



AGENDA

MOLALLA CITY COUNCIL MEETING
September 11, 2019
7:00 PM
Molalla Adult Center
315 Kennel Ave, Molalla, OR 97038

Mayor Keith Swigart

Council President Elizabeth Klein
Councilor Leota Childress
Councilor DeLise Palumbo

Councilor Terry Shankle
Councilor Jody Newland
Vacant Seat

1. CALL TO ORDER AND ROLL CALL

2. FLAG SALUTE

3. PRESENTATIONS, PROCLAMATIONS, CEREMONIES

4. PUBLIC COMMENT

(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder.)

5. APPROVAL OF THE AGENDA

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may only be discussed if it is pulled from the consent agenda.)

A. Meeting Minutes – August 14, 2019

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B. Meeting Minutes – August 28, 2019

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7. INTERGOVERNMENTAL AGREEMENT: OR213 and Toliver Road Intersection Improvements (ODOT)

8. PUBLIC HEARINGS

A. Ordinance 2019-07: An Ordinance Amending Language of City Council Work Sessions (Ord. 2007-05) (Huff)

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B. Ordinance 2019-08: An Ordinance Repealing and Replacing Chapter 13.08.540 Preliminary Treatment Facilities with Chapter 13.08.540 Restricted Discharges and Pretreatment (Fisher)

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C. Ordinance 2019-09: An Ordinance Repealing Chapter 13.08.550 Industrial Wastes Control Manhole and Chapter 13.08.560 Tests of Wastes Location and Sampling (Fisher)

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D. Ordinance 2019-10: An Ordinance Repealing and Replacing Chapter 5.24.025 General Business Licensing: Exemptions (Fisher)

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E. Ordinance 2019-11: An Ordinance Repealing and Replacing Chapter 13.08.420 Materials and Connections Specifications (Fisher)

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F. Ordinance 2019-12: An Ordinance Repealing and Replacing Chapter 13.04.130 Size of Service Connections (Fisher)

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G. Ordinance 2019-13: An Ordinance Repealing and Replacing Chapter 13.04.360 Water Main Extensions – Size (Fisher)

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9. GENERAL BUSINESS

- A. Oregon Clean Air Act, ORS 433.835-433.875
- B. Winter Banner Project

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10. REPORTS

- A. City Manager and Staff
- B. Mayor
- C. City Councilors

11. RECESS INTO EXECUTIVE SESSION

Held pursuant to Oregon Public Record Law, ORS 192.660(2):

- (e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

12. RECOVENE REGULAR SESSION

13. ADJOURN



Minutes of the Molalla City Council Regular Meeting

Molalla Adult Community Center
315 Kennel Ave., Molalla, OR 97038
August 14, 2019

1. CALL TO ORDER AND ROLL CALL

THE MOLALLA CITY COUNCIL REGULAR MEETING of August 14, 2019 was called to order by Mayor Keith Swigart at 7:02pm.

COUNCIL ATTENDANCE:

Mayor Keith Swigart – Present
Councilor Elizabeth Klein – Present
Councilor Leota Childress – Absent
Councilor DeLise Palumbo – Absent
Councilor Terry Shankle – Present
Councilor Jody Newland - Present
Vacant Seat
Student Liaison Natalee Litchfield – Absent

STAFF IN ATTENDANCE

Dan Huff, City Manager - Present
Christie DeSantis, Interim City Recorder - Present
Gerald Fisher, Public Works Director - Present
Chaunee Seifried, Finance Director - Present

2. FLAG SALUTE

3. PRESENTATIONS, PROCLAMATIONS, CEREMONIES

None.

4. PUBLIC COMMENT

None.

5. APPROVAL OF THE AGENDA

*Motion made to approve the agenda as written by Councilor Klein, second by Councilor Newland.
Vote passed 4-0.*

6. CONSENT AGENDA

- A. Meeting Minutes – July 26, 2019
- B. OLCC Permit for Restaurant: Thai Yo Sushi, LLC
 - a. Requesting Limited On-Premises sale of beer and wine
- C. Resolution 2019-18 System Development Charges Fee Update

A motion was made by Councilor Klein, seconded by Councilor Newland, to approve the Consent Agenda except item 6c. The motion passed 4-0.

Councilor Klein questioned Public Works Director, Gerald Fisher about Resolution 2019-18 System Development Charges Fee Update and how the percentages would apply to the increase in fee.

Mr. Fisher explained that on April 24, 2019, Council approved an update to the sewer and transportation SDC's. Staff miscalculated the rate increase scheduled for January 1, 2020. This Resolution corrects the error and applies the full fifty percent increase in January 2020 and another fifty percent increase in July 2020. (Exhibit A)

A motion was made by Councilor Newland to accept Resolution 2019-18 as written, seconded by Councilor Shankle. Vote passed 4-0.

7. PUBLIC HEARINGS

None.

8. GENERAL BUSINESS

A. Ordinance language review of Molalla Municipal Code 1.02.060

After brief discussion between the City Manager and Council, it was decided to make a few corrections to the Ordinance. An updated version will be presented to Council at the next meeting.

9. REPORTS

A. City Manager
None.

B. Staff

Interim City Recorder Desantis informed Council that Census 2020 from PSU would like to give a presentation in October. The option is for a Work Session or Council meeting. Councilor Klein felt the public would benefit from viewing the presentation. DeSantis will schedule them for October 23, 2019.

Public Works Director Fisher reported that the Fenton Sewer Project will be completed next month. Clark Park Phase II is almost finished. The cleanup will be completed by City Staff, with trees being planted on the inside of the fence of Clark Park. WWTP had no violations for June and July.

Finance Director Seifried had nothing.

C. Mayor

Mayor Swigart reported that he, Public Works Director Fisher, Representative Rick Lewis, and Commissioner Paul Savas met regarding ODOT's refusal of a signal at Leroy Avenue. They also discussed the pedestrian path for Ona Way. Mayor Swigart was pleased with the content of the meeting.

D. City Councilors

Councilor Newland thanked everyone that helped with National Night Out on August 6, 2019. She expressed her gratitude to all that participated as well. City Manager Huff shared that the Police Department reported that this was the highest attendance ever.

Council Shankle had nothing.

Councilor Klein thanked Councilor Newland for her work in setting up for National Night Out. This was the first year that Council had a booth at this event and was very well received.

The Molalla Community Visioning graphic is getting closer to completion. Many great things have happened in our community since beginning this process.

10. ADJOURN

A motion was made by Councilor Klein to adjourn the meeting, seconded by Councilor Shankle. Vote passed 4-0. Meeting adjourned at 7:26pm.

Keith Swigart, Mayor

Date

ATTEST:

Christie DeSantis
Interim City Recorder



Minutes of the Molalla City Council Regular Meeting

Molalla Adult Community Center
315 Kennel Ave., Molalla, OR 97038
Wednesday, August 28, 2019

THE MOLALLA CITY COUNCIL MEETING of Wednesday, August 28, 2019 was canceled by Mayor Keith Swigart at 7:00pm due to lack of a quorum.

COUNCIL ATTENDANCE:

Mayor Keith Swigart – Present
Councilor Elizabeth Klein – Present
Councilor Leota Childress – Absent
Councilor DeLise Palumbo – Absent
Councilor Terry Shankle – Absent
Councilor Jody Newland – Present
Vacant Seat

STAFF IN ATTENDANCE

Dan Huff, City Manager – Present
Gerald Fisher, Public Works Director - Present
Chaunee Seifried, Finance Director – Present
Christie DeSantis, Interim City Recorder - Absent
Alice Cannon, Planning Director - Absent

Mayor, Keith Swigart

Date

ATTEST:

Christie DeSantis
Interim City Recorder

City of Molalla

City Council Meeting



Agenda Category:

Subject: Intergovernmental Agreement – OR 213/Toliver Road Intersection Improvements

Recommendation: Authorize City Manager to Sign

Date of Meeting to be Presented: September 11, 2019

Fiscal Impact: \$2,247,990

Background:

Staff had hoped to provide Council with a copy of the draft Intergovernmental Agreement with ODOT regarding intersection improvements to OR 213 and Toliver Road by the time this agenda packet went out, but the agreement was not available in time. We will provide the agreement to Council at the September 11, 2019 meeting.

This agreement provides a mechanism for much needed improvements to an intersection that is heavily used by Molalla residents going to and from their place of employment. The overall budget for the project is estimated at \$8,894,391 with a City of Molalla contribution of \$2,247,990.

Staff's proposed intention is to borrow funding for our contribution and create an Advance Financing District in order to capture future development contributions to this intersection improvements. ODOT Staff will be present at the meeting to participate in the discussion. Construction for this project will be two to three years out.

SUBMITTED BY: Dan Huff City Manager
APPROVED BY: Dan Huff, City Manager

City of Molalla

City Council Meeting



Agenda Category: Ordinance Amendment

Subject: Ordinance Number 2019-07; An Ordinance Amending MMC Chapter 1.02.060 the Language of City Council Work Sessions.

Recommendation: Council Approval

Date of Meeting to be Presented: September 11, 2019

Fiscal Impact: None

Background:

Revision to Ordinance 2007-05 that will update language of the Molalla Municipal Code, Chapter 1.02.060 regarding Work Sessions. The original ordinance (Ord. 2007-05) is included for review.

SUBMITTED BY: Christie DeSantis, City Recorder
APPROVED BY: Dan Huff, City Manager



ORDINANCE NUMBER 2019-07

AN ORDINANCE OF THE CITY OF MOLALLA, OREGON AMENDING THE LANGUAGE FOR CITY COUNCIL WORK SESSIONS.

WHEREAS, Chapter 1.02 of the Molalla Municipal Code regulates work sessions prior to City Council meetings; and

WHEREAS, Chapter 1.02.060 of the Molalla Municipal Code requires updated language; and

WHEREAS, the Mayor and Council agree that said language should be revised to the following.

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. Chapter 1.02.060, Council Meetings, Section B, is hereby amended to read as follows:

B. Work sessions may be held prior to City Council meetings. Work sessions and agendas will be developed by the City Manager in consultation with the City Council, or by motion with Council approval or by concurrence of the Council.

Section 2. Chapter 1.02.060, Council Meetings, Section C, is hereby amended to read as follows:

C. Special meetings or work sessions may be called by the Mayor or Council President in the absence of the Mayor or by majority of the Council. Final decisions shall not be made at work sessions.

Section 3. Chapter 1.02.060, Council Meetings, Section E, is hereby amended to read as follows:

E. Minutes of regular meetings, special Council meetings, and work sessions will be taken as provided by the Oregon Public Records law.

Section 4. Effective date. This ordinance shall be effective 30 days after passage by Council and approved by the Mayor this date: _____

Duly adopted by the City Council of the City of Molalla this 11th day of September, 2019.

Keith Swigart, Mayor

ATTEST:

Christie DeSantis, City Recorder

Ordinance Adoption Molalla Municipal Code

1.02.060 Council meetings.

A. Regular meetings to conduct Council business will be held on the 2nd and 4th Wednesdays of each month unless canceled by the Mayor for good cause.

B. Work sessions ~~to review meeting agenda items will~~ may be held prior to each **City Council** meeting ~~unless cancelled by the Mayor for good cause.~~ Work sessions and agendas will be developed by the City Manager in consultation with the City Council, or by motion with Council approval or by concurrence of the Council.

