



Location: City Hall – Council Chambers
Date: October 25, 2022
Time: 6:00 PM

City Council Meeting Agenda

Mayor Jason Beebe, Council Members Steve Uffelman, Janet Hutchison, Patricia Jungmann, Gail Merritt, Jeff Papke, Raymond Law and City Manager Steve Forrester
ATTEND TELEPHONICALLY BY CALLING 346-248-7799 Meeting ID: 947 5839 2608 Passcode: 123456

Call to Order

Flag Salute

Additions to Agenda

Consent Agenda

- [1.](#) Regular Meeting Brief 10-11-2022
- [2.](#) Debbie Sue's Cafe Change in Ownership Liquor Application

Visitors, Appearances and Requests

Council Presentations

Council Business

Staff Reports and Requests

- [3.](#) City Manager's Report - Steve Forrester

Committee Reports

Ordinances

- [4.](#) Ordinance No 1278 - Amending Chapter 153 to Change the C4 Zone to Convenience Commercial Zone (**FIRST & SECOND PRESENTATION**) - Josh Smith
- [5.](#) Ordinance No 1279 - Amendment to the City's Comprehensive Plan Map to C4 Convenience Commercial (**FIRST & SECOND PRESENTATION**) - Josh Smith
- [6.](#) Ordinance No 1280 - Adopting Changes to Prineville Code Chapters 51 & 53 (**FIRST PRESENTATION**) - Casey Kaiser
- [7.](#) Ordinance No 1281 - Adding Chapter 54 to Prineville City Code (**FIRST PRESENTATION**) - Casey Kaiser



Resolutions

- [8.](#) Resolution No 1539 - Approving Amendment # 4 - Crook County Temporary Well Easement - Mike Kasberger

- [9.](#) Resolution No 1540 - Declaring Necessity & Intent to Appropriate Certain Real Property & Authorizing Negotiation for its Acquisition - Casey Kaiser

Visitors, Appearances and Requests

Adjourn

Agenda items maybe added or removed as necessary after publication deadline



CITY OF PRINEVILLE
Regular Meeting Brief
387 NE Third Street – Prineville, OR 97754
541.447.5627 ph 541-447-5628 fax

Full Meeting Recordings Available at:
<http://cityofprineville.com/meetings/>

City Council Meeting Brief
October 11, 2022

Council Members Present:

Steve Uffelman
Jason Beebe
Patricia Jungmann
Gail Merritt

Council Members Absent

Ray Law
Janet Hutchison
Jeff Papke

Additions to the Agenda

Agenda Items 6 & 7 will be combined into Item No. 6 and will be reported on by Councilor Uffelman & Casey Kaiser. Downtown business comments will be added as Item No. 7 and O'Neil Highway discussion will be added as Item No. 8.

Consent Agenda

1. Regular Meeting Brief 9-27-2022
2. Annual Liquor License Renewals

Councilor Jungmann made a motion to approve consent agenda as presented. Motion seconded. No discussion on motion. Motion carried.

Visitors, Appearances and Requests

Dr. Knowler would like to comment on the zoning during the public hearing.

No one else came forward.

Council Presentations

There were no Council Presentations.

Council Business**3. Zone Text Amendment (PUBLIC HEARING) – Josh Smith****Mayor Beebe opened the public hearing portion of the meeting.**

Josh Smith, Planning Director went through a power point presentation that highlighted the legal requirements for criteria, notices, and the Planning Commission public hearing. Comments made were from neighboring properties in support and ODOT just had some questions for the traffic engineer. Mr. Smith brought up an aerial of the subject property and went through the proposed conceptual site plan which is subject to some refinement.

Mr. Smith provided additional background information .and how they determined the best commercial zone designation. Mr. Smith had a slide illustrating the existing zone map and went to the proposed changes. There was language added to the text from comments received from industrial residents that they didn't want a commercial use to move into the industrial area and then complain.

Mr. Smith continued presentation by going through key findings and justification, the traffic study is done, the C4 zone has less of an impact than industrial uses, trip counts and the Planning Commissions two conditions of approval.

Discussions continued regarding how you do not monitor daily trips until it develops; the trip count is based on worst case scenario for a development that could be built and includes all businesses. When they come back in for the site plan approval, the Planning Commission will look at that again.

Mayor Beebe said that he, as someone that worked up there thinks this would be a good addition up there.

Tammy Wisco, applicant's consultant, came up and said that they have been working on this for about a year finding out what the needs are and what is possible. This proposal is actually less of an impact than the M-1 use. Their proposal would be a nice amenity up there. Traffic has been analyzed extensively. There could be some minor changes to buildings and the site plan which will have to be reviewed again by Planning Commission.

