the industrial user's wastewater discharge permit.
- (vii) Disconnection from the wastewater discharge system pursuant to the rights and procedures set forth concerning emergency suspension of service in subsection (1) of this section.

(c) Appeal of Administrative Order. An industrial user served by an administrative order may within seven days of the receipt of the order request in writing that the Director review the enforcement action. The request (letter of appeal) will state all points of disagreement and objection to the order. Upon receipt of the letter of appeal, the City shall cause a hearing to be held before the Public Works Director of the City of Albany, or his authorized representative. The Public Works Director, or his authorized representative, shall conduct the hearing with the advice and counsel of the City Attorney and shall establish such rules and procedures as may be determined by the City in order to meet due process minimums. Following the close of the hearing, the Public Works Director, or his authorized representative, shall enter appropriate findings of fact, conclusions of law, and an administrative order with respect to the alleged violations and under the terms of the order, may impose any or all of these sanctions referred to in subsection (3)(b) of this section. Said sanction may exceed those originally purposed in the notice of proposed administrative order. The findings, conclusions, and order shall be

served upon the industrial user in the manner provided above for the service of the notification of an administrative order.

(d) Within seven days of its receipt of the determination as outlined above, the industrial user may appeal the findings, conclusions, and order of the Public Works Director or his authorized representative by serving a written notice of such appeal in the same manner as provided above for the service of the initial appeal. Thereafter, a hearing on the appeal shall be scheduled before the City Council of the City of Albany, or such Appeal Hearings Officer as the City may appoint for such purpose. The City Manager of the City of Albany shall have the authority and discretion to appoint an Appeal Hearings Officer or direct the appeal to the City Council. Thereafter, the City Council or the Appeal Hearings Officer may render its decision based upon the record of the hearing on the administrative order, grant an additional hearing to take additional evidence, or conduct a de novo hearing. The City Council, or Appeal Hearings Officer, in consultation with the City Attorney, shall establish rules and procedures for the conduct of the appeal in order to accord the industrial user minimum due process. The City Council or Appeal Hearings Officer shall affirm, reverse, or modify the findings, conclusions, and administrative order and shall serve its decision, in writing, upon the industrial user in the manner provided for the service of the original administrative order. The decision of the City Council or Appeal Hearings Officer shall be final.

(4) Judicial Proceedings. Following the entry of any final administrative order by the City with respect to the violation by an industrial user of subsection (2) of this section, 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.

(5) Enforcement Actions – Annual Publication. A list of all industrial users in significant noncompliance during the 12 previous months shall be annually published by the City in the largest daily newspaper circulated in the area of the municipality or a newspaper of general circulation, summarizing the violations and enforcement action undertaken by the City. For the purpose of this subsection, an industrial user is in significant noncompliance if its violation meets one or more of the criteria stated under the definition of significant noncompliance in AMC 10.06.030(56).

(6) Affirmative Defense – Upset.

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

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable Pretreatment Standards if the requirements of subsection (6)(c) of this section are met.

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

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

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

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

(A) A description of the discharge and cause of noncompliance;

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

(C) Steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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

(f) Industrial users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement



applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(7) **General/Specific Prohibitions.** An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in AMC 10.06.040 if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference and that either:

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

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

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

(9) **Remedies Nonexclusive.** The remedies provided for in this ordinance are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Director may take other action against any user when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant user. (Ord. 5637, 2006).

### **10.06.090100 Penalties.**

(1) **Civil Penalties.** Any industrial user who violates an administrative order of the City, or who fails to comply with: (a) any provision of this chapter, or (b) any regulation, rule, or permit of the City, issued pursuant to this chapter, shall be liable to the City for a civil penalty. The amount of such civil penalty shall be not less than \$250.00 per violation nor more than \$2,500 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. Such penalties may be collected by judicial actions commenced by the City as provided in AMC 10.06.090(4). In addition, the City may issue an administrative order terminating the industrial user's wastewater service if a civil penalty is not paid when due.

(2) **Administrative Fines.** When the Director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or pretreatment requirement, the Director may fine such user. The amount of such administrative fine shall be not less than \$250.00 per violation nor more than \$2,500 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation.

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



10.06.090. The user shall also reimburse the City for any and all fines or penalties levied against the City as a result of a discharge by the user.

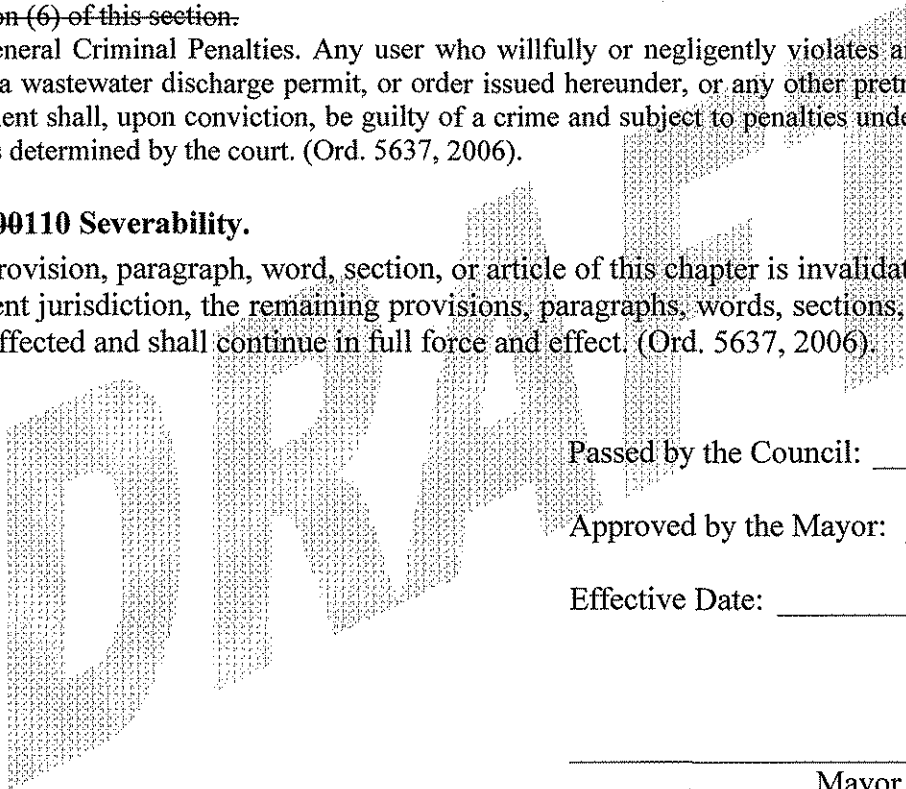
(4) Falsifying Information. Any person who knowingly makes any false statement, representation, or certification in any application, record, report and plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under AMC 10.06.070, shall (in addition to civil and/or criminal penalties provided by state law) be subject to general criminal penalties under **AMC 10.06.100(6)**, ~~subsection (6) of this section.~~

(5) Fraud and False Statements. Any reports required in this code and any other documents required to be submitted by the City or maintained by the industrial user shall be subject to enforcement provision of the Albany Municipal Code, municipal, State, and Federal law relating to fraud and false statements. In addition, the industrial user shall be subject to general criminal penalties under **AMC 10.06.100(6)**, ~~subsection (6) of this section.~~

(6) General Criminal Penalties. Any user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a crime and subject to penalties under a misdemeanor or felony as determined by the court. (Ord. 5637, 2006).

**10.06.100110 Severability.**

If any provision, paragraph, word, section, or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect. (Ord. 5637, 2006).



Passed by the Council: \_\_\_\_\_

Approved by the Mayor: \_\_\_\_\_


Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Stewart Taylor, Finance Director   
DATE: December 8, 2008, for the December 17, 2008, City Council Regular Session  
SUBJECT: Repeal AMC Chapter 5.14, Taxicabs

RELATES TO STRATEGIC PLAN THEME: 

- Effective Government

  
RELATES TO: 

- Effective Service Delivery

Action Requested:

Adopt the attached ordinance repealing Albany Municipal Code Chapter 5.14, Taxicabs. This item was discussed at the December 15, 2008, City Council work session, and includes any revisions given by the Council at that meeting.

Discussion:

On November 10, 1999, the City Council adopted Ordinance Number 5424 creating Albany Municipal Code Chapter 5.14, Taxicabs. The ordinance maintained licensing requirements, expanded the definition of taxi service, and added certification of vehicles and registration with the Oregon Secretary of State. Taxi service remains the only type of ongoing business in the city of Albany where a local business license is required.

The background information provided to the City Council in 1999 outlined three levels of potential regulation by the City: full regulation, moderate regulation, and no regulation. The City Attorney's Office, Police Department, and then-Administrative Services Department recommended no regulation, which was based on the premise that any regulation exposes the City to undue liability and that the objective of increased passenger safety could only be achieved with full regulation including regular inspection of vehicles and periodic background checks of drivers. The costs of full regulation were determined to outweigh the potential benefits.

Over the nine years since Chapter 5.14 was adopted, the licensing, certification, and registration requirements have increased the staff time necessary to regulate taxis but have had little impact on the actual service provided. Problems brought to our attention are generally one taxi company telling us how another taxi company is not meeting the ordinance requirements.

The City Attorney's Office, Police Department, and Finance Department recommend again that the City get out of the taxi regulation business. No City regulation would allow market forces to work more freely and would free up staff resources to work on other duties.

Budget Impact:

None.

ST:md

Attachment:

City Council Minutes – November 10, 1999

Ken Thompson Staff Memo – City Council Work Session – July 12, 1999

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REPEALING ORDINANCE NO. 5424, ALBANY MUNICIPAL CODE CHAPTER 5.14 CONCERNING TAXICABS; AND DECLARING AN EMERGENCY.