C. Special meetings or work sessions may be called by the Mayor or Council President in the absence of the Mayor or by a majority of the Council. Final decisions shall not be made ~~taken~~ at work sessions.

D. Executive sessions will be held in compliance with the Oregon Public Meetings law.

E. Minutes of regular meetings, ~~and~~ special Council meetings and work sessions will be taken as provided by the Oregon Public Records law.

F. Telephone/electronic meetings may be held in compliance with the Oregon Public Meetings law. Councilors may participate and vote in Council meetings via telephone, electronically, or by other means consistent with the Oregon Public Meetings law.

G. Attendance at meetings is expected of Councilors who should use their best efforts to attend all Council meetings. Councilors will inform the Mayor and the City Manager if they are unable to attend any meeting. Additionally, the Mayor will inform the Council President and the City Manager regarding any absence by the Mayor. (Ord. 2007-05 §1)

City of Molalla

City Council Meeting



Agenda Category: Ordinance Amendment

Subject: Code Revision to Chapter 13.08 Sanitary Sewers

Recommendation: Council Approval

Date of Meeting to be Presented: September 11, 2019

Fiscal Impact: None

Background:

Currently the City does not have an active pretreatment program for industrial users connected to the City wastewater system. The City will be expected in the near to have a pretreatment program in place for industrial users as required by DEQ. This code revision creates that program.

This revision deletes and retitles the language from Section 13.08.540 Preliminary Treatment Facilities – Maintenance to 13.08.540 Restricted Discharges and Pretreatment. This revision also deletes and retitles the language from Sections 13.08.550 and 13.08.560 which has been revised and incorporated into the new language of Section 13.08.540.

Attached is MMC Code Chapter 13.08.540, 13.08.550, and 13.08.560 with the proposed changes in red BOLD.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager



ORDINANCE NUMBER 2019-08

AN ORDINANCE OF THE CITY OF MOLALLA, OREGON REPEALING AND REPLACING CHAPTER 13.08.540 PRELIMINARY TREATMENT FACILITIES WITH 13.08.540 RESTRICTED DISCHARGES AND PRETREATMENT

WHEREAS, the City of Molalla does not currently have a restricted discharge and pretreatment code in place; and

WHEREAS, industrial properties and users are currently connected to the City sanitary sewer system; and

WHEREAS, the City of Molalla intends to create a formal restricted discharge and pretreatment code in Chapter 13.08 Sanitary Sewer.

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. Chapter 13.08.540 Preliminary Treatment Facilities - Maintenance be repealed in its entirety and a newly revised code that reads as follows be codified into the Molalla Municipal Code:

13.08.540 Restricted Discharges and Pretreatment.

A. Standard methods for testing and analysis.

1. All measurements, tests and analyses of the characteristics of water and waste to which reference is made in the utility code shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. In the event that no special manhole is required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.
2. Sampling shall be carried out by customarily accepted methods to reflect the effect the effluent may be having on the sewer works and to determine the possible impact to the public welfare.

B. Sanitary sewers – Prohibited discharges.

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

2. Dilution. No Industrial User may increase the use of potable or process water in any way, for the purpose of diluting wastewater to achieve compliance with the standards set forth in this code.

C. Storm sewer use requirements.

1. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet, upon written approval of the Director.

D. Nonpermitted discharges designated.

1. No person shall discharge or cause to be discharged any one of the following described waters or wastes to any public sewers:

a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; nor any kerosene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides;

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

c. Any water and waste having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

d. Solids or visceral substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, feathers, tar, asphalt, lubricating oil, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

E. Prohibited discharges.

1. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the Public Works Director or designee, that such wastes can harm either the sewer system, sewage treatment process or equipment, have an adverse effect on the

receiving stream, or can otherwise endanger public health, safety or welfare, or constitute a nuisance. In forming such opinion, the Public Works Director or designee will give consideration to such factors as to quantities of waste in relation to flows and velocities in the sewer system, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of waste in the sewage treatment plant, and other pertinent factors.

2. The substances prohibited are:

- a. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees centigrade);
- b. Any water or waste containing fats, gas, grease or oils, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees centigrade), or which has a temperature which will inhibit biological activity in the treatment plant, and in no case wastewater with a temperature at the introduction into the treatment plant receiving water which exceeds 105 degrees Fahrenheit (40 degrees centigrade);
- c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the Public Works Director;
- d. Any water or waste containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not;
- e. Any water or waste containing iron, chromium, copper, zinc, lead, nickel, silver, mercury, cadmium or other similar toxic substances which exceed EPA or DEQ standards;
- f. Any water or waste containing high concentrations of phenols or other taste- or odor-producing substances;
- g. Any radioactive waste or isotopes of such half-life or concentration as may exceed state or federal requirements;
- h. Any water or waste having a pH in excess of 9.5;
- i. Materials which exert or cause:
 - 1). Unusual concentrations of inert suspended solids, such as fuller's earth, lime slurries and lime residues, or of dissolved solids such as sodium chloride and sodium sulphate,
 - 2). Excessive discoloration, such as dye waste and vegetable tanning solutions,

- 3). Unusual BOD or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works,
 - 4). Unusual volume of flow or concentration of waste constituting slugs, as defined in Chapter 13.08.190 MMC;
- j. Water or waste containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving water.

F Rejection or pretreatment conditions.

1. 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 outlined in MMC 13.08.450.E, and which may have a detrimental effect upon the sewage works, processes, equipment or receiving water, or which otherwise may create a hazard to life or constitute a public nuisance, the Public Works Director may:
 - a. Reject the wastes;
 - b. Require pretreatment to an acceptable condition for discharge to the public sewer;
 - c. Require control over the quantities and rates of discharge; and/or
 - d. Require payment to cover any increase of administering the wastewater permit, the added cost of chemicals needed to address the situation, and the added cost of handling and treating the wastes not covered by existing taxes, fees or other charges under the provisions of the utility code.

G. Grease, oil and sand interceptors.

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

H. Pretreatment facilities – Operation and maintenance.

1. Where preliminary treatment or flow-equalizing facilities are provided for any water or waste, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's own expense.

I. Control manhole for tests.

1. When required by the Public Works Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Public Works Director. Any cost to the city for required non-city sampling or testing shall be paid by the owner affected. The manhole shall be installed by the owner at the owner's own expense and shall be maintained by the owner so as to be safe and accessible at all times.

J. Special agreements not restricted.

1. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern, and provided such agreement is in compliance with EPA and DEQ regulations.

2. When requested, an industrial user must submit information on a survey form prepared by the Public Works Director before commencing discharge into the city wastewater system, identifying the nature and characteristics of the user's wastewater. The Director may periodically require industrial users to update the survey. Failure to complete this survey within the time set by the Director is grounds for terminating service to the industrial user.

K. Discharges prohibited without a permit.

1. No industrial user shall discharge wastewater into the city's municipal wastewater system without first obtaining a wastewater permit.

2. No permittee shall violate the terms and conditions of a wastewater permit issued pursuant to this chapter. Obtaining a wastewater permit does not relieve a permittee from the obligation to obtain other permits required by federal, state, or local law.

L. Permitting existing connections.

1. Any industrial user, not already possessing a permit, that discharges industrial waste into the city wastewater system prior to the effective date of this chapter and who wishes to continue such discharges in the future shall, within 90 days after the effective date, apply to the city for a wastewater permit, and shall not cause or allow discharges to the system to continue after 180 days of the effective date except in accordance with a permit issued by the Public Works Director.

M. Permitting new or renewed connections.

1. Any industrial user proposing to begin or to recommence discharging industrial wastes directly or indirectly into the city wastewater system must obtain a wastewater permit prior to beginning or recommencing such discharge.

2. An application for a permit renewal must be received at least 90 days before the current permit expires.

N. Wastewater permit issuance.

1. Within 60 days of the date the Public Works Director deems a permit application complete, the Director will evaluate the data furnished by the industrial user and determine whether a wastewater permit should be issued. The Director will issue a permit within said 60 days unless a circumstance identified in subsection (B) of this section exists.

2. If any wastewater proposed to be discharged to the city wastewater system contains substances identified or possesses the characteristics enumerated in MMC 13.08.540.D and 1308.540.E which, in the Director's judgment, may have a deleterious effect upon the city wastewater system, processes, equipment, or waters of the state, or otherwise create a hazard to life or constitute a public nuisance, the Director may:

- a. Refuse to permit the discharge;
- b. Require pretreatment to an acceptable condition for discharge into the city wastewater system; or
- c. Require control over the quantities and rates of discharge.

O. Wastewater permit duration.

1. Permits shall be issued for a time period of five years. Each permit shall indicate the specific date upon which it will expire.

P. Wastewater permit contents.

1. A wastewater permit shall include such conditions deemed reasonably necessary by the Public Works Director, or designee, to prevent pass through or interference and to implement the objectives of this chapter. Wastewater permits shall, at a minimum, contain:

- a. A statement of permit duration;
- b. A statement the permit is nontransferable;
- c. Effluent limits applicable to the industrial user, including best management practices, based on applicable pretreatment standards in 40 CFR Part 403, categorical pretreatment requirements, local limits, and state and local law;
- d. Monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
- e. Statement of applicable penalties for violation of pretreatment standards, pretreatment requirements, and compliance schedules; and

f. Requirements to control spills or slug discharges as determined necessary by the POTW, including conditions for emergency suspension of the permit, or conditions thereof.

2. Permits may contain:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Limits on the instantaneous daily and monthly average, and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
- c. Requirements for the installation of pretreatment technology or construction of appropriate containment devices or other similar technologies or devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
- e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the city wastewater system;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. Specifications for monitoring programs, which may include designation of sampling locations and frequency of sampling; the number, types, and standards for tests; and reporting schedules;
- h. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days of such noncompliance where monitoring indicates a violation;
- i. Compliance schedules for meeting pretreatment standards and pretreatment requirements;
- j. Requirements for submission of periodic monitoring or special notification reports;
- k. Requirements for maintaining and retaining plant records relating to wastewater discharge, and affording the Director or his designee access thereto;
- l. Requirements for prior notification and approval by the Public Works Director, or designee, of any introduction of new wastewater pollutants or any unpermitted change in the volume or character of wastewater prior to introduction in the city wastewater system;
- m. Requirements for prior notification to and approval by the Director of any significant change in the manufacturing and/or pretreatment process;

- n. Requirements for immediate notification of excessive, accidental, or slug discharges, or other discharge which may cause any problems to the city wastewater system;
- o. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards and pretreatment requirements, including those which become effective during the term of the permit; and
- p. Other conditions deemed appropriate by the Director to ensure compliance with this chapter; state and federal laws, rules, and regulations; and the terms of the permit.

Q. Wastewater permit appeals.

1. Any person, including the permittee, may appeal the conditions imposed in a permit, or the issuance or denial of a permit within 10 days of the issuance of the final permit by filing a notice of appeal, as provided for in MMC 13.08.540.KK. Failure to submit a timely notice of appeal shall be a waiver of all rights to administrative review.
2. In addition to the requirements in MMC 13.08.540.KK, the appellant shall indicate the specific objection, the reasons for the objection, and alternative conditions, if any, the appellant seeks to have placed in the permit.
3. The effectiveness of the permit shall not be stayed pending resolution of appeal.