Chad Bettsworth, Empire Construction thanked council for their time this evening. Empire has been in the community for a long time. They are committed to move forward quickly and there will be some refinements and they think it is a great spot for it.

There were no questions from Council.

Dr. Michael Knower, MD, asked if there were any plans for a medical office since it is an allowed use in C-4.

Ms. Wisco answered that there is no intent for a medical use on this property as part of their project.

No one else came forward.

No written testimony was received and no one was on the phone.

Mayor Beebe closed the public hearing portion of the meeting.

Councilor Uffelman made a motion to approve the zone amendments with the Planning Commission's conditions of approval as written, to be incorporated. Motion seconded. No discussion on motion. All in favor, motion carried.

Staff Reports and Requests:

4. City Manager's Report– Steve Forrester

Mr. Forrester presented the Manager's Report that highlighted each department's activities.

There were no questions.

Councilor Uffelman stated that there was a League of Oregon Cities (LOC) conference tour of the wetlands and that is was the most requested and attended tour they offered. It was also completely booked.

Mayor Beebe held up the LOC Excellence Award that the city received at the LOC awards ceremony for the Aquifer, Storage and Recovery (ASR) facility.

Mr. Forrester added that the head of the Prineville Apple site is now a local born and raised here man. Clay worked his way up to this position.

5. Chapter 51 – Update and Additional Edits – Josh Smith

Mr. Smith referred to his staff report and provided an update on the edits made since September 27th and that it just made sense to do it all at once instead of bringing back again.

Discussion continued about costs for hooking up to city sewer and the owner being responsible for the cost of getting a service line to the city sewer line. Establishing a fund to help some citizens connect.

Mr. Smith explained that the city has explored that in the past, and it wasn't feasible. However the city has helped with what they can for citizens to get connected in the past depending on the situation.

No other questions.

6. Prineville Renewable Energy Project (PREP) & DC Legislative Update – Councilor Uffelman / Casey Kaiser

Councilor Uffelman talked about benefits of the trip to DC for extra funding to help get over the hurdle to move project forward and potential power buying agreements. He was overwhelmed by the support received. They met with Senator's Wyden and Merkley, Representative Bentz, Rural Development, EPA, FEMA, Forest Service, and House Agriculture Committee, etc. We went looking for \$750K and ended up with much more.

Councilor Uffelman thanked Caroline Ervin, Capital Projects Manager for arranging the timing of all the meetings and the itinerary.

Mr. Kaiser, wasn't sure what to expect with the trip and feels it was extremely beneficial. An email or phone call is just a fraction of the benefit compared to be able to sit down to meet with them in person. We now have a lock on at least \$1M along with leads on additional funding.

7. Downtown Business Comments

Mayor Beebe explained that he has been getting comments from downtown business owners about the trees and how they are effecting the sidewalks in front of their businesses which they are responsible for maintaining. Many of those trees were planted before some even bought or moved into the business. Some of the trees are not even the right kind of street tree and lifting up portions of the sidewalk and they would like the city to take it over if possible.

Mr. Smith stated that staff has thought about this in the past. The trees were planted many years ago. This might be a good thing to talk about in the Council retreat to see if this is something they want to look at.

8. O'Neil Highway Discussion

Mayor Beebe stated that he has also been getting emails after the recent wreck. We know there is a safety problem there and understands that this is an ODOT issue.

Mr. Smith explained that this is in our plan to look at and that ODOT would be involved with the traffic measures that can be taken.

Councilor Uffelman said that ODOT does have a plan that could potentially involve an overpass and it is something we need to bring up at the Central Oregon Area Commission on Transportation (COACT) meeting again to try to elevate the need for this project.

Mr. Kaiser added that we are currently working with ODOT to update our Transportation System Plan (TSP) and they plan on taking a deep dive into the "Y" and O'Neil intersections. We will be bringing an Intergovernmental Agreement (IGA) regarding cost sharing for improvements. The TSP update will begin this November.

Committee Reports

There were no reports.

Ordinances:

None.

Resolutions

9. Resolution No. 1538 – Approving Local Limits Report – Casey Kaiser

Mr. Kaiser presented the staff report explaining that this was brought to Council at the last meeting for the public hearing and this is just to accept the report.

There were no questions.

Councilor Merritt made a motion to approve Resolution No. 1538. Motion seconded. No discussion on motion. All in favor, motion carried.

Visitors, Appearances and Requests:

No one came forward.

Adjourn

Councilor Uffelman made a motion to adjourn the meeting. Motion seconded. No discussion on motion. All in favor, motion carried.

Meeting adjourned at 7:28 P.M.