WHEREAS, taxi service remains the only type of ongoing business in the City of Albany where a local business license is required; and

WHEREAS, the City Attorney's Office, Finance Department, and Police Department have determined that moderate regulation fails to meet the objective of increased passenger safety yet creates the expectation thereof, and exposes the City to undue liability; and

WHEREAS, the City Attorney's Office, Finance Department, and Police Department have determined that full regulation is cost prohibitive; and

WHEREAS, the City Attorney's Office, Finance Department, and Police Department recommend that there be no regulation, to allow the market to dictate taxi service, and allow staff resources to be directed to other duties

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO HEREBY ORDAIN AS FOLLOWS:

Section 1: Ordinance No. 5424, Albany Municipal Code Chapter 5.14, Taxicabs, is hereby repealed in its entirety.

Section 2: Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the City of Albany, an emergency is hereby declared to exist. This ordinance will be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council: \_\_\_\_\_

Approved by the Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 5424

AN ORDINANCE CREATING ALBANY MUNICIPAL CODE CHAPTER 5.14 CONCERNING TAXICABS AND DECLARING AN EMERGENCY.

WHEREAS, the City has assumed a role in monitoring certain business practices of taxicab operators doing business within the City limits; and

WHEREAS, the City has determined it important to its citizens that taxicab operators are duly licensed by both the City and the State of Oregon; and

WHEREAS, the City has determined it important to its citizens that taxicab operators doing business within the City limits have in full force and effect a policy of insurance on all vehicles designated to be driven or operated under the policy; and

WHEREAS, the City has determined it necessary to develop requirements designed to monitor the vehicles designated to be driven or operated by taxicab operators under the required policy of insurance; and

WHEREAS, this ordinance is adopted to address the findings set forth above.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Albany Municipal Code, Chapter 5.14, is hereby created as follows:

Chapter 5.14

TAXICABS

Sections:

5.14.010	Definitions.
5.14.030	Operator's license.
5.14.050	Taxicabs.
5.14.070	Taxicab certification.
5.14.090	Fees.
5.14.110	Insurance.
5.14.130	Operator's license revocation.
5.14.150	Notice.
5.14.170	Violation - Penalty.

5.14.010 Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them by this section:

- (1) "Street" means any street, alley, avenue, court, bridge, lane or public place in the City.
- (2) "Operator" means any person owning, having control of the use or engaged in the business of operating one or more taxicabs within the City.
- (3) "Taxicab driver" means any person who drives a taxicab, whether such person owns the taxicab or is employed by the operator of a taxicab.
- (4) "Person" means and includes one or more persons of either sex, natural persons, corporations, partnerships and associations.
- (5) "Council" means the Council of the City of Albany, Oregon.
- (6) "Alcoholic liquor" means any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid, patented or not, capable of being consumed by a human being.
- (7) "Vehicle certificate" means a numbered decal issued by the City to the operator upon approved license application.
- (8) "Employee" means any person employed by a taxicab company for remuneration or under any contract of hire, written or oral, express or implied, including independent contractors.
- (9) "Taxicab" means any motor vehicle that is operated for hire by the taxicab company, other than a shuttle, limousine, charter, tour bus, accessible vehicle, medical transport vehicle or ambulance. For purposes of this section, the following definitions shall apply:
  - (a) "Shuttle" means any motor vehicle for hire that transports passengers between predetermined destinations (e.g., motels, airport), at fixed rates, and on a fixed schedule.
  - (b) "Limousine" means any luxury class motor vehicle that is operated for hire on a reserved, hourly basis.

(c) "Charter" means any motor vehicle originating from the Albany area, marked with the company's business name, operated for hire to transport a group of seven or more persons with the fare based on a fixed group rate rather than an individual rate.

(d) "Tour bus" means a motor vehicle accepting individual passengers for a fare for sightseeing or guided tours, making occasional stops at certain points of interest and returning the passengers to the point of origin.

(e) "Accessible vehicle" means any motor vehicle constructed and equipped for the non-emergency transportation of persons in wheelchairs, persons using other mobility aids, or with other mobility impairments.

(f) "Medical transport vehicle" means any motor vehicle constructed and equipped for the non-emergency transportation of persons in connection with their illness, injury or disability.

(g) "Ambulance" means any motor vehicle constructed and equipped for the emergency transportation of persons because of or in connection with their illness, injury or disability.

5.14.030 Operator's license. Each applicant for an operator's license shall apply to the City Recorder for such license upon such form as is prescribed by the City Recorder and shall include thereon the following information:

- (1) If a corporation, limited partnership or association, the applicant shall be authorized to conduct business under the laws of the State of Oregon, and shall supply proof of active business registry with the Secretary of State;
- (2) Name and post office address of the applicant (if a partnership or joint venture, the application must so state and contain the names and addresses of all parties thereto);
- (3) The business name under which the operator will do business;
- (4) Evidence of insurance as hereinafter required.

5.14.050 Taxicabs.

- (1) Every taxicab shall be so designated as such by plain visible letters on the side thereof.
- (2) Every taxicab shall have affixed a vehicle certificate as issued by the City upon approved license application.
- (3) Every taxicab shall post a schedule of rates for services where it can be easily read by any and all passengers.
- (4) No taxicab driver or operator shall use a taxicab for the transportation or delivery of an alcoholic beverage. This section shall not prohibit the transportation of a person, for hire, when such person lawfully possesses an alcoholic beverage.
- (5) No taxicab driver or operator shall accept compensation, in any form, for the transportation or delivery of any alcoholic beverage, except as allowed in subsection (4) of this section.

5.14.070 Taxicab certification.

- (1) No operator shall put into service, nor shall any employee drive, any taxicab that has not been certified and issued a vehicle certificate by the City.
- (2) Each vehicle certificate issued by the City shall be affixed to a specific taxicab for identification purposes, placed in a location upon the taxicab as approved by the City Recorder.
- (3) All vehicle certificates issued by the City are nontransferable and may not be removed by anyone without supervision of the City Recorder or its designee.
- (4) No vehicle certificate may be sold, assigned, mortgaged or otherwise transferred.
- (5) Any operator who retires any taxicab from service shall immediately surrender to the City any vehicle certificate issued by the City for the operation of such taxicab, and may not secure an additional vehicle certificate for the operation of such taxicab without making separate application therefor.

5.14.090 Fees.

- (1) Each operator making application for an operator's license shall pay an annual fee as established by the Council by separate resolution.
- (2) An operator shall pay a proportionate amount of the above fees for parts of less than a year and thereafter fees for an operator's license shall become due and payable the first business day of each calendar year.

5.14.110 Insurance.

- (1) No operator shall drive or operate, or cause to be driven or operated, any taxicab in the City of Albany unless the operator has on file with the City, and shall keep in full force and effect, a policy of insurance, approved by the City Recorder as to form and compliance with this Chapter, issued for the benefit of the operator by a responsible and solvent insurance corporation authorized to write policies in the State of Oregon. The policy of insurance shall designate therein which taxicabs may be driven or operated under the policy, and shall contain policy limits not less than as required under the application for operator's license.
- (2) The policy of insurance shall require notification to the City Recorder of any amendment, cancellation or termination of policy. The operator, on or before the effective date of amendment, cancellation or termination of the policy, shall immediately surrender to the City any vehicle certificate issued by the City for the operation of a taxicab which is removed from coverage under the policy of insurance, and may not secure an additional vehicle certificate for the operation of such taxicab without making separate application therefor.
- (3) The City may deny the issuance of any vehicle certificates to any operator who has failed to surrender a prior vehicle certificate as required by this Chapter.



5.14.130 Operator's license revocation. The Council may revoke any operator's license for violation of any provision of this chapter. The Council may utilize any revocation procedure which, at a minimum, provides the operator with mailed notice of the proposed revocation and the grounds therefor, and provides the operator with an opportunity to be heard by the Council.

5.14.150 Notice. Any notice mailed by first class mail by the City shall be mailed to the operator to the primary address as set forth on the license application, and shall be deemed received by the operator three days after mailing. Failure to receive actual notice shall not be a defense.

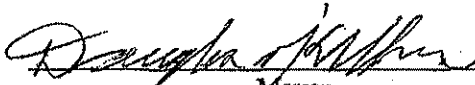
5.14.170 Violation - Penalty. Any person violating any of the provisions of this chapter is subject to those penalties set forth in Section 1.04.010 AMC.

Section 2: Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health and safety of the City of Albany, Oregon, an emergency is hereby declared to exist and this Ordinance will be in full force and effect immediately upon passage by the Council and approval by the ~~Mayor~~ Council President.

Passed by Council: November 10, 1999

Council President  
Approved by ~~Mayor~~ November 10, 1999

Effective Date: November 10, 1999

  
Mayor  
Council President

ATTEST:

  
City Recorder

the engineering report is a "committee" report. He believes the engineering report needs a fuller analysis. He continued by saying they believe that negotiations on the transfer of this road from Linn County would help the LID. When their project is totally built out they will only generate 15% of the traffic, but under the current assessment they would be paying 56% of the costs. It is not equitable. He said that point 9 of the binder has to do with how the LID boundaries are defined. None of his client's property is on Grand Prairie Road. Others on Grand Prairie Road only pay for the first 150-ft into their property, his clients would like to have the same treatment. Point 11 on page 6 explains that the findings passed with Ordinance #5323 said that Lexington would not be assessed for storm drainage. He said point 13 has to do with land use issues. He also noted that the proposed assessment would significantly increase the cost of housing in the portion of the Lexington project affected by the assessment. He reviewed point 16 saying the costs need to be proportionate to the impact. He finished by saying that on page 2 the three bullets indicated what he and his clients are asking the Council to do tonight, including continuing this hearing to a later date.