R. Wastewater permit modifications.

1. The Public Works Director may modify a permit for good cause including, but not limited to, the following:
 - a. To incorporate any newly revised federal, state, or local pretreatment standards or pretreatment 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 city wastewater system that requires either a temporary or permanent reduction or elimination of the permitted discharge;
 - d. Information indicating that the permitted discharge poses a threat to the city wastewater system, city personnel, or waters of the state;
 - 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. A revision or grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13; or

- h. To correct typographical or other errors in the permit.
- 2. The filing of a request by the permittee for a permit modification does not stay any permit condition.
- S. Wastewater permit transfer.
 - 1. Permits may not be reassigned or transferred from the permittee to a new industrial user.
- T. Wastewater permit reissuance.
 - 1. An industrial user shall apply for permit reissuance by submitting a complete permit application no later than 90 days before the expiration of the user's permit.
- U. Reports of potential problems.
 - 1. If an accidental, slug, or other discharge occurs which may cause problems for the city wastewater system, the user shall immediately notify the city by telephone of the incident. Notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
 - 2. Unless waived by the Director, within five days following an accidental discharge, the user shall submit 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 fines, civil penalties, expense, loss, damage, or other liability that may be incurred or imposed as a result of damage to the city wastewater system, natural resources, or persons or property.
 - 3. Failure to notify the city of potential problem discharges shall be deemed a separate violation of this chapter.
 - 4. Industrial users shall prominently post a notice on a bulletin board or other similar place readily accessible to the user's employees, advising the employees of whom to call in the event of a potential problem discharge, and shall train all employees in the emergency notification procedure.
 - 5. Where the city has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling may not be required if:
 - a. The city performs sampling at the industrial user at a frequency of at least once per month, or the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.
 - b. Cost to the city for repeat analysis may be recouped per MMC 13.08.540.F.
- V. Reports of significant production change.

1. An industrial user operating under a waste 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. For purposes of this section the term “significantly” will be defined in the permit. An industrial user is not required to report or warn of a production change unless it will change the industrial discharge to an extent not allowed by the industrial user’s permit.

W. Inspection and sampling.

1. An industrial user shall allow the city to enter the facilities of the user without unreasonable delay, to ascertain whether the user is complying with pretreatment standards and pretreatment requirements. Industrial users shall allow the Public Works Director, or designee, 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.
2. If an industrial user has security measures that require identification and clearance before entry, the industrial user shall make necessary arrangements with its security guards so that upon presentation of proper identification personnel from the city, state, and the EPA will be permitted entry without unreasonable delay to perform their specific responsibilities.
3. The city, state, and the EPA shall have the right to set up or require installation of such devices as are necessary to conduct sampling and/or metering of the industrial user’s operations.
4. The city may require the industrial user to install all necessary monitoring equipment. The facility’s sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the industrial user at the industrial user’s expense. A qualified technician must calibrate all devices used to measure wastewater flow and quality at least twice yearly to ensure accuracy.
5. Any obstruction to safe and easy access to the industrial facility shall be promptly removed by the industrial user at the request of the Director and shall not be replaced. The costs of removal shall be borne by the industrial user.
6. Unreasonable delays in allowing city personnel access to the industrial user’s premises shall be a violation of this chapter.

X. Search warrants.

1. If the Director is refused access to a building, structure, or property, or any part thereof, and has probable cause to believe there may be a violation to this chapter or needs to conduct an inspection as part of a routine program designed to protect the

overall public health, safety, and welfare of the community, the Director may apply for a search warrant from a court of competent jurisdiction. The application shall identify the specific location to be searched and shall specify what locations may be searched and what property may be seized. After issuance, the Director will serve the warrant at reasonable hours.

Y. Confidential information.

1. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, monitoring programs, and 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 Attorney that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets, and are exempt from disclosure under applicable law.
2. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 are not confidential and will be available to the public without restriction.
3. Any information determined to be exempt from disclosure under subsection 1 of this section shall remain confidential, and portions of a report which might disclose trade secrets or secret processes shall not be available for public inspection; provided, that such information shall be made available to governmental agencies for uses related to this chapter or the NPDES program. Notwithstanding subsection 1 of this section, no information is confidential if the information is relevant to, and necessary for, enforcement proceedings involving the person furnishing the report.
4. For the purposes of this section, a specific request is made when the words “confidential business information” are stamped on each page containing such information. If no such specific request is made at the time of furnishing the report, the city may make the information available to the public without further notice.
5. All costs, expenses and attorney’s fees associated with defending a request for confidential information shall be the responsibility of the industrial user requesting confidentiality.

Z. Notification of violation.

1. Whenever any industrial user has violated or is violating this chapter, a wastewater permit or order issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue a written notice of violation. Within 10 days of the receipt of this notice, the industrial user shall submit an explanation of the violation and a detailed plan for the satisfactory correction of the violation and the prevention of future violation. Submission of this plan does not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the city authority to take emergency action without first issuing a notice of violation.

AA. Consent orders.

1. The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with an industrial user to resolve issues of noncompliance. Such orders shall include the specific action to be taken by the industrial user to correct noncompliance within a time period specified in the order. Consent orders shall be judicially enforceable, and any costs, including attorney's fees, incurred by the city in seeking such enforcement shall be assessed against the industrial user as part of any judgment entered therein.

BB. Compliance orders.

1. When the Director finds an industrial user has violated or continues to violate any provision of this chapter, or a permit or order issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue an order discontinuing the industrial user's sewer service unless compliance is obtained within a time certain stated in the order. Compliance orders may contain other requirements necessary and appropriate to correct noncompliance, including additional monitoring and changes to management practices designed to minimize the amount of pollutants discharged to the city wastewater system. The Director may require additional monitoring for at least 90 days after consistent compliance has been achieved, after which monitoring conditions set forth in industrial user's discharge permit shall be followed.

CC. Cease and desist orders.

1. When an industrial user has violated or continues to violate any provision of this chapter, permits or orders issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue a notice and proposed order to the industrial user to cease and desist all such violations and commanding the user to:

- a. Immediately comply with all requirements.
- b. Take such appropriate remedial or preventive action as may be needed to properly address the continuing or threatened violation, including halting operations and/or terminating the discharge.

2. The Director may order any industrial user that causes or contributes to a violation of this chapter, wastewater permits or orders issued hereunder, or any pretreatment standard or pretreatment requirement to appear and show cause why a cease and desist order should not be issued.

3. The city will serve notice on the industrial user specifying the time and place for hearing, the nature of the proposed enforcement action, the reasons for such action, and a direction that the user appear and show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served upon the industrial user or the user's authorized representative, personally or by registered or certified mail, return receipt requested, at least 10 days prior to the hearing. A cease and desist order may be issued immediately following the hearing.

DD. Emergency suspensions.

1. The Director may immediately suspend any user's discharge that threatens to interfere with the operation of the city wastewater system, endangers the environment, or may cause violation of the NPDES permit.
2. Any user notified of a suspension of its discharge shall immediately terminate all discharges into the city wastewater system. In the event a user fails to immediately and voluntarily comply with the suspension order, the Director may take such steps deemed necessary, including immediate severance of the user's connection to the city wastewater system. The Director may allow the user to recommence discharge when the user demonstrates to the satisfaction of the Director that endangerment has passed, unless termination proceedings under MMC 13.08.540.JJ have been initiated.
3. No hearing shall be required prior to any emergency suspension.

EE. Permit revocation.

1. An industrial wastewater permit may be revoked if the user:
 - a. Fails to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 - b. Fails to accurately report wastewater constituents and characteristics of its discharge;
 - c. Falsifies monitoring reports;
 - d. Refuses reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
 - e. Tampers with monitoring equipment;
 - f. Refuses to allow the city timely access to the facility premises and records;
 - g. Fails to meet effluent limitations;
 - h. Fails to pay fines;
 - i. Fails to pay sewer charges;
 - j. Fails to meet compliance schedules;
 - k. Fails to complete a wastewater survey; or
 - l. Violates any pretreatment standard or pretreatment requirement, the user's permit, any order issued pursuant to this chapter, or any provision of this chapter.
2. Industrial users shall be notified of proposed termination and be offered an opportunity to appear and show cause why the permit should not be revoked. Termination of a permit shall not be a bar to, or a prerequisite for, taking any other enforcement action against the user.

3. Notice shall be served on the industrial user specifying the time and place for the show cause hearing, the reasons for permit revocation, and a direction that the user appear and show cause why the permit should not be revoked. The notice of the hearing shall be served upon the industrial user or the user's authorized representative personally or by registered or certified mail, return receipt requested, at least 10 days prior to the hearing. An order revoking the permit may be issued immediately after the hearing.

FF. Injunctive relief.

1. In addition to other relief, the City Attorney may petition a court of competent jurisdiction for the issuance of temporary or permanent injunction to restrain a violation, or compel specific performance, of the terms and conditions of the wastewater permit, order, pretreatment standard or pretreatment requirement, or other provision of this chapter.

GG. Civil penalties – Industrial users only.

1. The Director may impose upon any industrial user that has violated or continues to violate this chapter, any order or permit hereunder, or any pretreatment standard or pretreatment requirement a maximum civil penalty of \$2,500 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties may accrue for each day during the period of this violation.

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

3. For purposes of this section, the term "civil penalty" means the same as the term "administrative fine" as set forth in any enforcement response plan adopted by the City Council pursuant to this chapter's authority. Any civil penalty assessed pursuant to this section will be based on the severity of the violation using the factors outlined in the enforcement response plan.

HH. Civil penalties – Nonindustrial users.

1. A violation of MMC 13.08.540.GG(1), (2) or (3), or 13.08.540.N is punishable by a civil penalty not exceeding \$2,500.

2. A violation of any other provision of this chapter is punishable by a civil penalty of not less than \$50.00. The second and subsequent violation of the same provision of this chapter within any one-year period is punishable by a civil penalty of not less than \$200.00.

3. Any civil penalty assessed pursuant to this section will be based on the severity of the violation using the factors outlined in a City Council-adopted enforcement response plan, even if the offender is not a party to that plan.

II. Remedies nonexclusive.

1. The Public Works Director shall prepare an enforcement response plan to be adopted by a resolution of the City Council for use with industrial users related to any violation of this chapter. The remedies provided for in this chapter are not exclusive, and the Director may take any, all, or any combination of these actions against a noncompliant user, and may bring more than one enforcement action against any 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.

JJ. Water supply severance.

1. Whenever an industrial user has violated or continues to violate the provisions of this chapter or orders or permits issued hereunder, water service to the industrial user may be severed and service will only be resumed, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

KK. Administrative review.

1. Any person aggrieved by any decision or action of the Director may appeal such decision or action as provided in this section.

2. The appeal must be filed with the City Manager within 30 days after the date of the decision or action being appealed, must be in writing and must state:

- a. The name and address of the appellant;
- b. Nature of the decision or action being appealed;
- c. The reason the decision or action is incorrect; and
- d. What the correct decision or action should be.

Within 10 days of an appeal being filed with the City Manager, the City Manager will meet with the appealing industrial user and attempt to resolve the matter prior to action by the City Council.