Motions and Outcomes:

Motion:	Outcome	Beebe	Hutchison	Jungmann	Law	Merritt	Papke	Uffelman
Consent Agenda	PASSED	Y	-	Y	-	Y	-	Y
Motion to approve the zone amendments with the Planning Commission’s conditions of approval as written, to be incorporated.	PASSED	Y	-	Y	-	Y	-	Y
Resolution No. 1538 – Approving Local Limits Report	PASSED	Y	-	Y	-	Y	-	Y
Adjourn Meeting	PASSED	Y	-	Y	-	Y	-	Y

Public Records Disclosure

Under the Oregon public records law, all meeting information, agenda packets, ordinances, resolutions, audio and meeting briefs are available at the following URL:
<https://www.cityofprineville.com/meetings> .

LIQUOR LICENSE APPLICATION

Page 1 of 3

Check the appropriate license request option:

New Outlet | Change of Ownership | Greater Privilege | Lesser Privilege

Select the license type you are applying for.

More information about all license types is available [online](#).

Full On-Premises

- Commercial
- Caterer
- Public Passenger Carrier
- Other Public Location
- For Profit Private Club
- Nonprofit Private Club

Winery

- Primary location
- Additional locations: 2nd 3rd 4th 5th

Brewery

- Primary location
- Additional locations: 2nd 3rd

Brewery-Public House

- Primary location
- Additional locations: 2nd 3rd

Grower Sales Privilege

- Primary location
- Additional locations: 2nd 3rd

Distillery

- Primary location
- Additional tasting locations: 2nd 3rd 4th 5th 6th

Limited On-Premises

- Off Premises
- Warehouse
- Wholesale Malt Beverage and Wine

INTERNAL USE ONLY

Application received:

8-19-22

Minimum documents acquired:

8-19-22

LOCAL GOVERNING BODY USE ONLY

City/County name:

City of Prineville

Date application received:

Optional: Date Stamp

10-18-2022

- Recommend this license be granted
- Recommend this license be denied

Printed Name

Date

Return this form to:

Investigator name:

Chad Gray

Email:

chad.gray@oregon.gov

LIQUOR LICENSE APPLICATION

Page 2 of 3

APPLICANT INFORMATION

Identify the applicants applying for the license. This is the entity (example: corporation or LLC) or individual(s) applying for the license. Please add an additional page if more space is needed.

Name of entity or individual applicant #1:

Porfily LLC

Name of entity or individual applicant #2:

Name of entity or individual applicant #3:

Name of entity or individual applicant #4:

BUSINESS INFORMATION

Trade Name of the Business (name customers will see):

~~DBA~~ Debbie Sue's Cafe

Business phone number:

541-447-4211

Business email:

heatherporfily@gmail.com

Premises street address (The physical location of the business and where the liquor license will be posted):

1555 NE Third Street Suite B1

City:

Prineville

Zip Code:

97754

County:

Crook

Business mailing address (where we will send any items by mail as described in [OAR 845-004-0065111](#)):

City:

Prineville

State:

Oregon

Zip Code:

97754

Does the business address currently have an OLCC liquor license? Yes No

Does the business address currently have an OLCC marijuana license? Yes No

APPLICATION CONTACT INFORMATION

Contact Name:

Heather Porfily

Phone number:

541- [REDACTED]

Email:

heatherporfily@gmail.com

Mailing address:

City:

Prineville

Zip Code:

97754

County:

Crook

Please note: liquor license applications are public records.

LIQUOR LICENSE APPLICATION

Page 3 of 3

ATTESTATIONS

By signing this form, you attest that each of the following statements are true. I understand the Commission may require a licensee to provide proof of any of the below or below referenced documents at any time.

I understand that marijuana is **prohibited** on the licensed premises. This includes marijuana use, consumption, ingestion, inhalation, samples, give-away, sale, etc. I attest that all answers on all forms and documents, and all information provided to the OLCC as a part of this application are true and complete.

I affirm that I have read [OAR 845-005-0311](#) and all individuals (sole proprietors) or entities with an ownership interest (other than waivable ownership interest per OAR 845-005-0311[6]) are listed as license applicants in #2 above. I understand that failure to list an individual or entity who has an un-waivable ownership interest in the business may result in denial of my license or the OLCC taking action against my license in the event that an undisclosed ownership interest is discovered after license issuance.