Tom Andrews, tax lot #6500, representing his mother, Madeline Burnnet, 3149 Grand Prairie Road SE, believes the property owners should not be penalized because of new development.

Bill Wilt, Edgewood Estates, explained that regarding his agreeing to pick up assessments, it was for single family property owners, with no development potential. He said he had agreed to pick up their street assessments only, not the water and sewer. He understood that the assessments would be based on traffic counts. He has a large land area with few people in it. He also thinks the City should pay for a portion of the LID. He said the LID process is needed for full cooperation between the major players.

No one else wished to speak.

Killin explained that the hearing would be kept open for staff response to what was said here tonight. City Attorney Jim Delapoer said that if the Council wants to reopen the public hearing once they have reviewed staff's response, they have that option.

#### Taxi regulations and procedures.

Delapoer explained that the Council had directed staff to come up with a draft ordinance regarding taxicab regulations and insurance.

Assistant City Attorney Brian Churchill said one of the main changes to the Albany Municipal Code that the ordinance addresses was expanding the definition section. They defined "vehicle certificate" and "Taxicab" more clearly. The taxicab certification section is new and proof that the business is registered with the Secretary of State is also new. He explained that the insurance provisions have been redrafted.

Killin opened the public hearing.

Mike Mustoe, 33900 Highway 99, co-owner of TimberTown Taxi, said that Albany is the only town that doesn't require meters in the taxicabs. A meter will tell the customer the costs. He would like a regulation for electronic meters that are checked once a year. Also, he thinks there should be a requirement for a physical business office address. He also feels that all the drivers should have taxi licenses, to weed out the child molesters.

Roland Skelton, 1730 SW Berry, owner of American Taxi, agrees with the new regulations. He said the City use to have regulations regarding felons not being drivers. He would like that reinstated. He thinks the certification process will give everyone a fair chance.

Walter Moracle, 1742 Sherman Street, a cab driver, said there should be more regulations of bad drivers.

Mark Daily, 1720 Washington, co-owner of Elite Taxi, doesn't agree with all the new regulations. He agrees with the certificates. He agrees that the vehicles should meet requirements and the operator's license regulated as well. He would like more time allotted for the owners to get insurance coverage because of breakdowns on weekends, holidays, and evenings. He would prefer a time allowance. Insurance issues don't

needed a regular car to do that and a taxi license. Administrative Assistant I Kim Nelson responded that the state has insurance requirements based on vehicles used for transport.

Withrop said the owners should do criminal checks on their drivers. She agrees with the need for the certificate.

Mark Daily spoke again and gave an example of renting a car while getting brakes fixed on another car. He said they need to be able to use substitute vehicles when others break down.

Mike Mustoe spoke again saying that his insurance is set up in such a way that he can switch cars (14 times in one year) after hours by calling into the insurance company and having it taped.

Roland Skeleton agrees with having meters in vehicles.

Killin closed the public hearing.

Linhart said that the Council's concern was what can the City enforce or not enforce. He believes this ordinance addresses what is enforceable.

Olsen was concerned about the need for certifying another vehicle. Delapoer responded that a procedure was needed to regulate certification for insurance purposes and also so staff time could be reimbursed. Olsen thought that 72 hours for notification wasn't unreasonable.

Killin agreed that the City could only supervise a limited amount of regulations. He said they are having trouble enforcing what the City has now.

Reid said he doesn't want the City to be in the position of running the taxi business. He doesn't want to go farther than what have here tonight.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE REPEALING ALBANY MUNICIPAL CODE CHAPTER 5.12, TAXICABS AND DECLARING AN EMERGENCY." Reid moved to have the ordinance read a second time in title only. The motion was seconded and passed 6-0. Delapoer read the ordinance a second time in title only. Reid moved to adopt the ordinance. The motion was seconded and passed 6-0, and was designated Ordinance No.5423.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE CREATING ALBANY MUNICIPAL CODE CHAPTER 5.14 CONCERNING TAXICABS AND DECLARING AN EMERGENCY." Reid moved to have the ordinance read a second time in title only. The motion was seconded and passed 6-0. Delapoer read the ordinance a second time in title only. Linhart moved to adopt the ordinance. The motion was seconded. Killin asked the maker of the motion and the second to agree that the signature line would be changed from "Mayor" to "Council President." They agreed. The motion was voted on and passed 5-1, with Olsen voting no, and was designated Ordinance No. 5424.

Bryant explained that the Council would need to set fees for the ordinance. The recommendation for the annual fee for the certificate is \$240.00 and the current annual business license fee is \$100.00. Delapoer suggested the Council pass the fee requirements but ask staff not to enforce them for a reasonable amount of time, allowing current business licenses to continue to the end of the year. Reid moved to set annual certification fees at \$240.00 and business license fees at \$100.00, with current year's fees to be credited until the end of 1999. The motion was seconded and passed 6-0.

RECESS

Killin recessed the Council for five minutes at 9:13 p.m.

RECONVENE



TO: City Council  
FROM: *KT* Ken Thompson, Assistant City Manager/Administrative Services Department  
*KN* Kim Nelson, Administrative Assistant I  
DATE: July 6, 1999  
SUBJECT: Taxi Issues - *for July 12 - work session*

#### Purpose

The purpose of this memo is to seek Council direction regarding taxi rules and regulations.

#### Background

During the past year or two City staff have been experiencing an increase in the amount of time required to deal with taxi issues. We have discussed this trend with other cities and have found these difficulties are not unique to Albany.

Roland Skelton made an appearance at City Council some time ago and Council requested that staff look into this issue. Since that time, several meetings have taken place, other cities have been contacted, and the issues with taxis have increased (see attached documentation for details).

Most complaints/calls are from taxi owners/drivers who complain about their competitors. City staff have become "taxi babysitters", encouraging taxi owners to follow the rules but with little success.

#### Options

Jim Delapoe, Bryan Churchill, Ken Thompson, Lt. Ross Hughes and myself met to discuss our options and what types of recommendations we might make on how to deal with the taxi issue most effectively. We identified three options.

##### Option 1: Complete/full regulation by the City.

This would obviously be the most time consuming for City staff. The amount of paper work would increase. Staff would need to have regulations for issues dealing with limos, non-emergency medical transport, number of companies allowed to operate in town, business names, minimum fines, employment of felons, insurance and signage requirements, etc. This option also increases the City's risk exposure because the City's involvement indicates city review and approval of taxi company operations. Staff estimates this option will increase the City workload by the equivalent of a half-time Clerk II position. This would be approximately \$15,000 per year, which includes prorated benefits. This option will also increase the workload at the Police Department and at the City Attorney's office.

Option 2: Moderate regulations by the City.

This would be similar to what we are doing now, except more specific and enforceable. Staff would need clear guidelines on how to resolve customer service issues, both to citizens and taxi company personnel. Insurance regulations, business registry and business license regulations would need to be more specific. The City Attorney, Administrative Services, and the Police Department personnel workload would increase to make this option effective. This option will increase the Citywide costs by an estimated \$7,500 per year.

Option 3: No regulations by the City.

This is the option recommended by the City Attorney's office, the Police Department, and the Administrative Services Department staff that deals with taxi issues on a regular basis.

The reason that staff recommends this option is that taxi monitoring has become a very time-consuming task with very few positive rewards for the City, and very little ability to actually resolve issues that arise. It is not a high priority for the Police Department to follow taxis around town to see what rules they might be violating. When they do find a violation and it goes to court, the fines assessed are of minimum value. For example, a fine for \$150 for not having proof of current insurance is much easier for the taxi company owner to pay rather than to pay for six months of insurance on taxi vehicles.

For staff that receive complaints from taxi owners, the most they can do is listen and refer them to the Police Department. For staff that receive complaints from customers, the same applies.

Summary

Staff recommends the City provide no regulation of taxis. The resources required to regulate these businesses could likely be better spent elsewhere. The ultimate goal for City staff is to be able to provide efficient customer service. If the City takes on any amount of regulatory responsibility, the City should be able to provide some assurance that taxi vehicles are safe for citizens to use, should have a program for regulation that would be simple to implement and a method of making the regulations enforceable. We doubt that staff can reach this goal without a significant increase in resources dedicated to the program. It appears that constant monitoring will be needed to ensure compliance for options 1 and 2.

Attachments

c: Steve Bryant, City Manager  
Jim Delapoer, City Attorney  
Bryan Churchill, Deputy City Attorney  
Pat Merina, Police Chief  
Lt. Ross Hughes, Albany Police Department  
Ofc. Troy Mickelsen, Albany Police Department



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Stewart Taylor, Finance Director *st*  
DATE: December 8, 2008, for the December 17, 2008, City Council Meeting  
SUBJECT: Financial Policies

RELATES TO STRATEGIC PLAN THEME: ● Effective Government

RELATES TO: ● Create a financial model to support long-term goals

Action Requested:

By resolution, adopt the Financial Policies.

Discussion:

Each year the adopted budget includes three policies that largely define the fiscal environment for the budget and all financial operations. The three policies are the Investment Policy, Budget Policies, and the Risk Management Policy. The City Council adopted a revised Investment Policy on October 8, 2008. The Budget Policies have been revised and were discussed at the work session on December 15. A revised Risk Management Policy will be brought to the Council in January or February, 2009.

The Budget Policies have been completely rewritten and are now titled Financial Policies. The City Council reviewed the Financial Policies at its work session on December 15 and the direction given by the Council has been incorporated into the policies. Revisions include greater detail in defining the roles of the City Council, City Manager, and Department Directors, and target ranges for fund balances and contingencies. The policies also establish parameters for future debt and ongoing financial reporting.