3. An appellant who fails to file such a statement within the time permitted waives all objections, and the appeal shall not be considered.

4. Unless the appellant and city agree to a longer period, an appeal shall be heard by the City Council within 45 days of the receipt of the notice of appeal. At least 10 days prior to the hearing, the city shall mail notice of the time and location of the hearing to the appellant.

5. The City Council will hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the council deems appropriate. At the hearing, the appellant may present testimony and oral arguments personally or by counsel.

6. If the appeal is from the modification of a permit pursuant to the imposition of a civil penalty, the burden is on the Director to prove that the modification or civil penalty was proper. If the appeal is from the denial of a permit, the burden is on the

appellant to prove that the denial was improper. In all other cases the burden of proof is on the proponent of a fact or position.

7. The City Council will issue a written decision within 30 days of the hearing date. The decision of the City Council is final.

8. An appeal fee established by Council Resolution must accompany the statement of appeal.

Duly adopted by the City Council of the City of Molalla this 11th day of September 2019.

Mayor Keith Swigart

ATTEST this _____ day of _____, 2019

Christie DeSantis, City Recorder

Title 13 Public Services

Chapter 13.08 Sanitary Sewers

13.08.540 Preliminary treatment facilities—Maintenance.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense. (Ord. 2007-07 §1; Ord. 1976-2 Art. 5 §7)

13.08.540 Restricted Discharges and Pretreatment.

A. Standard methods for testing and analysis.

1. All measurements, tests and analyses of the characteristics of water and waste to which reference is made in the utility code shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. In the event that no special manhole is required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

2. Sampling shall be carried out by customarily accepted methods to reflect the effect the effluent may be having on the sewer works and to determine the possible impact to the public welfare.

B. Sanitary sewers – Prohibited discharges.

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

2. Dilution. No Industrial User may increase the use of potable or process water in any way, for the purpose of diluting wastewater to achieve compliance with the standards set forth in this code.

C. Storm sewer use requirements.

1. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet, upon written approval of the Director.

D. Nonpermitted discharges designated.

1. No person shall discharge or cause to be discharged any one of the following described waters or wastes to any public sewers:

- a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; nor any kerosene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides;
- b. Any water or waste containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other waste, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l of cyanide in the waste as discharged to the public sewer;
- c. Any water and waste having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
- d. Solids or visceral substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, feathers, tar, asphalt, lubricating oil, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

E. Prohibited discharges.

1. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the Public Works Director or designee, that such wastes can harm either the sewer system, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger public health, safety or welfare, or constitute a nuisance. In forming such opinion, the Public Works Director or designee will give consideration to such factors as to quantities of waste in relation to flows and velocities in the sewer system, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of waste in the sewage treatment plant, and other pertinent factors.

2. The substances prohibited are:

- a. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees centigrade);

b. Any water or waste containing fats, gas, grease or oils, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees centigrade), or which has a temperature which will inhibit biological activity in the treatment plant, and in no case wastewater with a temperature at the introduction into the treatment plant receiving water which exceeds 105 degrees Fahrenheit (40 degrees centigrade);

c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the Public Works Director;

d. Any water or waste containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not;

e. Any water or waste containing iron, chromium, copper, zinc, lead, nickel, silver, mercury, cadmium or other similar toxic substances which exceed EPA or DEQ standards;

f. Any water or waste containing high concentrations of phenols or other taste- or odor-producing substances;

g. Any radioactive waste or isotopes of such half-life or concentration as may exceed state or federal requirements;

h. Any water or waste having a pH in excess of 9.5;

i. Materials which exert or cause:

1). Unusual concentrations of inert suspended solids, such as fuller's earth, lime slurries and lime residues, or of dissolved solids such as sodium chloride and sodium sulphate,

2). Excessive discoloration, such as dye waste and vegetable tanning solutions,

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

4). Unusual volume of flow or concentration of waste constituting slugs, as defined in Chapter 13.08.190 MMC;

j. Water or waste containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot

meet the requirements of other agencies having jurisdiction over discharge to the receiving water.

F Rejection or pretreatment conditions.

1. 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 outlined in MMC 13.08.450.E, and which may have a detrimental effect upon the sewage works, processes, equipment or receiving water, or which otherwise may create a hazard to life or constitute a public nuisance, the Public Works Director may:
 - a. Reject the wastes;
 - b. Require pretreatment to an acceptable condition for discharge to the public sewer;
 - c. Require control over the quantities and rates of discharge; and/or
 - d. Require payment to cover any increase of administering the wastewater permit, the added cost of chemicals needed to address the situation, and the added cost of handling and treating the wastes not covered by existing taxes, fees or other charges under the provisions of the utility code.

G. Grease, oil and sand interceptors.

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

H. Pretreatment facilities – Operation and maintenance.

1. Where preliminary treatment or flow-equalizing facilities are provided for any water or waste, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's own expense.

I. Control manhole for tests.

1. When required by the Public Works Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Public Works Director. Any cost to the city for

required non-city sampling or testing shall be paid by the owner affected. The manhole shall be installed by the owner at the owner's own expense and shall be maintained by the owner so as to be safe and accessible at all times.

J. Special agreements not restricted.

1. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern, and provided such agreement is in compliance with EPA and DEQ regulations.

2. When requested, an industrial user must submit information on a survey form prepared by the Public Works Director before commencing discharge into the city wastewater system, identifying the nature and characteristics of the user's wastewater. The Director may periodically require industrial users to update the survey. Failure to complete this survey within the time set by the Director is grounds for terminating service to the industrial user.

K. Discharges prohibited without a permit.

1. No industrial user shall discharge wastewater into the city's municipal wastewater system without first obtaining a wastewater permit.

2. No permittee shall violate the terms and conditions of a wastewater permit issued pursuant to this chapter. Obtaining a wastewater permit does not relieve a permittee from the obligation to obtain other permits required by federal, state, or local law.

L. Permitting existing connections.

1. Any industrial user, not already possessing a permit, that discharges industrial waste into the city wastewater system prior to the effective date of this chapter and who wishes to continue such discharges in the future shall, within 90 days after the effective date, apply to the city for a wastewater permit, and shall not cause or allow discharges to the system to continue after 180 days of the effective date except in accordance with a permit issued by the Public Works Director.

M. Permitting new or renewed connections.

1. Any industrial user proposing to begin or to recommence discharging industrial wastes directly or indirectly into the city wastewater system must obtain a wastewater permit prior to beginning or recommencing such discharge.

2. An application for a permit renewal must be received at least 90 days before the current permit expires.

N. Wastewater permit issuance.

1. Within 60 days of the date the Public Works Director deems a permit application complete, the Director will evaluate the data furnished by the industrial user and determine whether a wastewater permit should be issued. The Director will issue a permit within said 60 days unless a circumstance identified in subsection (B) of this section exists.
2. If any wastewater proposed to be discharged to the city wastewater system contains substances identified or possesses the characteristics enumerated in MMC 13.08.540.D and 13.08.540.E which, in the Director's judgment, may have a deleterious effect upon the city wastewater system, processes, equipment, or waters of the state, or otherwise create a hazard to life or constitute a public nuisance, the Director may:
 - a. Refuse to permit the discharge;
 - b. Require pretreatment to an acceptable condition for discharge into the city wastewater system; or
 - c. Require control over the quantities and rates of discharge.

O. Wastewater permit duration.

1. Permits shall be issued for a time period of five years. Each permit shall indicate the specific date upon which it will expire.

P. Wastewater permit contents.

1. A wastewater permit shall include such conditions deemed reasonably necessary by the Public Works Director, or designee, to prevent pass through or interference and to implement the objectives of this chapter. Wastewater permits shall, at a minimum, contain:
 - a. A statement of permit duration;
 - b. A statement the permit is nontransferable;
 - c. Effluent limits applicable to the industrial user, including best management practices, based on applicable pretreatment standards in 40 CFR Part 403, categorical pretreatment requirements, local limits, and state and local law;
 - d. Monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

- e. Statement of applicable penalties for violation of pretreatment standards, pretreatment requirements, and compliance schedules; and
- f. Requirements to control spills or slug discharges as determined necessary by the POTW, including conditions for emergency suspension of the permit, or conditions thereof.

2. Permits may contain:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Limits on the instantaneous daily and monthly average, and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
- c. Requirements for the installation of pretreatment technology or construction of appropriate containment devices or other similar technologies or devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
- e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the city wastewater system;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. Specifications for monitoring programs, which may include designation of sampling locations and frequency of sampling; the number, types, and standards for tests; and reporting schedules;
- h. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days of such noncompliance where monitoring indicates a violation;
- i. Compliance schedules for meeting pretreatment standards and pretreatment requirements;
- j. Requirements for submission of periodic monitoring or special notification reports;

k. Requirements for maintaining and retaining plant records relating to wastewater discharge, and affording the Director or his designee access thereto;

l. Requirements for prior notification and approval by the Public Works Director, or designee, of any introduction of new wastewater pollutants or any unpermitted change in the volume or character of wastewater prior to introduction in the city wastewater system;

m. Requirements for prior notification to and approval by the Director of any significant change in the manufacturing and/or pretreatment process;

n. Requirements for immediate notification of excessive, accidental, or slug discharges, or other discharge which may cause any problems to the city wastewater system;

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

p. Other conditions deemed appropriate by the Director to ensure compliance with this chapter; state and federal laws, rules, and regulations; and the terms of the permit.

Q. Wastewater permit appeals.

1. Any person, including the permittee, may appeal the conditions imposed in a permit, or the issuance or denial of a permit within 10 days of the issuance of the final permit by filing a notice of appeal, as provided for in MMC 13.08.540.KK. Failure to submit a timely notice of appeal shall be a waiver of all rights to administrative review.

2. In addition to the requirements in MMC 13.08.540.KK, the appellant shall indicate the specific objection, the reasons for the objection, and alternative conditions, if any, the appellant seeks to have placed in the permit.

3. The effectiveness of the permit shall not be stayed pending resolution of appeal.

R. Wastewater permit modifications.

1. The Public Works Director may modify a permit for good cause including, but not limited to, the following:

a. To incorporate any newly revised federal, state, or local pretreatment standards or pretreatment 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 city wastewater system that requires either a temporary or permanent reduction or elimination of the permitted discharge;
- d. Information indicating that the permitted discharge poses a threat to the city wastewater system, city personnel, or waters of the state;
- 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. A revision or grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13; or
- h. To correct typographical or other errors in the permit.

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

S. Wastewater permit transfer.

- 1. Permits may not be reassigned or transferred from the permittee to a new industrial user.

T. Wastewater permit reissuance.

- 1. An industrial user shall apply for permit reissuance by submitting a complete permit application no later than 90 days before the expiration of the user's permit.

U. Reports of potential problems.

- 1. If an accidental, slug, or other discharge occurs which may cause problems for the city wastewater system, the user shall immediately notify the city by telephone of the incident. Notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- 2. Unless waived by the Director, within five days following an accidental discharge, the user shall submit 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 fines, civil penalties, expense, loss, damage, or other liability that may be incurred or imposed as a result of damage to the city wastewater system, natural resources, or persons or property.

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

4. Industrial users shall prominently post a notice on a bulletin board or other similar place readily accessible to the user's employees, advising the employees of whom to call in the event of a potential problem discharge, and shall train all employees in the emergency notification procedure.