<u>Heather Porfily</u>	<u></u>	<u>8/19/22</u>	<u></u>
Print name	Signature	Date	Atty. Bar Info (if applicable)
<u></u>	<u></u>	<u></u>	<u></u>
Print name	Signature	Date	Atty. Bar Info (if applicable)
<u></u>	<u></u>	<u></u>	<u></u>
Print name	Signature	Date	Atty. Bar Info (if applicable)
<u></u>	<u></u>	<u></u>	<u></u>
Print name	Signature	Date	Atty. Bar Info (if applicable)



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

PRINT FORM

RESET FORM

1. Name (Print):	Porfily Last	Heather First	Ann Middle
2. Other names used (maiden, other): Hansen, McCall			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, you must list your SSN: [REDACTED]			
SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below. Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC§ 552(a)).			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: <input checked="" type="checkbox"/>			
5. Date of Birth (DOB):	12 (mm)	17 (dd)	[REDACTED] (yyyy)
6. Driver License or State ID #	[REDACTED]	7. State Oregon	
8. Contact Phone: 541 [REDACTED]			
9. E-mail Address: heatherporfily@gmail.com			
10. Mailing Address:	[REDACTED] (Number and Street)	Prineville (City)	OR 97754 (State) (Zip Code)
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (If yes, explain in the space provided, below) Unsure <input type="checkbox"/> Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.			



OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM

12. Do you, or any entity that you are a part of, **currently hold** or **have you previously held** a recreational marijuana license in Oregon? (Note: marijuana worker permits are not marijuana licenses.)

No Yes Please list licenses (and year(s) licensed) below Unsure Please include an explanation:

13. Do you, or any entity that you are a part of, hold an alcohol license in a U.S. state outside of Oregon?

No Yes Please list licenses (and year(s) licensed) below Unsure Please include an explanation:

14. Do you or any entity that you are a part of, have any other liquor license applications pending with the OLCC?

No Yes Please list applications below Unsure Please include an explanation:

You must sign your own form (electronic signature acceptable). Another individual, such as your attorney or an individual with power of attorney, **may not** sign your form.

Affirmation

Even if I receive assistance in completing this form, I affirm by my signature below, that my answers on this form are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to my criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Name (Print):	Porfily	Last	Heather	First	Ann	Middle
Signature:					Date:	8/19/22

This box for OLCC use ONLY

Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION

Please Print or Type

Applicant Name: Porfily LLC Phone: 541-749-0926

Trade Name (dba): Debbie Sue's Cafe

Business Location Address: 1555 NE Third Street Suite B1

City: Prineville ZIP Code: 97754

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 7 to 6
Monday 7 to 6
Tuesday 7 to 6
Wednesday 7 to 6
Thursday 7 to 6
Friday 7 to 6
Saturday 7 to 6

Outdoor Area Hours:

Sunday n/a to n/a
Monday n/a to n/a
Tuesday n/a to n/a
Wednesday n/a to n/a
Thursday n/a to n/a
Friday n/a to n/a
Saturday n/a to n/a

The outdoor area is used for:

- Food service Hours: n/a to n/a
Alcohol service Hours: n/a to n/a
Enclosed, how n/a

The exterior area is adequately viewed and/or supervised by Service Permittees.

(Investigator's Initials)

Seasonal Variations: Yes No If yes, explain:

ENTERTAINMENT

Check all that apply:

- Live Music, Recorded Music, DJ Music, Dancing, Nude Entertainers, Karaoke, Coin-operated Games, Video Lottery Machines, Social Gaming, Pool Tables, Other:

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday n/a to n/a
Monday n/a to n/a
Tuesday n/a to n/a
Wednesday n/a to n/a
Thursday n/a to n/a
Friday n/a to n/a
Saturday n/a to n/a

SEATING COUNT

Restaurant: 24 Outdoor: n/a
Lounge: n/a Other (explain): 6 in lottery area
Banquet: n/a Total Seating: 30

OLCC USE ONLY

Investigator Verified Seating: (Y) X (N)
Investigator Initials: CMG
Date: 10-18-22

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [Signature] Date: 8/19/22

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 12/07)