Budget Impact:

The Financial Policies establish parameters for the annual budget and ongoing financial operations.

ST:md

Attachment: Resolution adopting Financial Policies

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**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION ADOPTING CITY OF ALBANY FINANCIAL POLICIES.**

WHEREAS, the Budget document adopted annually includes Budget Policies which help to define the fiscal environment for the budget and other financial operations of the City of Albany; and

WHEREAS, the Budget Policies have been renamed "Financial Policies"; and

WHEREAS, the Finance Director recommended revisions to the Financial Policies which include greater detail in defining the roles of the City Council, City Manager, and Department Directors, target ranges for fund balances and contingencies, and establishment of parameters for future debt and ongoing financial reporting; and

WHEREAS, the City Council reviewed the Financial Policies at the December 15, 2008, work session and its recommendations were incorporated into the document.


NOW, THEREFORE, BE IT RESOLVED that the City of Albany City Council adopts Exhibit A as the Financial Policies for the City of Albany.

DATED AND EFFECTIVE THIS 17<sup>th</sup> DAY OF December 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

	<p><b>City of Albany</b>          Finance Policy          Policy #: F-07-08-001          Title: Financial Policies</p>	
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**I. POLICY STATEMENT**

It is the policy of the City of Albany to actively manage financial, operational, and budgetary affairs within established guidelines in order to maintain financial stability both now and in the future.

**II. GENERAL GUIDELINES**

1. The City Manager and Department Directors are charged with achieving the themes, goals, and objectives adopted by the City Council in the City's Strategic Plan.
2. The implementing document for the Strategic Plan is the annually adopted Budget. The adopted Budget establishes types and levels of services through both operating and capital budgets. The relationships between the operating and capital budgets will be explicitly recognized and incorporated into the budget process. Resources will be identified to provide designated levels of service, and maintenance or enhancement of related fixed assets.
3. The City will actively measure performance and pursue process improvements to enhance productivity and maximize resources.
4. Adequate reserves will be maintained for all known liabilities, including employee leave balances and explicit post employment benefits.
5. The City will actively seek partnerships with private interests and other government agencies to achieve common policy objectives, share the costs of providing local services, and support favorable legislation at the state and federal levels.
6. The City will seek out, apply for, and effectively administer federal, state, and foundation grants-in-aid that address the City's priorities and objectives.

**III. REVENUES**

1. The City will actively identify and administer funding sources that create a reliable, equitable, and diversified revenue stream to shelter the City from short-term fluctuations in any single revenue source and to maintain desired levels of services.
2. Revenues will be conservatively estimated in the budget process.
3. Target fund balances for operating budgets will range between 5 and 15 percent of operations.
4. The City will consider full cost recovery and comparable rates charged by other municipalities of similar size in establishing rates, fees, and charges.
5. The City will follow an aggressive policy of collecting revenues.
6. Enterprise and internal service funds are intended to be self-supporting.

**IV. EXPENDITURES**

1. The City will identify priority services, establish appropriate service levels, and administer the expenditure of available resources to assure fiscal stability and the effective and efficient delivery of services.

2. The City will operate on a current funding basis. Expenditures will be monitored on an ongoing basis so as not to exceed current revenues and targeted fund balances.
3. The City Manager will take immediate corrective actions if at any time during a fiscal year revised revenue and expenditure estimates project a year-end deficit. Mitigating actions may include a hiring freeze, expenditure reductions, fee increases, or use of contingencies. Actions to be avoided include expenditure deferrals into the following fiscal year, short-term loans, and use of one-time revenues to support ongoing operations.
4. Target contingencies for operating budgets will range between 5 and 15 percent of operations.
5. The City Manager will undertake ongoing staff and third-party reviews of City programs to measure efficiency and effectiveness. Privatization and contracting with other governmental agencies will be evaluated as alternatives to in-house service delivery. Programs that are determined to be inefficient and/or ineffective shall be reduced in scope or eliminated.

#### **V. CAPITAL IMPROVEMENT PROGRAM (CIP)**

1. The City will monitor and periodically assess the City's capital equipment and infrastructure, setting priorities for its renovation and replacement based on needs and available resources.
2. The City will develop a multi-year program for capital improvements that will be reviewed annually in the budget process.
3. Projects in the Capital Improvement Program will be flagged as either funded or unfunded depending on whether or not the forecasted operating budget can support or fund the project. All funded projects are included in the operating budget for the corresponding budget year.
4. The City will maintain its physical assets at a level adequate to protect the City's capital investment and minimize future maintenance and replacement costs. The budget process will provide for review of maintenance and orderly replacement of capital assets from current revenues where possible.

#### **VI. CAPITAL ASSETS**

1. Capital assets are non-consumable assets with a purchase price of \$5,000.00 or greater and a useful life of more than one year.
2. The Finance Department will oversee a physical count/inspection of all capital assets at least on a biennial basis. All additions, deletions, and depreciation of infrastructure will be reported consistent with the requirements of the Government Accounting Standards Board Statement Number 34.
3. Adequate insurance will be maintained on all capital assets.

#### **VII. DEBT**

1. The City will generally limit long-term borrowing to capital improvements.
2. The City will follow a policy of full disclosure on every financial report, official statement, and bond prospectus.
3. The City will strive to maintain its high bond rating, currently A2/A+, and will receive credit ratings on all its bond issues.
4. General obligation debt will not be used for self-supporting enterprise activities.

5. The City shall ensure that its debt margins are within the 3% true cash value limitation as set forth in ORS 287.004.
6. The City will use voter-approved general obligation debt to fund general-purpose public improvements that cannot be financed from current revenues. Special purpose debt including certificates of participation, revenue bonds, and loans will be linked to specific funding sources.

**VIII. Community Grants**

Community organizations that desire financial support from the City must submit applications for funding no later than March 1 in order to be considered for funding in the next budget year. Applications will be reviewed by the Department Director assigned by the City Manager. Primary consideration will be given to requests that further the goals and objectives in the Strategic Plan. Applications that are approved by the Department Director and City Manager shall be included in the Proposed Budget to be considered by the Budget Committee and City Council.

**IX. ACCOUNTING, AUDITING, AND FINANCIAL REPORTING**

1. The Finance Department is responsible to see that all accounting, auditing, and financial reporting complies with prevailing federal, state, and local statutes and regulations including generally accepted accounting principles as promulgated by the Governmental Accounting Standards Board (GASB), the American Institute of Certified Public Accountants (AICPA), and the Government Finance Officers Association (GFOA).
2. The City will seek out and contract for the assistance of qualified financial advisors, consultants, and auditors in the management and administration of the City's financial functions.
3. The City Council will be provided monthly financial reports of revenues and expenditures.
4. A complete independent audit will be performed annually.
5. The City will issue annual financial reports in accordance with generally accepted accounting principles (GAAP) as outlined in the Governmental Accounting, Auditing, and Financial Reporting (GAAFR) publication.
6. The City will annually seek the GFOA Certificate of Achievement for Excellence in Financial Reporting and the GFOA Distinguished Budget Presentation Award.

Supersedes:	Created/Amended by/date:	Effective Date:

*G:\Mary\Policies & Procedures\Policy - Financial.doc*



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Stewart Taylor, Finance Director  
Mike Murzynsky, Senior Accountant *mm*  
DATE: December 10, 2008, for the December 17, 2008, City Council Meeting  
SUBJECT: Comcast Cable Franchise Renewal process

Action Requested:

City Council authorization for City Manager to commence the franchise renewal processes with Comcast pursuant to 47 USC Section 546 (a) (1) (Section 626).

Discussion:

The Comcast franchise is set to expire on September 30, 2011. On October 31, 2008 Comcast sent City Manager Wes Hare a letter invoking a formal process of franchise renewal; Comcast has a six month notice period and 36 months before the expiration of the franchise end date. The City of Albany has six months from the date of the letter to respond and commence franchise renewal processes per Section 626 of the 1984 Cable Act. The City Council shall hold one or more public hearings in order to assist them in determining quality of service and levels of community need for future cable television services.

In the past the renewal process has been completed in an informal style. With the exception of the City Council public hearings, staff recommends that the City Council follow the same course of action in order to reach mutually acceptable terms of a franchise renewal.

If you have questions, please call Stewart Taylor at 917-7521.

Budget Impact:

No change from the current budget.

ST:mm  
Attachment

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION RESPONDING TO COMCAST'S NOTICE AND AUTHORIZING THE CITY MANAGER TO COMMENCE FRANCHISE (AMC SECTION 3.26) RENEWAL NEGOTIATIONS WITH COMCAST.

WHEREAS, on October 30, 2008, Comcast Cable sent a letter to Wes Hare, City Manager of the City of Albany, requesting renewal of their franchise; and

WHEREAS, a requirement of Section 626 of the 1984 Cable Act franchise renewal process is to respond to such a request within six months; and

WHEREAS, the City of Albany City Council is interested in negotiating a franchise renewal; and

WHEREAS, the City Council may elect to hold one or more public hearings to assist them in determining quality of service and levels of community need for future cable television services; and

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council authorizes the City Manager and or his designee to commence the franchise renewal processes pursuant to 47 USC Section 546 (a)(1).

DATED AND EFFECTIVE THIS 17TH DAY OF DECEMBER 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, November 12, 2008  
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Bedore called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Bedore led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Sharon Konopa, Floyd Collins, Dick Olsen, Bessie Johnson, Jeff Christman, and Ralph Reid, Jr. by speaker phone.

SCHEDULED BUSINESS

Communication

Accepting the resignation of Gordy Gamet from the Parks & Recreation Commission.