5. Where the city has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling may not be required if:

a. The city performs sampling at the industrial user at a frequency of at least once per month, or the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.

b. Cost to the city for repeat analysis may be recouped per MMC 13.08.540.F.

V. Reports of significant production change.

1. An industrial user operating under a waste 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. For purposes of this section the term "significantly" will be defined in the permit. An industrial user is not required to report or warn of a production change unless it will change the industrial discharge to an extent not allowed by the industrial user's permit.

W. Inspection and sampling.

1. An industrial user shall allow the city to enter the facilities of the user without unreasonable delay, to ascertain whether the user is complying with pretreatment standards and pretreatment requirements. Industrial users shall allow the Public Works Director, or designee, 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.

2. If an industrial user has security measures that require identification and clearance before entry, the industrial user shall make necessary arrangements with its security guards so that upon presentation of proper identification personnel from the city,

state, and the EPA will be permitted entry without unreasonable delay to perform their specific responsibilities.

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

4. The city may require the industrial user to install all necessary monitoring equipment. The facility's sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the industrial user at the industrial user's expense. A qualified technician must calibrate all devices used to measure wastewater flow and quality at least twice yearly to ensure accuracy.

5. Any obstruction to safe and easy access to the industrial facility shall be promptly removed by the industrial user at the request of the Director and shall not be replaced. The costs of removal shall be borne by the industrial user.

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

X. Search warrants.

1. If the Director is refused access to a building, structure, or property, or any part thereof, and has probable cause to believe there may be a violation to this chapter or needs to conduct an inspection as part of a routine program designed to protect the overall public health, safety, and welfare of the community, the Director may apply for a search warrant from a court of competent jurisdiction. The application shall identify the specific location to be searched and shall specify what locations may be searched and what property may be seized. After issuance, the Director will serve the warrant at reasonable hours.

Y. Confidential information.

1. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, monitoring programs, and 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 Attorney that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets, and are exempt from disclosure under applicable law.

2. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 are not confidential and will be available to the public without restriction.

3. Any information determined to be exempt from disclosure under subsection 1 of this section shall remain confidential, and portions of a report which might disclose trade secrets or secret processes shall not be available for public inspection; provided, that such information shall be made available to governmental agencies for uses related to this chapter or the NPDES program. Notwithstanding subsection 1 of this section, no information is confidential if the information is relevant to, and necessary for, enforcement proceedings involving the person furnishing the report.

4. For the purposes of this section, a specific request is made when the words “confidential business information” are stamped on each page containing such information. If no such specific request is made at the time of furnishing the report, the city may make the information available to the public without further notice.

5. All costs, expenses and attorney’s fees associated with defending a request for confidential information shall be the responsibility of the industrial user requesting confidentiality.

Z. Notification of violation.

1. Whenever any industrial user has violated or is violating this chapter, a wastewater permit or order issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue a written notice of violation. Within 10 days of the receipt of this notice, the industrial user shall submit an explanation of the violation and a detailed plan for the satisfactory correction of the violation and the prevention of future violation. Submission of this plan does not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the city authority to take emergency action without first issuing a notice of violation.

AA. Consent orders.

1. The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with an industrial user to resolve issues of noncompliance. Such orders shall include the specific action to be taken by the industrial user to correct noncompliance within a time period specified in the order. Consent orders shall be judicially enforceable, and any costs, including attorney’s fees, incurred by the city in seeking such enforcement shall be assessed against the industrial user as part of any judgment entered therein.

BB. Compliance orders.

1. When the Director finds an industrial user has violated or continues to violate any provision of this chapter, or a permit or order issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue an order discontinuing the industrial user’s sewer service unless compliance is obtained within a time certain

stated in the order. Compliance orders may contain other requirements necessary and appropriate to correct noncompliance, including additional monitoring and changes to management practices designed to minimize the amount of pollutants discharged to the city wastewater system. The Director may require additional monitoring for at least 90 days after consistent compliance has been achieved, after which monitoring conditions set forth in industrial user's discharge permit shall be followed.

CC. Cease and desist orders.

1. When an industrial user has violated or continues to violate any provision of this chapter, permits or orders issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue a notice and proposed order to the industrial user to cease and desist all such violations and commanding the user to:

- a. Immediately comply with all requirements.
- b. Take such appropriate remedial or preventive action as may be needed to properly address the continuing or threatened violation, including halting operations and/or terminating the discharge.

2. The Director may order any industrial user that causes or contributes to a violation of this chapter, wastewater permits or orders issued hereunder, or any pretreatment standard or pretreatment requirement to appear and show cause why a cease and desist order should not be issued.

3. The city will serve notice on the industrial user specifying the time and place for hearing, the nature of the proposed enforcement action, the reasons for such action, and a direction that the user appear and show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served upon the industrial user or the user's authorized representative, personally or by registered or certified mail, return receipt requested, at least 10 days prior to the hearing. A cease and desist order may be issued immediately following the hearing.

DD. Emergency suspensions.

1. The Director may immediately suspend any user's discharge that threatens to interfere with the operation of the city wastewater system, endangers the environment, or may cause violation of the NPDES permit.

2. Any user notified of a suspension of its discharge shall immediately terminate all discharges into the city wastewater system. In the event a user fails to immediately and voluntarily comply with the suspension order, the Director may take such steps deemed necessary, including immediate severance of the user's connection to the city wastewater system. The Director may allow the user to recommence discharge when

the user demonstrates to the satisfaction of the Director that endangerment has passed, unless termination proceedings under MMC 13.08.540.JJ have been initiated.

3. No hearing shall be required prior to any emergency suspension.

EE. Permit revocation.

1. An industrial wastewater permit may be revoked if the user:

- a. Fails to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- b. Fails to accurately report wastewater constituents and characteristics of its discharge;
- c. Falsifies monitoring reports;
- d. Refuses reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
- e. Tampers with monitoring equipment;
- f. Refuses to allow the city timely access to the facility premises and records;
- g. Fails to meet effluent limitations;
- h. Fails to pay fines;
- i. Fails to pay sewer charges;
- j. Fails to meet compliance schedules;
- k. Fails to complete a wastewater survey; or
- l. Violates any pretreatment standard or pretreatment requirement, the user's permit, any order issued pursuant to this chapter, or any provision of this chapter.

2. Industrial users shall be notified of proposed termination and be offered an opportunity to appear and show cause why the permit should not be revoked. Termination of a permit shall not be a bar to, or a prerequisite for, taking any other enforcement action against the user.

3. Notice shall be served on the industrial user specifying the time and place for the show cause hearing, the reasons for permit revocation, and a direction that the user appear and show cause why the permit should not be revoked. The notice of the hearing shall be served upon the industrial user or the user's authorized representative personally or by registered or certified mail, return receipt requested,

at least 10 days prior to the hearing. An order revoking the permit may be issued immediately after the hearing.

FF. Injunctive relief.

1. In addition to other relief, the City Attorney may petition a court of competent jurisdiction for the issuance of temporary or permanent injunction to restrain a violation, or compel specific performance, of the terms and conditions of the wastewater permit, order, pretreatment standard or pretreatment requirement, or other provision of this chapter.

GG. Civil penalties – Industrial users only.

1. The Director may impose upon any industrial user that has violated or continues to violate this chapter, any order or permit hereunder, or any pretreatment standard or pretreatment requirement a maximum civil penalty of \$2,500 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties may accrue for each day during the period of this violation.

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

3. For purposes of this section, the term "civil penalty" means the same as the term "administrative fine" as set forth in any enforcement response plan adopted by the City Council pursuant to this chapter's authority. Any civil penalty assessed pursuant to this section will be based on the severity of the violation using the factors outlined in the enforcement response plan.

HH. Civil penalties – Nonindustrial users.

1. A violation of MMC 13.08.540.GG(1), (2) or (3), or 13.08.540.N is punishable by a civil penalty not exceeding \$2,500.

2. A violation of any other provision of this chapter is punishable by a civil penalty of not less than \$50.00. The second and subsequent violation of the same provision of this chapter within any one-year period is punishable by a civil penalty of not less than \$200.00.

3. Any civil penalty assessed pursuant to this section will be based on the severity of the violation using the factors outlined in a City Council-adopted enforcement response plan, even if the offender is not a party to that plan.

II. Remedies nonexclusive.

1. The Public Works Director shall prepare an enforcement response plan to be adopted by a resolution of the City Council for use with industrial users related to any violation of this chapter. The remedies provided for in this chapter are not exclusive, and the Director may take any, all, or any combination of these actions against a noncompliant user, and may bring more than one enforcement action against any 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.

JJ. Water supply severance.

1. Whenever an industrial user has violated or continues to violate the provisions of this chapter or orders or permits issued hereunder, water service to the industrial user may be severed and service will only be resumed, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

KK. Administrative review.

1. Any person aggrieved by any decision or action of the Director may appeal such decision or action as provided in this section.

2. The appeal must be filed with the City Manager within 30 days after the date of the decision or action being appealed, must be in writing and must state:

- a. The name and address of the appellant;
- b. Nature of the decision or action being appealed;
- c. The reason the decision or action is incorrect; and
- d. What the correct decision or action should be.

Within 10 days of an appeal being filed with the City Manager, the City Manager will meet with the appealing industrial user and attempt to resolve the matter prior to action by the City Council.

3. An appellant who fails to file such a statement within the time permitted waives all objections, and the appeal shall not be considered.

4. Unless the appellant and city agree to a longer period, an appeal shall be heard by the City Council within 45 days of the receipt of the notice of appeal. At least 10 days prior to the hearing, the city shall mail notice of the time and location of the hearing to the appellant.

5. The City Council will hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the council deems appropriate. At the

hearing, the appellant may present testimony and oral arguments personally or by counsel.

6. If the appeal is from the modification of a permit pursuant to the imposition of a civil penalty, the burden is on the Director to prove that the modification or civil penalty was proper. If the appeal is from the denial of a permit, the burden is on the appellant to prove that the denial was improper. In all other cases the burden of proof is on the proponent of a fact or position.

7. The City Council will issue a written decision within 30 days of the hearing date. The decision of the City Council is final.

8. An appeal fee established by Council Resolution must accompany the statement of appeal.

13.08.550 Industrial wastes—Control manhole.

When required by the Director of Public Works, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Director of Public Works. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times. (Ord. 2007-07 §1; Ord. 1976-2 Art. 5 §8)

13.08.550 Section Repealed

13.08.560 Tests of wastes—Location of sampling.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Waste-Water," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.) (Ord. 2007-07 §1; Ord. 1976-2 Art. 5 §9)

13.08.550 Section Repealed



ORDINANCE NUMBER 2019-09

**AN ORDINANCE OF THE CITY OF MOLALLA, OREGON
REPEALING CHAPTER 13.08.550 INDUSTRIAL WASTES CONTROL
MANHOLE AND CHAPTER 13.08.560 TESTS OF WASTES LOCATION
AND SAMPLING**

WHEREAS, the City of Molalla intends to create a formal restricted discharge and pretreatment code in Chapter 13.08 Sanitary Sewer; and

WHEREAS, once adoption of Chapter 13.08.540 is completed, Chapter 13.08.550 and 13.08.560 are no longer needed; and

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. Chapter 13.08.550 Industrial Wastes – Control Manhole and Chapter 13.08.560 Tests of Wastes – Location of Sampling be repealed from the Molalla Municipal Code:

Duly adopted by the City Council of the City of Molalla this 11th day of September 2019.