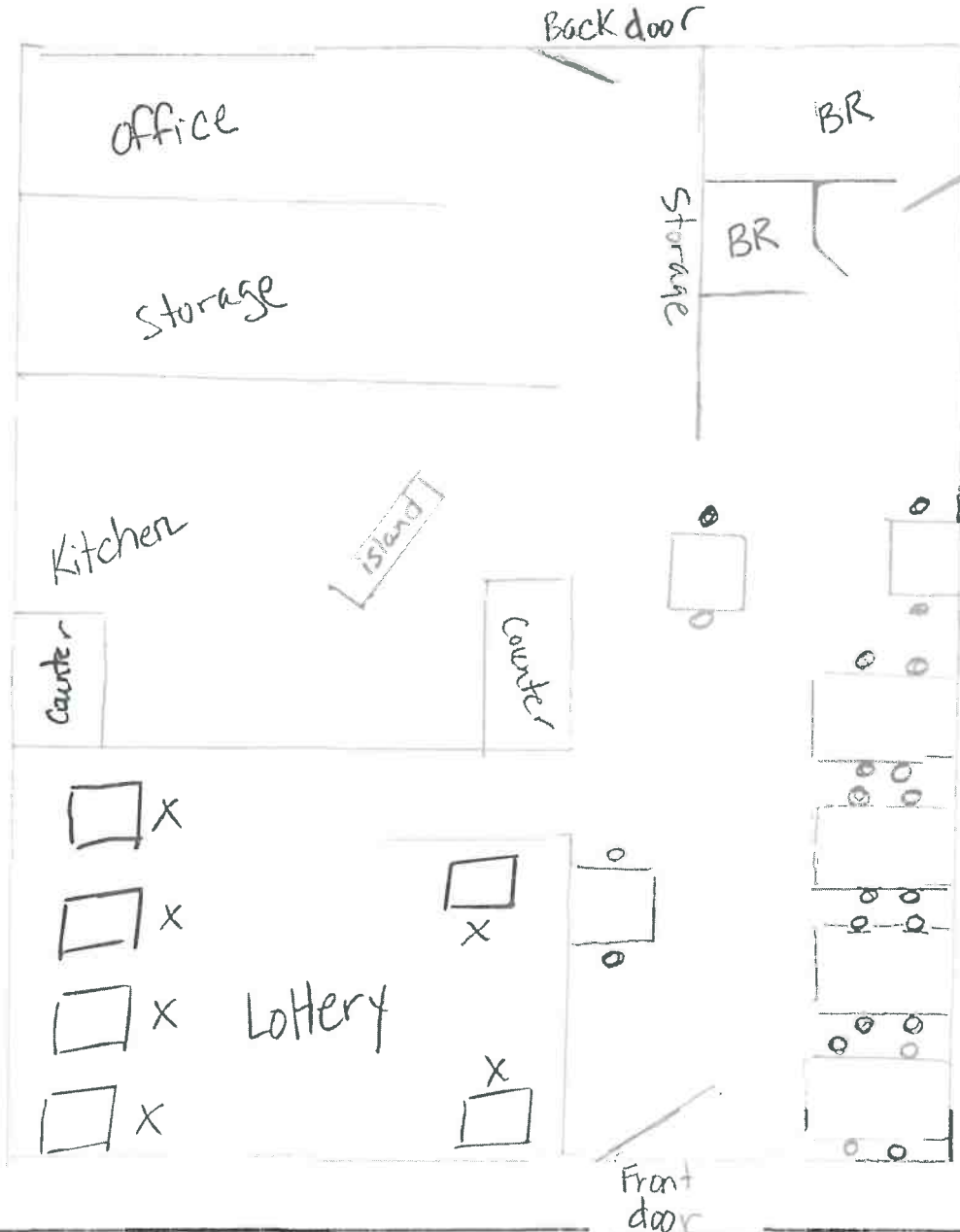


OREGON LIQUOR & CANNABIS COMMISSION FLOOR PLAN FORM

Your floor plan must be submitted on this form

Porfily LLC
Applicant Name

DBA Debbie Sue's Cafe
Trade Name (dba)



.....OLCC USE ONLY.....
MINOR POSTING ASSIGNMENT(S)

#1 Entire Premises

Date: 10-18-22

Initials: CMG

City Manager Update to Council

Council Meeting October 25, 2022

Public Safety / Dispatch

Dispatch has a lateral interview on October 20th and will open recruitment in November again for more applicants. Sam McKenzie is still at the academy and everything is running smooth.

Public Works

STREETS

- The electrical work has been completed for the roundabout art and it is now lit.
- The crew continues to conduct annual maintenance prior to winter including firing the backup generators, checking coolant levels in all vehicles, and completing the annual fire extinguisher inspections.
- The first section of the Barnes Butte paving was completed by the Parkview Subdivision near pedestrian bridge along the west side of the Husdpeth Drain Wetland area. Pat Goehring did some negotiating with the contractor to get some additional segments of our Barnes Butte Trail paved as well.

WATER

- The crews are almost finished saw dusting meters. They do this to insulate them in preparation for freezing temperatures
- The waterlines are all installed on Ochoco Ave. and the service line tie ins have been completed.
- The pump was installed in the new Yancey well drilled this summer.
- The in town water sewer crew completed 15 meter sets, 69 locates, 13 service orders, 3 water leaks, and 50 water shutoffs during the month of September.

WWTP

- A new voltage monitor and VFD drive installed at the golf course pump has cut power consumption in half.
- Zack & Jason attended a Wastewater Treatment and Collections training course continuing to grow the level of education and knowledge of their team.
- Performing the prep work getting ready to install weighted anchors on the air lines for the aeration system.