MOTION: Councilor Johnson moved to accept the resignation of Gordy Gamet from the Parks & Recreation Commission. Councilor Konopa seconded the motion and it passed 6-0.

Quasi-Judicial Public Hearing

SD-07-07 and SP-19-07, Fabian Estates Subdivision Tentative Plat and Tree Felling.

Bedore explained that the quasi-judicial public hearing is regarding a Land Use Board of Appeals (LUBA) remand of the City's approval of a Subdivision Tentative Plat that would divide a 4.52-acre parcel of land into 11 residential single-family lots (Fabian Estates, File SD-07-07).

Bedore called the public hearing to order and asked if any member of the City Council wished to abstain. No one did.

Bedore asked if any member of the City Council wished to declare a conflict of interest, or report any significant ex parte contact or a site visit. Konopa said she had driven down Maier Lane.

Bedore said for all those wishing to testify, please be aware that you must raise an issue with enough detail to afford the Council and parties an opportunity to respond to the issue if you later want to raise that issue on appeal to LUBA. Testimony and evidence must be directed towards the approval standards staff will describe or other criteria in the plan or development code which you believe apply to the decision. If additional documents or evidence are provided by any party, the City Council may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension to the 120-day limit. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with enough detail to allow the local government or its designee to respond to the issue precludes an action for damages in Circuit Court.

Staff report:

Planning Manager Don Donovan explained that on December 12, 2007, the City Council approved a Subdivision Tentative Plat application and a Site Plan Review for Tree Felling application for Fabian Estates subdivision. Fabian Estates subdivision would be located on property on the south side of Maier Lane, east of Skyline Drive in North Albany. The subdivision would divide a 4.52-acre parcel of land into 11 residential single-family lots. A total of 129 trees larger than eight inches in diameter would be removed to construct the subdivision and 208 trees larger than eight inches in diameter would remain. Donovan provided an overhead indicating where the property is. He said the approval was appealed to LUBA and LUBA remanded the decision back to the City to more fully explain parts of the approval. The LUBA remand: 1) requires more information about access for the adjoining property to the east; 2) requires the applicant to submit a storm drainage plan; and 3) requires the City to respond to the appellant's contention that a Comprehensive Plan Implementation Method applies to the subdivision review. LUBA found that the rest of the City's decision was consistent with the requirements for review of the subdivision and tree felling applications. No further review of the tree felling is required.

Donovan said, tonight's testimony is limited to the following three questions: 1) Is the 40-foot-wide access easement extension provided by the subdivision to the properties to the east consistent with the Albany Development Code (ADC) 12.150 requirement for a "street" extension, and does this easement satisfy the



ADC 11.180 (2) requirement that the required access to adjoining developable land allow that land to be developed in accordance with the ADC or is another form of access required? He said that the staff report finds that the 40-foot-wide easement does not meet the ADC 12.150 requirement for a street extension, so the requirement in ADC 11.180 (2) for access to the adjoining property will not be met unless a public street right-of-way is dedicated. Dedication of a right-of-way meets the definition of "street" in the ADC. The applicant has agreed to dedicate the right-of-way. The street would not have to actually be built with the subdivision. It could be built later if the property to the east is ever divided to create another parcel that would need access to the public street to be built in the Fabian Estates subdivision. 2) Have the requirements of ADC 12.530 been met? Donovan said ADC 12.530 requires the applicant to submit a storm drainage plan. The applicant did submit a storm drainage plan with the original application, but the City Council required in a condition of approval that the applicant change the plan. This did not meet the requirement that the applicant submit a plan that shows what would be built. The applicant has now submitted a storm drainage plan that includes the requirements imposed in the condition. The City Engineer has reviewed the plan and approved it as required by ADC 12.530. 3) Does Albany Comprehensive Plan Goal 7, Implementation Measure 10, require the applicant to increase minimum lot sizes in the subdivision because the slopes on the subject property exceed 25 percent? Donovan said the staff report explains that Comprehensive Plan Implementation Methods are not review criteria for subdivisions.

Assistant City Engineer Jeff Blaine explained what was in the storm drainage plan and that the applicants would provide additional information.

#### Applicant

Andy Bean, 130 West 1<sup>st</sup> Avenue, representing the applicants, said they agree with the staff report. There is access to adjacent properties, a proposed street, and no need for additional access because those properties are already developed according to the Development Code. The street extension being provided is a response to LUBA's concerns. The third issue was approval of the storm drainage plan. The City Engineer has approved their submission. It goes beyond what is usually provided at this stage of the process and it meets LUBA's concerns. They will obtain easements over other property and allow for changes and alterations. If any changes are approved, the plan does provide for a public hearing for the neighbors. He explained that if easements can't happen and there is another way to meet the City's conditions, this proposal allows for options. There is a need for multiple easements and that will take time. In the past flexibility has always been available. On the access issue, the applicant is proposing a street.

Councilor Olsen asked, is this a new proposal? Bean said no, it is an expansion. If easements cannot be obtained, it will provide alternatives.

Olsen asked, will this by-pass the Council? City Attorney Jim Delapoer said no, they could bring it back to the Council. They are just admitting that they may not be able to get the easements and this opens it up for alternatives.

Councilor Christman asked, can there be time constraints to get the easements? Delapoer said the pressure is on the applicant because they cannot go forward without them or go to the City Engineer with an alternative plan. Christman asked, if the neighbors didn't agree with the alternative plan, could they ask for it to come to the City Council? Delapoer said the City generally takes this step at the plan level. LUBA said no, it should be reviewed by the City Engineer at this step in the process. The best thing for the Council to do is to make sure that the City Engineer is following the right process. Staff's job is to give the Council discretion to find ways so they can do whatever is in the best interest of the community.

Councilor Johnson asked, because there is an alternative available if one doesn't work, wouldn't it be best to look at something else? Delapoer said that is what the applicants suggest, given especially the fact that they do not own all the land where the improvements will be located. There is no dedicated right-of-way in control by the City or the applicant, thus if there is a valid alternative the applicants feel the City has a requirement to seek the other alternative rather than put a burden on the applicant.

Olsen asked, do we know anything about the alternative? Delapoer said we have a conceptual idea of the alternative.

Councilor Collins asked if the outflow was to West Thornton Lake or the creek. Bean believes it is two different outflows.

Collins said, the applicant has a reference to still needing to resolve the peak flow issues. Can they explain that? Bean explained that if the alternative is proposed, then they have to deal with peak flows. Bean said the applicant has been seeking the easements continually through this process. The alternative is just a proposal.

Dan Watson, 710 East Thornton Lake Drive, the applicant's engineer, said LUBA said they have to have a drainage plan and the City Engineer has to approve it. They have prepared a detailed final level design plan. Regarding peak flows, he mentioned that they do have detention. They are detaining all storm events through the 100 year event. Peak flow that leaves the site after development will be the same as the peak

flow that left the site before development. They have been working with the property owners regarding the easements. The property owner's main concerns have to do with access. The applicant is concerned about satisfying both City staff and the property owner. He thinks they will get there, but may need to make some changes; for example moving the location of the bioswale.

Collins asked if their report was based on a rainfall event rather than a run-off event. Watson said yes.

Collins asked, since at times runoff event drainage conditions could be greater, how does the design for detention and release deal with it? Watson said it would run down the natural channel. It would be the same whether there are houses there or not.

Collins was concerned about what is happening with the hillside slides in Portland and the possibility of it happening in this area. He was also concerned about what would happen to the infrastructure on West Thornton Lake Drive during a substantial runoff. He continued to ask questions regarding the geotech analysis, storm water release, tree cutting, long term improvements by exception, and the possibility of constructing a fence. Watson referred to specific pages in the report explaining the technical details of his questions and said that they continue to work with the owners of the property regarding easements, runoff, and rainfall.

Collins explained to the audience that he retired from the City of Albany as their Public Works Director, and before that was employed by the city of Salem as their Assistant Public Works Director.

Johnson asked, how many properties do you have to get easements from? Watson said a minimum of three.

Olsen asked if there are any estimates on the pond regarding a 100-year storm. Bean replied that all detentions are on the development. It complies with City standards.

Collins said he believes the Council's question to staff is, did they get the detention right, did they get the runoff right, and would the system work as proposed?

Support:

No one wished to speak.

Opposed:

Norm Hill, 110 Madrona Ave, Salem, representing Mark Azevedo and Kathy Cook, for the record submitted a formal packet in opposition to the application, a copy of a grant submitted by Azevedo and others for the East Thornton Lake Natural Area, and a letter from Dr. Mary Santelmann asking the Council to require the applicants to develop the site in accordance with environmentally sound policies that protect the water resources of the City (in agenda file). They consider the lake a valuable asset to the community. They object to the notice and timing of the hearing. Materials weren't available until October 30 and then they received incomplete copies. They request a further hearing to provide testimony.

Hill said the staff report properly lays out the controversy regarding the easement. Initially, the developer proposed providing access to the properties west (the correct direction is east) of the subject via a 40 foot easement. However, the use of an easement is prohibited by code. Building a street now would not make much sense. Staff proposes deferring construction of the street until such time as the other parcel develops. That approach is reasonable, however merely dedicating a right-of-way now and deferring construction until later will force the neighboring property owners to bear the cost of building this portion of the road. Instead, the developer should either bond this condition or impose a covenant on the lots requiring the owners to contribute to the costs of the road if it is extended.

Hill reviewed the public improvements and their concerns about the analysis as described on pages 2, 3, and 4 of the packet he distributed. He reviewed the storm drain easements. They are opposed to the proposed condition of approval. Their engineer, Gary Bliss, doesn't believe it meets the Engineering Standards for Oregon. He said there are multiple errors in the applicant's report. Without easements they can't make a finding that their plan works.