Mayor Keith Swigart

ATTEST this _____ day of _____, 2019

Christie DeSantis, City Recorder

City of Molalla

City Council Meeting



Agenda Category: Ordinance Amendment

Subject: Code Revision to Chapter 5.24 Business Licenses, Taxes, and Regulations

Recommendation: Council Approval

Date of Meeting to be Presented: September 11, 2019

Fiscal Impact: None

Background:

Currently the City Code requires business licenses from consultants and contractors who perform work as part of a public contract for the City. This creates an additional cost to the City that is passed on by the business licensee for overhead and administrative fees as well as a cost to the City in staff time to process the business license. Staff recommends reducing the cost by exempting consultants and contractors who are required to secure a City business license only for the purposes of a public contract with the City.

Attached is MMC Code Chapter 5.24 with the proposed changes in red BOLD.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager



ORDINANCE NUMBER 2019-10

AN ORDINANCE OF THE CITY OF MOLALLA, OREGON REPEALING AND REPLACING CHAPTER 5.24.025 GENERAL BUSINESS LICENSING: EXEMPTIONS

WHEREAS, the City of Molalla requires business licenses under this Chapter for all contractors and subcontractors performing work with the City; and

WHEREAS, Contractors and subcontractors working on City funded projects only within the City are required to have a business license and the cost of the license and the contractor's administrative fees for processing the licensed are passed back on to the City for its projects; and

WHEREAS, it is in the public interest to reduce costs to the public and exempt contractors and subcontractors from a business license requirement if they also do not do any other non-City funded work within the City.

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. Chapter 5.24.025 Exemptions be repealed in its entirety and a newly revised code that reads as follows be codified into the Molalla Municipal Code:

5.24.025 Exemptions.

- A. The provisions of this chapter shall not apply to:
 - 1. Any person transacting and carrying on any business within the city which is exempt from taxation or regulation by the City by virtue of the Constitution of the United States, the State of Oregon, or applicable statutes of the United States or the State of Oregon.
 - 2. Any person whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary, and it is the intention that all registration, taxes and fees will be borne by the employer.
 - 3. Any business paying a franchise fee under City ordinances.
 - 4. Any business which does not maintain any offices, storage facilities or other facilities, or inventory in the city, and whose sole business involves delivering merchandise or goods to persons or businesses in the city.

5. A person whose primary activity consists of delivering goods inside the city for a business located outside the city.

6. Nonprofit organizations, civic organizations and clubs wishing to canvass for funds or sell door-to-door to raise funds or conduct fundraising, federally tax-exempt organizations and non-profit religious organizations.

7. Persons whose gross receipts from business conducted both within and without the city amount to less than \$2,500.00 per calendar year; provided that any such person provide written notice to the City that they are exempt and upon demand by the City provide proof verifying the amount. This exemption does not supersede the applicability of the exemption for garage sales as defined in this chapter.

8. Any person operating a business, display or sales space at any special event with a duration of three days or less. A "special event," as used in this chapter, is deemed to be a City-endorsed activity for the benefit of the community.

9. Any person engaged in a garage, yard or estate sale as defined in this chapter.

10. Any producer of farm products raised in Oregon, produced by themselves or their immediate families, who sell, vend, or dispose of such projects within the city.

11. Any business which is under public contract with the City to design or construct publicly funded projects and who does not do other non-City work within the City limits.

B. Any person not subject to the business license fee as set forth under subsection A who receives a notice of business license renewal or application must contact the City in writing to claim an exemption. If no exemption is claimed, an individual or business will be subject to the late fees as set forth under Section 5.24.040(B).

Duly adopted by the City Council of the City of Molalla this 11th day of September 2019.

Mayor Keith Swigart

ATTEST this _____ day of _____, 2019

Christie DeSantis, City Recorder

Chapter 5 Business Licenses, Taxes, and Regulations

Chapter 5.24 GENERAL BUSINESS LICENSING

5.24.010 Definitions.

As used in this chapter of the Molalla Municipal Code, the following words and phrases mean:

- A. “Business” means an activity carried on by a person predominately for economic profit or livelihood in the city including professions, trades, occupations, and shops. Any person who advertises or otherwise represents themselves to the public as engaged in business is presumed to be so engaged.
- B. “Garage/yard/estate sale” means a commercial activity, open to the public, conducted at a private residence where personal property is sold, or auctioned to others, provided the number of sale days at a particular residence does not exceed three days, and no more than four occurrences per calendar year.
- C. “Home occupation” means a business carried on within a dwelling, and which business is incidental to the use of the dwelling for dwelling purposes.
- D. “License” means the permission granted by the city to engage in a business or activity regulated by this chapter.
- E. “Licensee” means a person who has a valid license issued pursuant to this chapter.
- F. “Peddler” means any person who goes from house to house or from place to place in the city, selling or taking orders for, or offering to sell or take orders for goods, wares, merchandise, or any other article for future delivery, for services to be performed in the future, or the making, manufacturing, or repairing of any article or thing whatsoever for future delivery, excepting interstate commerce.
- G. “Person” includes all natural and legal persons, including, but not limited to, individuals, corporations, associations, partnerships and societies, whether or not engaged in a profit-making endeavor.
- H. “Valid license” means a license issued pursuant to this chapter, and which license’s effective period has not expired. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.015 Purpose of business license fee.

- A. The ordinance codified in this chapter is enacted, except as otherwise specified in this section, to provide revenue for municipal purposes including police protection, marketing, tourism promotion, economic development and to provide revenue to pay for the necessary expenses required to issue the license for and regulate the business licensed.
- B. The fee required by this code shall be in addition to general ad valorem taxes now or hereafter levied pursuant to law, and shall be in addition to license fees prescribed in other parts of this code.
- C. The levy or collection of a business license fee upon any business shall not be construed to be a license or permit of the City to the person to engage therein in the event such business shall be unlawful, illegal, or prohibited by the laws of the State of Oregon, the United States, or other provisions of this code. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.019 Contractors' and subcontractors' responsibility.

It shall be the responsibility of all general contractors, utility companies and subcontractors working in the city to obtain a business license. It shall further be the responsibility of all general contractors and utility companies working in the city to provide a list of all names and addresses of subcontractors under their direction. Failure of any subcontractor to obtain a license may result in a stop work order on any project within the city's jurisdiction.(Ord. 2018-04 §1; Ord. 2013-07 §1)

5.24.020 Business license fee imposed.

A. A business license fee is hereby imposed upon the business trades, shops, professions, callings, and occupations specified in Section [5.24.010](#) of this code. No person may transact and carry on any such business in the city without first having obtained a business license therefore for the current calendar year as herein provided or without complying with any and all applicable provisions of this code.

B. The fee for business licenses shall be due and payable on the first day of January of each year for the calendar year following and shall be delinquent on and after the following first day of February.

Any new business which is not in operation on or before the first day of the license year and which desires to conduct business within the city shall make application for the license required by this chapter to the city before starting a business. As a new business, other processes and fees may apply to determine if business is applicable to the zone. If the application is received on or before June 30, the full license fee is required. An application received on or after July 1, will be charged half the fee amount.

C. Each branch establishment of business or location of a business conducted by any person shall, for the purposes hereof, be a separate business and subject to the license requirements provided in this code; but warehouses used solely incidental in connection with a business licensed pursuant to the provisions of this code and operated by the person conducting such business shall not be separate places of business or branch establishments.

D. The agent or agents of a nonresident proprietor engaged in any business for which a license is required by this code shall be liable for the payment of the fee, and for the penalties for failure to pay the same as provided in Sections [5.24.035](#) and [5.24.040](#) of this code, or to otherwise comply with the provisions of this code to the extent and with like effect as if such agent or agents were themselves proprietors. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.021 Temporary business license.

Any person conducting a business within the city which is not domiciled nor otherwise permanently located in the city but is conducting business within the city for a period 30 days or less annually shall apply for and receive a temporary business license and shall pay the license fee for such temporary business as may be established by council. (Ord. 2018-04 §1; Ord. 2013-07 §1)

5.24.025 Exemptions.

A. The provisions of this chapter shall not apply to:

1. Any person transacting and carrying on any business within the city which is exempt from taxation or regulation by the City by virtue of the Constitution of the United States, the State of Oregon, or applicable statutes of the United States or the State of Oregon.
2. Any person whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary, and it is the intention that all registration, taxes and fees will be borne by the employer.
3. Any business paying a franchise fee under City ordinances.
4. Any business which does not maintain any offices, storage facilities or other facilities, or inventory in the city, and whose sole business involves delivering merchandise or goods to persons or businesses in the city.
5. A person whose primary activity consists of delivering goods inside the city for a business located outside the city.
6. Nonprofit organizations, civic organizations and clubs wishing to canvass for funds or sell door-to-door to raise funds or conduct fundraising, federally tax-exempt organizations and non-profit religious organizations.
7. Persons whose gross receipts from business conducted both within and without the city amount to less than \$2,500.00 per calendar year; provided that any such person provide written notice to the City that they are exempt and upon demand by the City provide proof verifying the amount. This exemption does not supersede the applicability of the exemption for garage sales as defined in this chapter.
8. Any person operating a business, display or sales space at any special event with a duration of three days or less. A "special event," as used in this chapter, is deemed to be a City-endorsed activity for the benefit of the community.
9. Any person engaged in a garage, yard or estate sale as defined in this chapter.
10. Any producer of farm products raised in Oregon, produced by themselves or their immediate families, who sell, vend, or dispose of such projects within the city.

11. Any business which is under public contract with the City to design or construct publicly funded projects and who does not do work other non-City work within the City limits.

B. Any person not subject to the business license fee as set forth under subsection A who receives a notice of business license renewal or application must contact the City in writing to claim an exemption. If no exemption is claimed, an individual or business will be subject to the late fees as set forth under Section [5.24.040](#)(B). (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2010-07 §1; Ord. 2008-03 §1)

5.24.030 Amount of business license fee.

- A. The license fee shall be set by the City Council by resolution.
- B. All fees are on an annual basis. Each business trade, shop, calling or occupation that has multiple departments may apply for a business license under the classification of "general shopkeeper."
- C. If any person be engaged in operating or carrying on in the city more than one trade, shop, profession, occupation, business or calling then such person shall obtain licenses prescribed in this chapter for as many of the trades, shops, professions, occupations, businesses or callings as are carried on by such person. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.035 Business license certificate.

All licenses issued in accordance with this chapter shall be openly displayed in a place of business or kept on the person or on the vehicle of the person licensed and shall be immediately produced and delivered for inspection to the Chief of Police and their agents or subordinates when requested by the individuals to do so. Failure to carry the license or produce the same on request shall be deemed a violation of this chapter.