Rail Road

The Rail Road is still holding good and winter maintenance projects continue.

Meadow Lakes Golf

Meadow Lakes has remained really busy through October so far with the above average weather but anticipates that will change soon with cooler weather on the way.

Airport – No Update

Planning

Park View subdivision has paved some trails that connects to city trail system. There are a couple of commercial developments expected in the old Ochoco Mill site. There are a couple of active industrial developments. Staff is ready to go on updating some long range planning documents.

Human Resources – No Report.

Information Technology

IT remains busy with winter site preparation. Working on antenna change out and is extending service to Yancey well for the telemetry monitoring system.

Finance

The outside audit has officially began and keeping the Finance Department extremely busy. Cross training is underway for the most recent Finance Department team members.

City Recorder/Risk Management – No Update

City Legal – No Update

EDCO – No Update

Public Relations

Press releases continue to roll out regarding all of the awards the city has been earning with positive coverage from a variety of media outlets.

Mayor/Council – No Update

Other – No Update

ORDINANCE NO. 1278

AN ORDINANCE AMENDING CHAPTER 153 TO CHANGE THE C4 ZONE FROM A “NEIGHBORHOOD COMMERCIAL ZONE” TO A “CONVENIENCE COMMERCIAL ZONE”

Whereas, the City of Prineville (“City”) Code establishes the policy and procedure to change the Comprehensive Plan Map designation and the Zoning Map designation of a property. Pursuant to such policy and procedure a property owner or owner’s representative may initiate a request to change the zoning of a property: and

Whereas, Empire Construction and Development (Sally DeMoss) as authorized representative for Gary Bell, the owner of property described as lot 8 of the Tom McCall Industrial Park Subdivision (“property”) also known as T15, R15, S02DD Tax Lot 00500 has applied for a text amendment to the C4 zone; and

Whereas, pursuant to Section 153.252.020 of the Code, required notice was submitted to the Department of Land Conservation and Development and published ten (10) days prior to the initial public hearing scheduled for September 20, 2022; and

Whereas, on September 20, 2022, the City Planning Commission held a public hearing and consented to the amendments and recommended the City Council approve the proposed amendments to Chapter 153 shown in Exhibit A, attached hereto and by this reference made a part hereof; and

Whereas, pursuant to Section 153.252.020 of the Code, required notice was published ten (10) days prior to the City Council hearing of a legislative change scheduled for October 11, 2022; and

Whereas, the Prineville City Council conducted a public hearing on October 11, 2022, which consisted of the opportunity of written and oral testimony, review of staff reports, and consideration of the recommendations of the City of Prineville Planning Commission.

NOW, THEREFORE, the people of the City of Prineville ordain as follows:

1. That Chapter 153 of the City’s Code is hereby amended as shown on Exhibit A.
2. The City Recorder shall place a certified copy of this Ordinance in the City’s permanent records.
3. The Ordinance shall be effective 30 days following its passage by the City Council.

Presented for the first time at a regular meeting of the City Council held on October 25, 2022, and unanimously passed hereto.

Rodney J. Beebe
Mayor

ATTEST:

Lisa Morgan, City Recorder

CHAPTER 153: LAND DEVELOPMENT CODE
Update to the C4 zone.

The three dots “...” represent text that is not being changed.

Table of contents shall be amended as follows:

...
Specific Zone Requirements
 ...
 153.053 Convenience Commercial C4 Zone
 ...

Section 153.030 shall be amended as follows:

153.030 CLASSIFICATION OF ZONES.

Section	Zone Title	Abbreviated Designation
153.053	Convenience Commercial	C4

Section 153.037 shall be amended as follows:

153.037 COMMERCIAL & INDUSTRIAL USE TABLE

<u>Eating & Drinking</u>	C1	C2	C3	C4	C5	M1	M2	IP	Comments:
Brew Pub, Tap House (with Restaurant)	0	0		0	0				May include Food Vendors

Café Restaurant, Espresso (Drive through)		0		T1	T1				
---	--	---	--	----	----	--	--	--	--

<u>Automobile, Trucks, RV's</u>	C1	C2	C3	C4	C5	M1	M2	IP	Comments:
Auto Service Station (may include accessory convenience store & carwash)		0		0	T2	0	0	T1	Generally same day service, includes minor repairs.

<u>Office & Office Products</u>	C1	C2	C3	C4	C5	M1	M2	IP	Comments:
Office and Office Products	0	0	0	0					Medical, attorney, real estate etc.