Hill reviewed the grant that the City and the Azevedos are pursuing in order to preserve part of Thornton Lake. He said it simply makes no sense to spend City and state resources protecting the lake, while simultaneously allowing a developer to introduce additional pollutants into the lake without proper study or review. The developer's study fails to take into account the impact increasing volumes of runoff water will have on the lake.

Hill said the City has the authority to reduce standard densities to properly consider the topography of the area. By reducing the density the City would make this development better. It would preserve more trees and habitat than the current plan.

Hill said the developer challenged the City's requirement that he provide an easement for the storm drain across private property. He says there is no benefit to the City because the Developer already has a right to convey water on downstream property owners. The developer oversimplifies the basic rule of drainage. It is common practice for governments and private land owners to obtain drainage easements when they make changes to the natural drainage, including digging ditches and the reconfiguration of historic drainage patterns. Also, the development code requires the developer to provide easements to all of the public improvements in this project. After the developer has completed construction of the storm drain pipes and bio swale, those projects would go to the City. The City will need to access those facilities for maintenance and repair.

Hill said he is requesting the Council to hold the record open again, to allow them to bring their engineer for testimony. They are not asking the Council to tell the developer "no", rather, they are asking to tell them, "not this way."

Olsen asked if the retention of the water would be by digging trenches and laying pipe. Hill said he believes the proposed plan is an oversized pipe to collect the water, and then it is detained in the ground. It drains to a 10 inch pipe where it is piped into the bioswale.

Olson asked, how long before the retention pipe fills up? Hill said if a storm event is larger than the pipe can handle, there will be a surcharge and water will go all over the place.

Delapoer said, there has been a request to continue the hearing and a lot of new information has been introduced which the Council has not had a chance to review. He suggested the Council allow anyone else who would like to speak to do so, and then continue the hearing to another meeting.

Lila Rawland, 2256 Thornton Lake Drive, said there doesn't seem to be an exit for them on their property. Their property borders the proposed development. Their second concern is that the lake has a delicate ecosystem. What would drainage do to the lake? And thirdly, North Albany Road is already very busy. How much more traffic would there be?

Collins asked, if development was not being proposed and you wished to access your property, how would you access it today? Rawland said there is a little road beside it.

Fred Hueglin, 942 North Albany Road, was concerned about storm and bioswale content. He asked what is the actual rainfall that the bioswale is designed for and if the rainfall exceeds the bioswale capacity causing toxic chemicals to get into the lake and river, who is responsible for cleanup?

No one else wished to speak.

The applicant's lawyer and the opponent's lawyer wished to confer with the City Attorney regarding procedure.

#### RECESS

The meeting was recessed at 9:32 p.m.

#### RECONVENE

The meeting was reconvened at 9:42 p.m.

Delapoer explained that the applicants and the opponents have agreed that the opponents will submit any additional material by November 15 and the applicants will have an opportunity to review and provide a response by November 20. He said that both sides understand the Council's concerns about receiving documents at a public hearing. They will refrain from submitting new materials at the December 8 meeting. Delapoer suggested leaving the record open and continuing the hearing.

MOTION: Konopa moved to leave the record open and continue the hearing, have the opponents submit any additional material by the 15<sup>th</sup> of November, have the applicants submit their response by the 20<sup>th</sup> of November, provide all materials to the City Council, and reconvene the hearing on Monday, December 8, 2008, at 7:15 p.m. with the understanding that both sides will refrain from submitting new material at the reconvened hearing. Christman seconded the motion and it passed 6-0.

#### Final Decision

##### SP-12-08 and AD-01-08, Oregon Acquisition One LLC (SmartCentres) Shopping Center.

Bedore said, next on tonight's agenda is a final decision regarding Site Plan Review for construction of a shopping center with six building on 25.67 acres of land and an Adjustment to allow some 24-foot-wide travel aisles in the parking lots of the shopping center where 26-foot-wide travel aisles are usually required. The applicant is Oregon Acquisition One LLC. A public hearing on these applications was held on October

8, 2008, and a tentative decision to approve the applications was made on October 22. The City Council directed staff to prepare supplemental findings to support the approval and bring them to the City Council for tonight's meeting.

Konopa said that as per her previous statement at the October 8, 2008, City Council meeting, she would be abstaining from discussion and voting on this SmartCentre land use application, unless her vote is required for a decision. She stepped down from the dais.

MOTION: Johnson moved to approve the Site Plan Review application for construction of a shopping center with six buildings on 25.67 acres of land and the Adjustment application to allow some 24-foot-wide travel aisles in the parking lots on the northern parcel of the shopping center where 26-foot-wide travel aisles are usually required (Files SP-12-08 and AD-01-08) and Adopt the Findings of Fact, Conclusions, and Conditions set forth in the Staff Report, as modified by the Supplemental Findings, including the conditions set forth therein. This motion is based upon the evidence and testimony in the record, including the written and oral testimony presented at the October 8, 2008, public hearing, Council deliberation at the October 22, 2008, City Council meeting, and the Supplemental Findings presented to the City Council at the November 12, 2008, City Council meeting. Christman seconded the motion.

Olsen said on page 282, in the second paragraph from the top, there is discussion regarding City condemnation of the property needed for the access street. He is opposed to condemnation and therefore intends to vote no.

VOTE: A vote was taken on the motion and it passed 4-1, with Olson voting no.

Bedore said that within five days of the decision the Community Development Director provides written notice of the decision to the applicant and any other parties entitled to notice. A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

Konopa returned to the dais.

#### Business from the Public

Bill Root, 2634 Valley View Drive, invited the Council to participate in the Association for Motorcyclists of Oregon Toy Run parade on December 7, 2008.

#### First Reading of Ordinances

Levying assessments against property specifically benefited by sewer and water connections and the assessment of sewer, water, parks, and transportation system development charges for property described as Tax Lot 400, Parcel 11S-03W-08CC, and site address 1910 Geary Street SE; and declaring an emergency.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE LEVYING ASSESSMENTS AGAINST PROPERTY SPECIFICALLY BENEFITED BY SEWER AND WATER CONNECTIONS AND THE ASSESSMENT OF SEWER, WATER, PARKS, AND TRANSPORTATION SYSTEM DEVELOPMENT CHARGES FOR PROPERTY DESCRIBED AS TAX LOT 400, PARCEL 11S-03W-08CC, AND SITE ADDRESS 1910 GEARY STREET SE, AND DECLARING AN EMERGENCY."

MOTION: Reid moved to have the ordinance read a second time in title only. Christman seconded the motion and it passed 6-0.

Delapoer read the ordinance for a second time in title only.

MOTION: Reid moved to adopt the ordinance. Christman seconded the motion and it passed 6-0, and was designated Ordinance No. 5705.

Amending AMC Chapter 13.21 concerning parking regulations and declaring an emergency.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE AMENDING CHAPTER 13.21 OF THE ALBANY MUNICIPAL CODE CONCERNING PARKING REGULATIONS AND DECLARING AN EMERGENCY."

MOTION: Reid moved to have the ordinance read a second time in title only. Johnson seconded the motion and it passed 6-0.

Delapoer read the ordinance for a second time in title only.

MOTION: Reid moved to adopt the ordinance. Christman seconded the motion and it passed 6-0, and was designated Ordinance No. 5706.

Adoption of Resolutions

Approving an extended property tax abatement agreement between the City of Albany, a cosponsor of the South Santiam Enterprise Zone, and Entek Membranes, LLC.

City Manager Wes Hare said there is no impact on the City of Albany by passing this resolution. It is necessary because we are partner in the South Santiam Enterprise Zone and they need our support.

MOTION: Konopa moved to adopt the resolution. Collins seconded the motion and it passed 6-0, and was designated Resolution No. 5696.

Establishing a 50-foot parking restriction at 1290 Industrial Way.

MOTION: Konopa moved to adopt the resolution. Collins seconded the motion and it passed 6-0, and was designated Resolution No. 5697.

Establishing a parking restriction on 36<sup>th</sup> Avenue adjacent to South Albany High School.

MOTION: Konopa moved to adopt the resolution. Collins seconded the motion and it passed 6-0, and was designated Resolution No. 5698.

Ratifying the sale of City-owned property at 38159 Scrael Hill Road and accepting the following easements and ratifying the warranty deed.

MOTION: Konopa moved to ratify and accept the resolutions concerning the sale of the City owned property commonly known as the Archibald property. Collins seconded the motion and it passed 6-0, and the following resolution designations were made:

Conservation easement from George & Cory Koos within 100 feet of the Santiam River.

RES. NO. 5699

Construction easement from George & Cory Koos (temporary).

RES. NO. 5700

Access/maintenance easement from George & Cory Koos along Burkhart Creek.

RES. NO. 5701

Access/maintenance easement from George & Cory Koos south of Canal.

RES. NO. 5702

Noise easement from George & Cory Koos for the operation and maintenance of water intake and pumping facilities.

RES. NO. 5703

Warranty deed to George & Cory Koos transferring ownership of an excess parcel of City property.

RES. NO. 5704

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) October 8, 2008, City Council Meeting
  - b) October 22, 2008, City Council Meeting
- 2) Authorizing the City Manager to sign a lease agreement with the District 4 Council of Governments for usage of the Albany Senior Center for the Senior Meals program.
- 3) Approving a liquor license for Mexico Lindo II, 637 Hickory Street, Suite 130.
- 4) Accepting a public sewer line easement from P & F Geary Square, LLC. RES. NO. 5705

MOTION: Konopa moved to adopt the Consent Calendar. Christman seconded the motion and it passed 6-0.

Award of Bid

WL-09-01, Eighth Avenue Water Line Replacement.