A. A business license certificate shall be issued by the City Recorder or designee upon written application therefor.

B. The application for such certificate shall contain the following information:

1. A description of the trade, shop, business, profession, occupation, or calling to be carried on within the city;

2. The name of the applicant, with a statement of all persons having an interest in said business either as proprietors or owners of the business;

3. The location of the place where the business is carried on;

4. Date of application;

5. Amount of money tendered with application;

6. Signature of applicant. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.040 Misleading statements—Nonpayment.

A. No person may willfully make any false or misleading statement to the City Recorder for the purpose of securing a business license certificate; or to fail or refuse to pay before that payment becomes delinquent any business license fee or penalty hereby required to be paid by any such person.

B. In the event any person required to renew a business license fails to pay the license fee, a late fee, as set by resolution, shall be added to the license fee until paid. This same late fee will apply to those persons receiving notice of a failure to renew a business license who have not notified the City of any applicable exemptions as listed in Section [5.24.025](#) above. If after March 1st the business license and/or including late fees (unless a payment arrangement has been made in writing) the business shall be cited into Molalla Municipal Court and prosecuted under the general penalty of Molalla Municipal Code as stated in Chapter [1.04](#). (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.045 Additional remedies.

A. The conviction of any person for violation of any of the provisions of this chapter shall not operate to relieve such person from paying any fee or penalty thereupon for which such person may be liable nor shall the payment of any fee be a bar or prevent any prosecution in the Municipal Court of any complaint for the violation of the provisions of this chapter.

B. Any violation of this chapter shall, in addition to any other remedy prescribed by this chapter, be punishable under the general penalty clause of the Molalla Municipal Code. Each day, which a business is operated in violation of this chapter, shall be deemed a separate offense and may be

punishable by a separate fine for each day the license is not paid in an amount to be determined by the City and as authorized under Section 1.04.010(B) of the Molalla Municipal Code. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.050 Period of license.

Business licenses shall be issued on a calendar year basis and shall expire on December 31st of the year in which they are issued. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1; Ord. 1999-15 §2)

5.24.055 Renewal of licenses.

At least 30 days prior to the expiration of any license issued under this section, and upon any change in the ownership of a business licensed under this section, the licensee shall apply for renewal by application containing the same information as required for an initial application, or, in the alternative, a statement of the particulars in which the information furnished with the initial application is changed. On such investigation as the City deems proper, the license shall be renewed. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.060 License—Grounds for revocation or suspension.

- A. The City Recorder determines that a licensee is conducting or has conducted an activity, which would provide grounds for denial of an application for a license, and the City Recorder shall notify the licensee in writing that the City is revoking/suspending the license.
- B. If the City Recorder determines that a licensee or any activity of the licensee presents an immediate danger to persons or property, the City Recorder may suspend/revoke such license by issuing written notice. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.065 Appeal.

An applicant whose application has been conditioned, denied, suspended or revoked may file a written notice of appeal with the City Administrator. The notice of appeal must be filed within 10 calendar days after the notice of conditioned, denied, suspended or revoked is mailed or delivered, whichever is earlier. The notice of appeal shall include:

- A. The name and address of the appellant, and the business owner if different than the appellant;
- B. The nature of the determination from which an appeal is taken and a copy of the determination;
- C. The reason or reasons why the determination is alleged to be incorrect; and
- D. What the correct determination should be.

When a license has been revoked and the licensee or principal of the licensee reapplies for a license, a bond in the penalty sum deemed necessary under the circumstances, but not to exceed \$10,000.00, shall be filed with the City Recorder. This bond shall be required for the term of the license and shall be forfeited to the City if the licensee is convicted of any violation of federal, state or city laws

or ordinances for which such license may be revoked. (Ord. 2018-04 §1; Ord. 2013-07 §1; Ord. 2010-13 §1; Ord. 2008-03 §1)

City of Molalla

City Council Meeting



Agenda Category:

Ordinance Amendment

Subject: Code Revision to Chapter 13.08.420 Materials and connections—Specifications

Recommendation: Council Approval

Date of Meeting to be Presented: September 11, 2019

Fiscal Impact: None

Background:

The City does effectively delineate the standards applied to building sewers. This code revision separates sewers into two distinct categories: the private side which falls under the plumbing code. The public side which falls under the City's public works standards and wastewater master plan.

Attached is MMC Code Chapter 13.08.420 with the proposed changes in red BOLD.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager



ORDINANCE NUMBER 2019-11

AN ORDINANCE OF THE CITY OF MOLALLA, OREGON REPEALING AND REPLACING CHAPTER 13.08.420 MATERIALS AND CONNECTIONS - SPECIFICATIONS

WHEREAS, the City of Molalla municipal code does not adequately define the code requirements for building sewers and separate between what is considered public and private sewers; and

WHEREAS, the private sewers are regulated under the building and plumbing code; and

WHEREAS, the public sewers are regulated under the Molalla Standard Specifications for Public Works Construction and the wastewater master plan.

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. Chapter 13.08.420 Materials and Connections – Specifications be repealed in its entirety and a newly revised code that reads as follows be codified into the Molalla Municipal Code:

13.08.420 Materials and Connections – Specifications.

Sewer laterals on private property that are not part of the public system or within a public right-of-way or public sewer easement, the size, slope, alignment, materials of construction of a building sewer, and the methods to be used in connecting, excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code and all other applicable rules and regulations.

Sewer laterals and mains within the public right-of-way or public sewer easement, the design and construction shall conform to the current versions of the City of Molalla Standard Specifications for Public Works Construction and the wastewater master plan. Any deviation from the prescribed procedures and materials must be approved by the Director of Public Works before installation.

Duly adopted by the City Council of the City of Molalla this 11th day of September, 2019.

Mayor Keith Swigart

ATTEST this _____ day of _____, 2019

Christie DeSantis, City Recorder

Title 13 Public Services

Chapter 13.08 Sanitary Sewers

13.08.420 Materials and connections—Specifications.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in connecting, excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code and all other applicable rules and regulations. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply, or the most current version thereof. All connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Director of Public Works before installation. (Ord. 2007-07 §1; Ord. 1976-2 Art. 4 §9)

Sewer laterals on private property that are not part of the public system or within a public right-of-way or public sewer easement, the size, slope, alignment, materials of construction of a building sewer, and the methods to be used in connecting, excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code and all other applicable rules and regulations.

Sewer laterals and mains within the public right-of-way or public sewer easement, the design and construction shall conform to the current versions of the City of Molalla Standard Specifications for Public Works Construction and the wastewater master plan. Any deviation from the prescribed procedures and materials must be approved by the Director of Public Works before installation.

City of Molalla

City Council Meeting



Agenda Category:

Ordinance Amendment

Subject: Code Revision to Chapter 13.04.130 Size of Service Connections

Recommendation: Council Approval

Date of Meeting to be Presented: September 11, 2019

Fiscal Impact: None

Background:

The City's municipal code should not include design specification requirements for water services. This information is best kept in the requirements of the City's public works standards and water master plan and may change from time to time. Municipal codes should only refer to the technical documents providing specific system requirements. This eliminates the need to revise the municipal code whenever there is a technical change to those documents.

Attached is MMC Code Chapter 13.04.130 with the proposed changes in red BOLD.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager



ORDINANCE NUMBER 2019-12

**AN ORDINANCE OF THE CITY OF MOLALLA, OREGON
REPEALING AND REPLACING CHAPTER 13.04.130 SIZE OF SERVICE
CONNECTIONS**

WHEREAS, the City of Molalla municipal code currently specifies the size of water services in Chapter 13.04.130; and

WHEREAS, the City's municipal code should not include design specification requirements for water services; and

WHEREAS, those specifications are regulated under the Molalla Standard Specifications for Public Works Construction and the water master plan.

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. Chapter 13.04.130 Size of Service Connections be repealed in its entirety and a newly revised code that reads as follows be codified into the Molalla Municipal Code:

13.04.130 Size of service connections.

Service connection sizes shall be in accordance with the City of Molalla Standard Specifications for Public Works Construction and the water master plan. Service needs that are greater than the minimum service size shall be based on the use requirements of the property served. Any deviation from the prescribed procedures must be approved by the Director of Public Works before installation.

Duly adopted by the City Council of the City of Molalla this 11th day of September 2019.

Mayor Keith Swigart

ATTEST this _____ day of _____, 2019

Christie DeSantis, City Recorder

Title 13 Public Services

Chapter 13.04 Water

13.04.130 Size of service connections.

A. Unless otherwise requested, approved, and paid for, service connections shall be three-fourths inch and meters shall be first quality five-eighths inch to three-fourths inch meters, together with such corporations stop, fittings, connections, yoke or setter, meter box, shutoff cocks, etc., as the City shall require.

B. Services larger than three-fourths inch may be installed when requested in writing, provided the system is able to adequately service such larger connection without interfering with the meter service of others. The charges made for the installation of larger services shall be sufficient to cover all costs thereof, and the minimum of “ready to serve” charge may be higher than for standard three-fourths inch service connections. (Ord. 2002-02 §2; Ord. 1976-3 §7)

Service connection sizes shall be in accordance with the City of Molalla Standard Specifications for Public Works Construction and the water master plan. Service needs that are greater than the minimum service size shall be based on the use requirements of the property served. Any deviation from the prescribed procedures must be approved by the Director of Public Works before installation.

City of Molalla

City Council Meeting



Agenda Category:

Ordinance Amendment

Subject: Code Revision to Chapter 13.04.360 Water Main Extensions - Size

Recommendation: Council Approval

Date of Meeting to be Presented: September 11, 2019

Fiscal Impact: None

Background:

The City's municipal code should not include design specification requirements for water mains. This information is best kept in the requirements of the City's public works standards and water master plan and may change from time to time. Municipal codes should only refer to the technical documents providing specific system requirements. This eliminates the need to revise the municipal code whenever there is a technical change to those documents.

Attached is MMC Code Chapter 13.04.360 with the proposed changes in red BOLD.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager



ORDINANCE NUMBER 2019-13

**AN ORDINANCE OF THE CITY OF MOLALLA, OREGON
REPEALING AND REPLACING CHAPTER 13.04.360 WATER MAIN
EXTENSIONS – SIZE**

WHEREAS, the City of Molalla municipal code currently specifies the size and extent of water mains in Chapter 13.04.360; and

WHEREAS, the City's municipal code should not include design specification requirements for water mains; and

WHEREAS, those specifications are regulated under the Molalla Standard Specifications for Public Works Construction and the water master plan.

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. Chapter 13.04.360 Water main extensions—Size be repealed in its entirety and a newly revised code that reads as follows be codified into the Molalla Municipal Code:

13.04.360 Water main extensions—Size.

The City shall determine the size and extent of mains and appurtenances required in accordance with the City of Molalla Standard Specifications for Public Works Construction and the water master plan. Any deviation from the prescribed procedures must be approved by the Director of Public Works before installation.

Duly adopted by the City Council of the City of Molalla this 11th day of September, 2019.

Mayor Keith Swigart

ATTEST this _____ day of _____, 2019

Christie DeSantis, City Recorder

Title 13 Public Services

Chapter 13.04 Water

13.04.360 Water main extensions—Size.

The City shall determine the size of mains required, and in general they shall not be less than six inches in diameter fittings, valves, valve boxes, and fire hydrants required shall be included in the cost of extensions. Extensions shall be made in the street to the furthestmost point of the property to be served, or to the end of the block if the property to be served extends to an intersection. (Ord. 1976-3 §25)

The City shall determine the size and extent of mains and appurtenances required in accordance with the City of Molalla Standard Specifications for Public Works Construction and the water master plan. Any deviation from the prescribed procedures must be approved by the Director of Public Works before installation.