Office for real estate & Insurance	0	0	0	0	0				
------------------------------------	---	---	---	---	---	--	--	--	--

<u>Retail Uses</u>	C1	C2	C3	C4	C5	M1	M2	IP	Comments:
Hardware Store	0	0		0					

Section 153.037 shall delete items as follows:

Video/Movie rental and sales	0	0	-	0	0	-	-	-	-
Travel agency	0	0	0	-	0	-	-	-	-

Section 153.053 shall be amended as follows:

153.053 CONVENIENCE COMMERCIAL C4 ZONE.

In a C-4 Zone, the following regulations shall apply.

(A) **Purpose.** The purpose of the Convenience Commercial C4 Zone is to provide for limited commercial services in areas that are in close proximity to or within non-commercially zoned areas. The purpose relative thereto is to provide opportunities for basic commercial conveniences without excessive vehicular travel.

(K) **Use limitations.** In a C4 Zone, the following use limitations shall apply to all uses permitted under this section.

(1) **Nuisance.** No structure or land shall be occupied or used for any purpose which creates or causes to be created any public nuisance, including but not limited to excessive odor, dust, noise, vibration, flashing light or any hazard to the general health, safety and welfare of the area.

(2) **The C4 zone is intended to compliment surrounding zones.** However, some zones such as industrial or airport related zones, may have potential for increased nuisance-type impacts based on the nature of the zone. As a result, C4 zoned properties adjacent to industrial or airport zoned properties shall first consider additional design standards, as outlined in section (L) below. Additionally, C4 zoned properties adjacent to industrial or airport properties should be prepared to tolerate the same reasonable levels of nuisance causing issues consistent with the adjacent zones. Aircraft operating in and around the airport are exempt from noise standards. All other noise levels meeting DEQ standards are considered reasonable.

(L) **Additional standards and requirements.** In approving uses in a C4 Zone, the city may require additional standards and requirements considered necessary to protect the best interests of the surrounding and adjacent area. Such may include, but is not limited to the following.

- (1) Additional lot size or setback requirements.
- (2) Limitations on the placement of structures and the heights thereof.
- (3) Limitations on vehicular parking areas and ingress and egress.
- (4) Limitations on the placement and type of signs.
- (5) Require additional landscaping, screening and/or fencing.

ORDINANCE NO. 1279
**AN ORDINANCE AMENDMENT IN THE CITY’S COMPREHENSIVE PLAN MAP
DESIGNATION OF PROPERTY FROM LIGHT INDUSTRIAL TO OUTLYING
COMMERCIAL AND THE ZONING MAP DESIGNATION FROM LIGHT INDUSTRIAL
(M1) TO CONVENIENCE COMMERCIAL (C4)**

Whereas, City of Prineville (“City”) adopted a Comprehensive Plan on or about April 10, 2007, pursuant to Ordinance 1143 and codified in Chapter 154 of the Prineville City Code; and

Whereas, the City of Prineville (“City”) Code establishes the policy and procedure to change the Comprehensive Plan Map designation and the Zoning Map designation of a property. Pursuant to such policy and procedure a property owner or owner’s representative may initiate a request to change the zoning of a property: and

Whereas, Empire Construction and Development (Sally DeMoss) as authorized representative for Gary Bell, the owner of property described as lot 8 of the Tom McCall Industrial Park Subdivision (the property), also known as T15, R15, S02DD Tax Lot 00500 has applied for a change to the Comprehensive Plan Map designation from Light Industrial to Outlying Commercial and the Zoning map designation from Light Industrial (M1) to Convenience Commercial (C4); and

Whereas, pursuant to Section 153.252.020 of the Code, required notice was submitted to the Department of Land Conservation and Development and published 10 days prior to the initial public hearing scheduled for September 20, 2022; and

Whereas, on September 20th, 2022, the City Planning Commission held a public hearing and consented to the amendments and recommended the City Council approve the proposed amendments to Comprehensive Plan Map and Zoning Map shown in Exhibit A, attached hereto and by this reference made a part hereof; and

Whereas, pursuant to Section 153.252.020 of the Code, required notice was published 10 days prior to the City Council hearing of a legislative change scheduled for October 11, 2022; and

Whereas, the Prineville City Council conducted a public hearing on October 11, 2022, which consisted of the opportunity of written and oral testimony, review of staff reports, and consideration of the recommendations of the City of Prineville Planning Commission.

NOW, THEREFORE, the people of the City of Prineville ordain as follows:

1. That the City’s Comprehensive Plan Map and Zone Map are hereby amended as shown on Exhibit A with the following conditions:

A) The zone change is contingent upon substantial development of the submitted concept plan. The City reserves the right to revert the zone back to Light Industrial (M1) should uses specific to the Convenience Commercial (C4) zone not materialize. Reversal would require a similar process with notice to the owner, a recommendation from the Planning Commission and City Council approval.