Public Works Director Diane Taniguchi-Dennis said this low bid reflects the very competitive climate in favor of the City right now.

MOTION: Collins moved to award the WL-09-01, Eighth Avenue Water Line Replacement contract in the amount of \$223,040 to the low bidder, Emery & Sons Construction, Inc., of Stayton, Oregon. Christman seconded the motion and it passed 6-0.

Personnel Request

Approving salary grade increase for Nonbargaining (Confidential) Administrative Assistant I.

MOTION: Konopa moved to approve a one-range increase in pay for the Non-bargaining classification of Administrative Assistant 1 (AA1) effective December 1, 2008. Johnson seconded the motion and it passed 6-0.

Reports

Receiving Parks & Recreation 2008 Summer & Event Statistics Report.

The Council complimented the Parks & Recreation Department on the amount of events they provide and how well they are attended and produced.

Receiving Code Enforcement Team First Quarter Report for Fiscal Year 2008-2009.

Public Information Officer/Management Assistant Marilyn Smith said they have started planning for community-wide litter pickup in the spring of 2009.

BUSINESS FROM THE COUNCIL

Bedore said he attended the graduation of the Police Citizen's Academy and complimented the Police Department on a job well done.

RECESS TO EXECUTIVE SESSION TO DISCUSS CURRENT LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(h)

The Regular Session was recessed into Executive Session at 10:20 p.m.

RECONVENE

The Regular Session was reconvened at 10:51 p.m.

NEXT MEETING DATE

The next Regular Session is scheduled for Monday, November 24, 2008, at 7:15 p.m., in the City Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:52 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC  
City Clerk

Stewart Taylor  
Finance Director



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Ed Hodney, Director of Parks and Recreation  
DATE: December 10, 2008, for the December 17, 2008 City Council Meeting  
SUBJECT: Authorization to apply for a National Recreation and Park Association ACHIEVE Healthy Communities Grant  
RELATES TO STRATEGIC PLAN THEME: ● An Effective Government  
● Great Neighborhoods

Action Requested:

Approve a Resolution authorizing an application to the National Recreation and Parks Association (NRPA) for funding from the NRPA ACHIEVE Healthy Communities Grant program and authorizing the Parks and Recreation Director to sign the application.

Discussion:

The National Recreation and Park Association has been selected as a national organization for chronic disease prevention and health promotion by the Center for Disease Control (CDC). Part of the project will allow NRPA to fund 10 communities at \$30,000 each, through their local parks and recreation departments, to focus on and advance chronic disease prevention. Albany Parks & Recreation would like to improve the health of our community members by building a coalition of partners, developing a community action plan, and implementing policies and programs that provide opportunities to replace sedentary activities with more active lifestyles.

This is a one-time award of \$30,000, however selected agencies will be asked to commit to and receive three years of technical assistance and support from the NRPA and CDC to help the City of Albany Parks and Recreation Department to affect significant change in our community by working with a local coalitions (i.e. Healthy Albany Partnership, Albany Together, LBCC Family Resource Connections, and the Albany Partnership for Housing and Community Development) to implement a coordinated chronic disease prevention and health and wellness program.

Staff seeks authorization to pursue a \$30,000 grant from the NRPA. In order to take advantage of this funding opportunity, the Parks and Recreation Department will need to submit an application by January 9, 2009. If awarded, grant funding would be available at the end of FY 2008-09.

Budget Impact:

If awarded, revenues in the FY 2008-09 Parks and Recreation Fund budget would be increased \$30,000. Expenditures would be spread out over FY 2008-09 and FY 2009-10.

Attachments: Resolution



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY OF ALBANY PARKS AND RECREATION DEPARTMENT TO APPLY FOR AN NRPA ACHIEVE HEALTHY COMMUNITIES GRANT FROM THE NATIONAL RECREATION AND PARK ASSOCIATION TO IMPROVE COMMUNITY HEALTH BY BUILDING A COALITION OF PARTNERS, DEVELOPONG A COMMUNITY ACTION PLAN, AND DEVELOPING POLICIES AND PROGRAMS THAT PROVIDE OPPORTUNITIES TO REPLACE SEDENTARY ACTIVITIES WITH MORE ACTIVE LIFESTYLES AND DELEGATING AUTHORITY TO THE PARKS AND RECREATION DIRECTOR TO SIGN THE APPLICATION.

WHEREAS, the National Recreation and Park Association (NRPA) is accepting applications for the ACHIEVE Healthy Communities Grant; and

WHEREAS, the City of Albany Parks and Recreation Department desires to participate in this grant program to the greatest extent possible as a means of making healthy lifestyles a priority in our community; and

WHEREAS, the City of Albany Parks & Recreation Commission, City Council, and staff have identified a priority population, associated health needs, and a targeted plan to meet those needs in the City of Albany; and

WHERAS, The City of Albany Parks and Recreation department has built a local coalition of members in support of the ACHIEVE program, its goal, and program activities, and

WHEREAS, the City of Albany Parks and Recreation department has the ability to establish infrastructure and program support for policy, systems, and environmental changes that support the requirements of the funding announcement.

WHEREAS, the there are no matching funds required for this application, and

IT IS HEREBY ORDERED that the City of Albany Parks and Recreation Department be authorized to apply for an NRPA ACHIEVE Healthy Communities Grant from the National Recreation and Park Association as specified above.

DATED THIS 17th DAY OF DECEMBER, 2008.

\_\_\_\_\_  
Mayor


ATTEST:

\_\_\_\_\_  
City Recorder



Albany City Council

Wes Hare, City Manager

FROM: Ed Hodney, Director of Parks and Recreation 

DATE: December 10, 2008, for the December 17, 2008 City Council Meeting

SUBJECT: Authorization to submit grant application for proposed rehabilitation of Periwinkle Creek Trail

RELATES TO STRATEGIC PLAN THEME: • Great Neighborhoods

Action Requested:

Consider a motion to authorize the Albany Parks & Recreation Department to submit an application to the Oregon Parks and Recreation Department (ORPD) to apply for a Recreation Trails Program Grant for the restoration and rehabilitation of Periwinkle Creek Trail.

Discussion:

Our proposed project is a rehabilitation of a non-motorized diverse use paved, flat 1.8 mile bicycle and pedestrian path that runs along Periwinkle Creek from the northwest corner of Grand Prairie Park to the Albany Boys and Girls Club on Oak Street. The project will replace up to 1900 linear feet of deteriorated concrete on the existing Periwinkle Creek Trail. The estimated total cost of the project is \$100,000.

The grant program requires a minimum 20% match from the City. However, our chance of securing grant funding will increase with a higher city match. We propose a 50% City match of \$50,000 for the project. Our local match would include funds from the Parks & Recreation Fund budget, the value of the labor, value of equipment, and materials.

The application deadline is January 9, 2009. If awarded, grant funding would be available after July 2009.

Budget Impact:

If awarded, the proposed FY 2009-2010 Parks & Recreation Fund budget would include an expenditure of \$100,000 for the project and a \$50,000 revenue account in the Grant Fund. Since this is an existing trail, we anticipate no increase in the cost of maintenance resulting from this proposed project.

Attachments: Resolution

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY OF ALBANY PARKS AND RECREATION DEPARTMENT TO APPLY FOR A RECREATION TRAILS PROGRAM GRANT FROM THE OREGON PARKS AND RECREATION DEPARTMENT FOR THE PROPOSED REHABILITATION OF PERIWINKLE CREEK TRAIL AND DELEGATING AUTHORITY TO THE PARKS AND RECREATION DIRECTOR TO SIGN THE APPLICATION.

WHEREAS, the Oregon Parks and Recreation Department is accepting applications for the Recreation Trails Program Grant; and

WHEREAS, the City of Albany desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements and enhancements; and

WHEREAS, the City of Albany has identified improvements on the Periwinkle Creek Trail as a high-priority need in the City of Albany; and

WHEREAS, the project will rehabilitate a non-motorized diverse used paved, flat 1.8 mile bicycle and pedestrian path that runs along Periwinkle Creek from the northwest corner of Grand Prairie Park to the new Kinder Park. The project will replace up to 1900 linear feet of deteriorated concrete on the existing Periwinkle Creek Trail.

WHEREAS, the applicant hereby certifies that the matching share for this application is readily available at this time in the Parks and Recreation Fund in the form of cash and force labor; and

IT IS HEREBY ORDERED that the City of Albany Parks and Recreation Department be authorized to apply for a Recreation Trails Program Grant from the Oregon Parks and Recreation Department for the proposed rehabilitation of the path that runs along Periwinkle Creek as specified above and that the Parks and Recreation Director be delegated authority to sign the application.

DATED THIS 17<sup>th</sup> DAY OF DECEMBER, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder



TO: Albany City Council

VIA: Wes Hare, City Manager  
Diane Taniguchi-Dennis, P.E., Public Works Director *DSTD*

FROM: Chip Ullstad, P.E., Utility Engineer *CU*

DATE: December 8, 2008, for the December 17, 2008, City Council Meeting

SUBJECT: Vacation of Willamette Avenue NE, Beginning at Davidson Street NE and Extending Easterly Approximately 192 Feet

Action Requested:

Staff requests that the City Council initiate vacation of Willamette Avenue NE beginning at Davidson Street NE and extending easterly to the end of the right-of-way, approximately 192 feet.

Discussion:

The above referenced section of Willamette Avenue is a platted right-of-way that separates a portion of the northern and southern sections of the Public Works Operations Facility, as shown on the attached map. The easterly section of Willamette was vacated in 1952. This remaining section of Willamette, although platted as a street right of way, is not open to public access and is used exclusively as an entrance and exit to Public Works Operations from Davidson Street.