City of Molalla

City Council Meeting



Agenda Category: General Business

Subject: Oregon Clean Air Act

Recommendation: City Council Approval/Direction

Date of Meeting to be Presented: September 11, 2019

Fiscal Impact: None

Background:

Attached to this memo is the Oregon Clean Air Act (ORS 433.835 – 433.850) for Council review. The Clean Air act describes regulatory authority regarding certain aspects of secondhand smoke. Many cities in Oregon have adopted rules regarding the use of tobacco and other aerosol products in public places such as parks. Molalla does not currently have rules prohibiting smoking in our parks for example.

We have received a complaint regarding an individual standing near a youth sporting event in Clark Park while smoking a cigarette.

After review of the Clean Air Act and discussion, Council may choose to provide direction to Staff or choose another option to move forward.

SUBMITTED BY: Dan Huff, City Manager
APPROVED BY: Dan Huff, City Manager

OREGON INDOOR CLEAN AIR ACT

433.835 Definitions for ORS 433.835 to 433.875. As used in ORS 433.835 to 433.875:

- (1) “Cigar bar” means a business that:
 - (a) Has on-site sales of cigars as defined in ORS 323.500;
 - (b) Has a humidor on the premises;
 - (c) Allows the smoking of cigars on the premises but prohibits the smoking, aerosolizing or vaporizing of other inhalants on the premises;
 - (d) Has been issued and operates under a full on-premises sales license issued under ORS 471.175;
 - (e) Prohibits persons under 21 years of age from entering the premises and posts notice of the prohibition;
 - (f) Does not offer video lottery games as authorized under ORS 461.217;
 - (g) Has a maximum seating capacity of 40 persons;
 - (h) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and
 - (i) Requires all employees to read and sign a document that explains the dangers of exposure to secondhand smoke.
- (2) “Enclosed area” means the entirety of the space between a floor and a ceiling that is enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling.
- (3) “Inhalant” means nicotine, a cannabinoid or any other substance that:
 - (a) Is in a form that allows the nicotine, cannabinoid or substance to be delivered into a person’s respiratory system;
 - (b) Is inhaled for the purpose of delivering the nicotine, cannabinoid or other substance into a person’s respiratory system; and
 - (c)(A) Is not approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose; or
(B) If approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose, is not marketed and sold solely for that purpose.
- (4)(a) “Place of employment” means an enclosed area under the control of a public or private employer, including work areas, employee lounges, vehicles that are operated in the course of an employer’s business and that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafeterias, hallways, meeting rooms, elevators and stairways.
 - (b) “Place of employment” does not include a private residence unless it is used as a child care facility as defined in ORS 329A.250 or a facility providing adult day care as defined in ORS 410.490.
- (5) “Public place” means an enclosed area open to the public.
- (6) “Smoke shop” means a business that is certified with the Oregon Health Authority as a smoke shop pursuant to the rules adopted under ORS 433.847.
- (7) “Smoking instrument” means any cigar, cigarette, pipe or other instrument used to smoke tobacco, cannabis or any other inhalant. [1981 c.384 §2; 2001 c.990 §1; 2007 c.602 §1; 2009 c.595 §684; 2011 c.601 §1; 2015 c.158 §14; 2017 c.21 §108; 2017 c.732 §1]

433.840 Policy. The people of Oregon find that because exposure to secondhand smoke, certain exhaled small particulate matter or other exhaled toxins is known to cause cancer and other chronic diseases such as heart disease, asthma and bronchitis, it is necessary to reduce exposure to such smoke, matter or toxins by prohibiting the smoking, aerosolizing or vaporizing of inhalants in all public places and places of employment. [1981 c.384 §1; 2007 c.602 §2; 2015 c.158 §15]

433.845 Prohibition on aerosolizing, smoking or vaporizing in public place or place of employment. (1) A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument in a public place or place of employment except as provided in ORS 433.850.

(2) A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument within 10 feet of the following parts of public places or places of employment:

- (a) Entrances;
- (b) Exits;
- (c) Windows that open; and
- (d) Ventilation intakes that serve an enclosed area.

(3) A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument in a room during the time that jurors are required to use the room. [1981 c.384 §3; 1985 c.752 §1; 2007 c.602 §3; 2015 c.158 §16]

433.847 Smoke shop certification; rules. (1) The Oregon Health Authority shall adopt rules establishing a certification system for smoke shops. In adopting such rules, the authority shall prohibit the smoking, aerosolizing or vaporizing of inhalants that are not tobacco products in smoke shops.

(2) The authority shall issue a smoke shop certification to a business that:

(a)(A) Is primarily engaged in the sale, for off-premises consumption or use, of tobacco products and smoking instruments used to smoke tobacco products, with at least 75 percent of the gross revenues of the business resulting from such sales;

(B) Prohibits persons under 21 years of age from entering the premises;

(C) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting on the premises;

(D) Does not sell or offer food or beverages and does not sell, offer or allow on-premises consumption of alcoholic beverages;

(E) Is a stand-alone business with no other businesses or residential property attached to the premises;

(F) Has a maximum seating capacity of four persons; and

(G) Allows the smoking of tobacco product samples only for the purpose of making retail purchase decisions;

(b) On December 31, 2008:

(A) Met the requirements of paragraph (a)(A) to (D) of this subsection; and

(B)(i) Was a stand-alone business with no other businesses or residential property attached; or

(ii) Had a ventilation system that exhausted smoke from the business and was designed and terminated in accordance with the state building code standards for the occupancy classification in use; or

(c)(A) Was certified as a smoke shop under ORS 433.835, as in effect immediately before June 30, 2011, by the authority on or before December 31, 2012; and

(B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(3) A smoke shop certified under subsection (2)(b) of this section must renew the smoke shop certification every five years by demonstrating to the satisfaction of the authority that the smoke shop:

(a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section; and

(B)(i) Is a stand-alone business with no other businesses or residential property attached; or

(ii) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(4) A smoke shop certified under subsection (2)(c) of this section must renew the smoke shop certification every five years by demonstrating to the satisfaction of the authority that the smoke shop:

(a) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

(b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(5) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may transfer the certification with ownership of the smoke shop if the transfer is made in accordance with rules adopted by the authority.

(6) A smoke shop certified under subsection (2)(b) of this section may continue to be certified in a new location under subsection (2)(b) of this section if:

(a)(A) The new location occupies no more than 3,500 square feet; or

(B) If the old location occupied more than 3,500 square feet, the new location occupies no more than 110 percent of the space occupied by the old location; and

(b) The smoke shop as operated in the new location:

(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section;

(B)(i) Is a stand-alone business with no other businesses or residential property attached; or

(ii) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(C) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(7) A smoke shop certified under subsection (2)(c) of this section may continue to be certified in a new location under subsection (2)(c) of this section if:

(a)(A) The new location occupies no more than 3,500 square feet; or

(B) If the old location occupied more than 3,500 square feet, the new location occupies no more than 110 percent of the space occupied by the old location; and

(b) The smoke shop as operated in the new location:

(A) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

(B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(8) Rules adopted under this section must provide that, in order to obtain a smoke shop certification, a business must agree to allow the authority to make unannounced inspections of the business to determine compliance with ORS 433.835 to 433.875. [2011 c.601 §3; 2015 c.51 §1; 2015 c.158 §17; 2017 c.701 §12]

433.850 Prohibition on aerosolizing, smoking or vaporizing in place of employment; exceptions; posting signs. (1) An employer:

(a) Shall provide for employees a place of employment that is free of all smoke, aerosols and vapors containing inhalants; and

(b) May not allow employees to smoke, aerosolize or vaporize inhalants at the place of employment.

(2) Notwithstanding subsection (1) of this section:

(a) The owner or person in charge of a hotel or motel may designate up to 25 percent of the sleeping rooms of the hotel or motel as rooms in which the smoking, aerosolizing or vaporizing of inhalants is permitted.

(b) Smoking of noncommercial tobacco products for ceremonial purposes is permitted in spaces designated for traditional ceremonies in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996.

(c) The smoking of tobacco products is permitted in a smoke shop.

(d) The smoking of cigars is permitted in a cigar bar that generated on-site retail sales of cigars of at least \$5,000 for the calendar year ending December 31, 2006.

(e) A performer may smoke or carry a lighted smoking instrument that does not contain tobacco or cannabis, and may aerosolize or vaporize a substance that does not contain nicotine or a cannabinoid, while performing in a scripted stage, motion picture or television production if:

(A) The production is produced by an organization whose primary purpose is producing scripted productions; and

(B) The act of smoking, aerosolizing or vaporizing is an integral part of the production.

(f) The medical use of marijuana is permitted in the place of employment of a licensee of a professional licensing board as described in ORS 475B.919.

(3) An employer, except in those places described in subsection (2) of this section, shall post signs that provide notice of the provisions of ORS 433.835 to 433.875. [1981 c.384 §§4,5; 2001 c.104 §161; 2001 c.990 §2; 2007 c.602 §4; 2011 c.234 §1; 2015 c.158 §18; 2017 c.21 §109]

City of Molalla

City Council Meeting



Agenda Category: General Business

<u>Subject:</u>	Chamber Winter Banner Project
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<u>Recommendation:</u>	City Council Approval/Direction
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<u>Date of Meeting to be Presented:</u>	August 28, 2019
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<u>Fiscal Impact:</u>	Variable
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Background:

Attached to this memo is the draft Memorandum of Agreement for the Molalla Area Chamber of Commerce Winter Banner Project. Council requested that this item be on the regular Agenda in order to make a formal decision regarding this matter.

As part of your motion, Council will need to make two distinct decisions:

1. Approve or amend the MOU language.
2. Direct the City Manager to sign the MOU.

SUBMITTED BY: Dan Huff, City Manager
APPROVED BY: Dan Huff, City Manager



City of Molalla – Administration Office
117 N Molalla Avenue, PO Box 248, Molalla, Oregon 97038
Phone: (503) 829-6855 Fax: (503) 829-3676

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT is made effective as of **DATE**, by and between the City of Molalla, an Oregon Municipal Corporation (“City”), and the Molalla Area Chamber of Commerce (“Chamber”).

WHEREAS, there is a need to coordinate a community project, the “Winter Seasonal Banners” administered by the City.

WHEREAS, the City has agreed to accept responsibility for the Winter Seasonal Banner donation toward an existing program;

THE CHAMBER AGREES, to the following:

1. Provide 40 winter banners by **September 15, 2019**.
2. Provide funding in a “to be determined” amount for future maintenance.
3. Banner designs shall be selected through a coordinated process.
4. Banners shall be designed with 18 oz. block-out banner material.
5. Banners shall have UV inhibiting liquid laminate.
6. Chamber shall provide a 4-year manufacturer guarantee for maintenance and repairs.

THE CITY AGREES, to the following:

1. Assume ownership, maintenance and storage responsibility following banner installation.
2. Install the banners on October 1 and remove banners on January 31.

IN WITNESS THEREOF, the City and the Chamber have executed this agreement as of the date written above.

Accepted By:

Dan Huff, City Manager (“City”)

Bob Jones, President (“Chamber”)

Date: _____

Date: _____