Operations is in the process of seeking building permits for a structure on this site to house and secure equipment and an inventory of parts and supplies. Development of the site is constrained because the site is divided by the remaining platted section of Willamette Avenue.

If the Council initiates the street vacation, staff will submit a street vacation application and the required application fee will be paid from the Public Works operating budget. Surrounding property owners will receive notice of the application. Public hearings before the Planning Commission and City Council will be held and the decision to actually vacate the street right-of-way will be made on the merits of the application.

The City's Transportation Analyst Ron Irish supports the request that City Council initiate this street vacation.

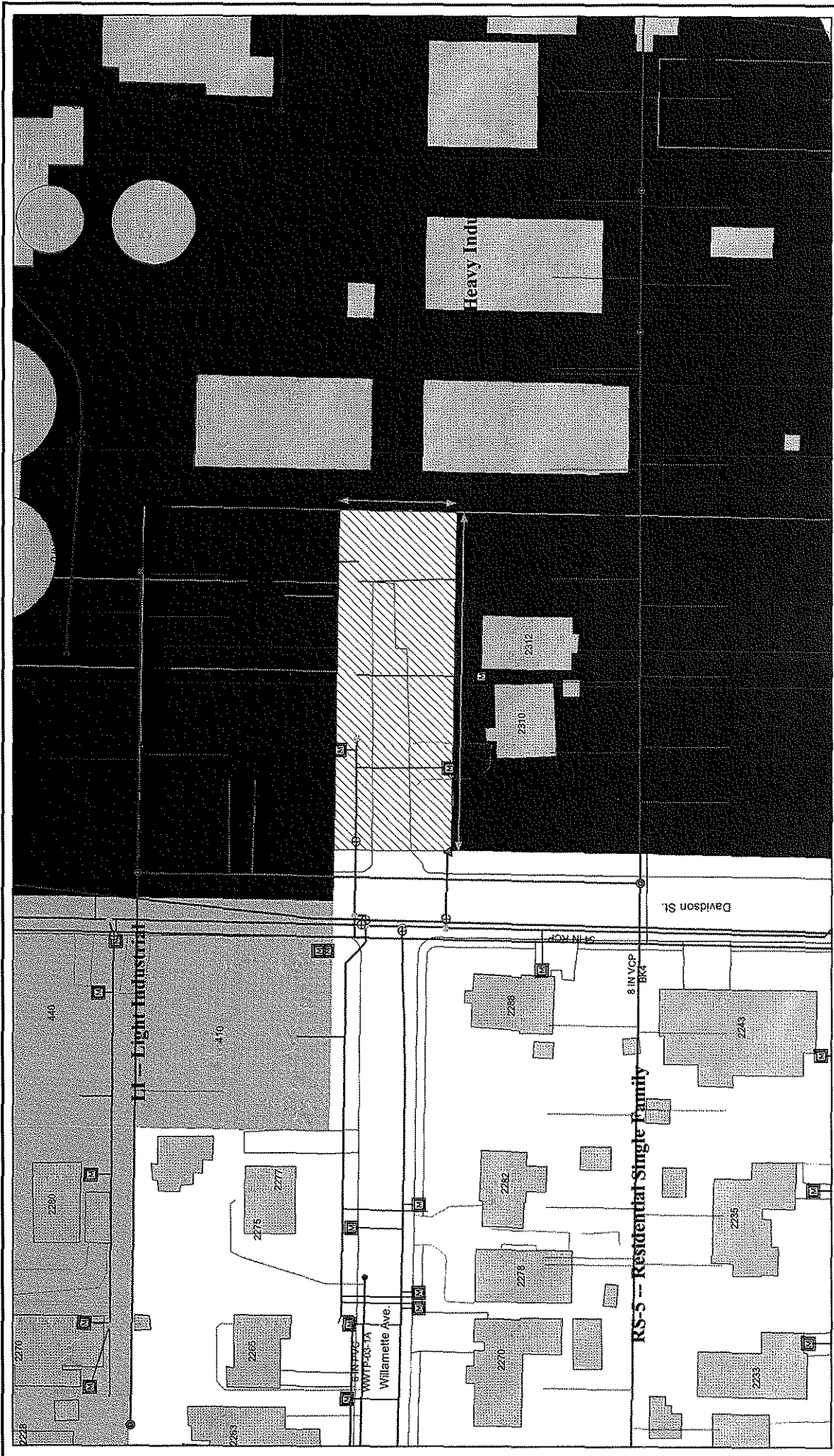
Budget Impact:

Approval of this request will result in an expenditure of \$2,002 for the application fee to vacate public right-of-way.

CNU:prj

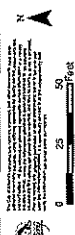
Attachment

c: Ted Mikowski, P.E., Facilities Engineering Manager  
Ronald G. Irish, Transportation Systems Analyst  
Mike Leopard, Infrastructure Analyst



**Proposed Vacation - Willamette Ave. East of Davidson St.**

Project File Number



City of Albany - 333 Broadbain St. SW, Albany, Oregon 97321 (541) 917-7576



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: John R. Bradner, Fire Chief *JB*  
DATE: December 10, 2008, for the December 17, 2008, City Council Meeting  
SUBJECT: Acceptance of 2008 State Homeland Security Grant Funds  
RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

Approval by resolution for the Fire Department to accept \$11,859 through the 2008 State Homeland Security Grant Program for training of the State Urban Search and Rescue Task Force South Division.

Discussion:

The Fire Department received approval through Resolution No. 5639 at the July 23, 2008, City Council meeting to participate in a grant application with Lane County for training of the State's Urban Search and Rescue Task Force South Division through the 2008 State Homeland Security Grant Program.

Lane County submitted the application on behalf of the City of Albany in the amount of \$11,859.

The Fire Department has received notification from Oregon Emergency Management that the City is awarded the grant as submitted.

Budget Impact:

\$11,859 Grant Funding

JB:ljh  
Attachment

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE FIRE DEPARTMENT TO ACCEPT \$11,859 FROM THE 2008 STATE HOMELAND SECURITY GRANT PROGRAM.

WHEREAS, the Fire Department received approval through Resolution No. 5639 at the July 23, 2008, City Council meeting to participate in a grant application with Lane County for the State's Urban Search and Rescue Task Force South Division through the 2008 State Homeland Security Grant Program; and

WHEREAS, Lane County submitted the application on behalf of the City of Albany in the amount of \$11,859 for urban search and rescue training; and

WHEREAS, the City of Albany has received notification from Oregon Emergency Management that we will be awarded \$11,859 through the 2008 State Homeland Security Grant Program.

NOW, THEREFORE, BE IT RESOLVED the Albany City Council authorizes the Fire Department to receive funds in the amount of \$11,859 from the 2008 State Homeland Security Grant for urban search and rescue training as a member of the State Urban Search and Rescue Task Force South Division.

BE IT FURTHER RESOLVED that the following account numbers shall be applied to the grant:

	<u>Debit</u>	<u>Credit</u>
Resources		
US Dept. of Homeland Security 203-25-5066-42027	\$11,900	
Requirements		
Wages & Salaries 203-25-5066-51001		\$1,500
Overtime 203-25-5066-53001		\$4,800
Employer Paid Benefits 203-25-5066-56001		\$3,300
Materials & Supplies 203-25-5066-61024		\$2,300

DATED AND EFFECTIVE THIS 17TH DAY OF DECEMBER, 2008.

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Mayor

ATTEST:

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City Clerk



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: John R. Bradner, Fire Chief *JB*  
DATE: December 10, 2008, for the December 17, 2008, City Council Meeting  
SUBJECT: Acceptance of 2008 State Homeland Security Grant Funds  
RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

Approval by resolution for the Fire Department to accept \$91,155 through the 2008 State Homeland Security Grant Program for development of a Damage Assessment Plan for the City of Albany.

Discussion:

City Council acknowledged the Fire Department's participation in a Homeland Security Grant application at the City Council Work Session on July 23, 2008, in a report from the City Manager.

Linn County submitted an application on behalf of the City of Albany in the amount of \$103,050 for a Damage Assessment Program through the 2008 State Homeland Security Grant Program.

The City has received notification from Oregon Emergency Management that we will be awarded \$91,155 through the 2008 State Homeland Security Grant Program for development of a Damage Assessment Program for the City of Albany.

Budget Impact:

\$91,155 Grant Funding

JB:ljh  
Attachment



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE FIRE DEPARTMENT TO ACCEPT \$91,155 FROM THE 2008 STATE HOMELAND SECURITY GRANT PROGRAM.

WHEREAS, Albany City Council acknowledged the Fire Department's participation in a Homeland Security Grant application through the City Manager's report at the July 23, 2008, City Council Work Session; and

WHEREAS, Linn County submitted an application on behalf of the City of Albany in the amount of \$103,050 for a Damage Assessment Program through the 2008 State Homeland Security Grant Program; and

WHEREAS, the City of Albany has received notification from Oregon Emergency Management that we will be awarded \$91,155 through the 2008 State Homeland Security Grant Program.

NOW, THEREFORE, BE IT RESOLVED the Albany City Council authorizes the Fire Department to receive funds in the amount of \$91,155 from the 2008 State Homeland Security Grant for development of a Damage Assessment Program for the City of Albany.

BE IT FURTHER RESOLVED that the following account numbers shall be applied to the grant:

	<u>Debit</u>	<u>Credit</u>
Resources		
US Dept. of Homeland Security 203-25-5067-42027	\$91,200	
Requirements		
Contractual Services 203-25-5067-60101		\$82,800
Materials & Supplies 203-25-5067-61024		\$8,400

DATED AND EFFECTIVE THIS 17TH DAY OF DECEMBER, 2008.

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Mayor

ATTEST:

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City Clerk