B) The site plan approval shall limit the proposed development to a trip cap of 1,027 weekday daily trips or 96 weekday p.m. peak hour trips based on the “worst-case” development potential in the current M1 zone.

2. The City Recorder shall place a certified copy of this Ordinance in the City’s permanent records.

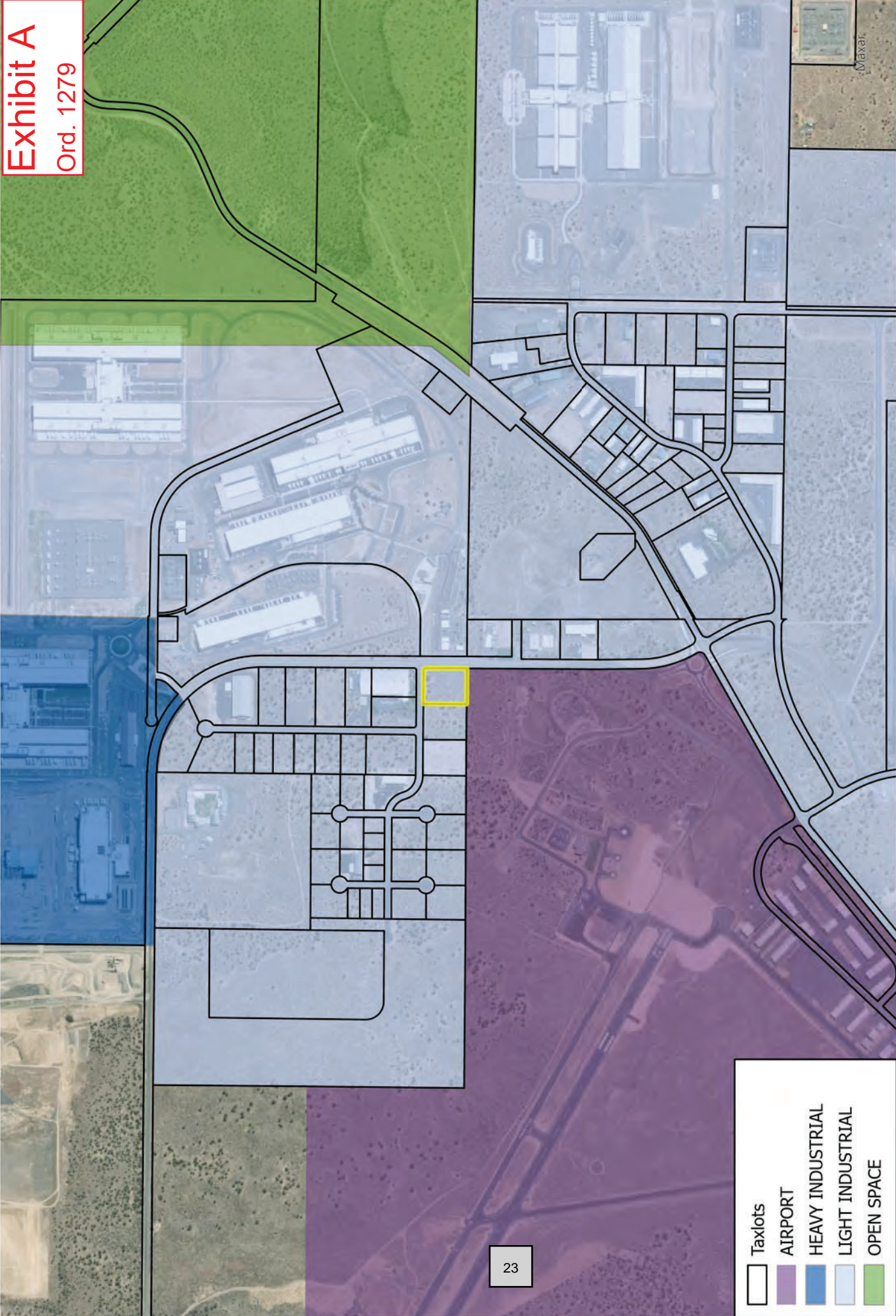
3. The Ordinance shall be effective 30 days following its passage by the City Council.

Presented for the first time at a regular meeting of the City Council held on October 11, 2022, and the City Council finally enacted the foregoing ordinance this ____ day of October, 2022.

Rodney J. Beebe
Mayor

ATTEST:

Lisa Morgan, City Recorder



	Taxlots
	AIRPORT
	HEAVY INDUSTRIAL
	LIGHT INDUSTRIAL
	OPEN SPACE

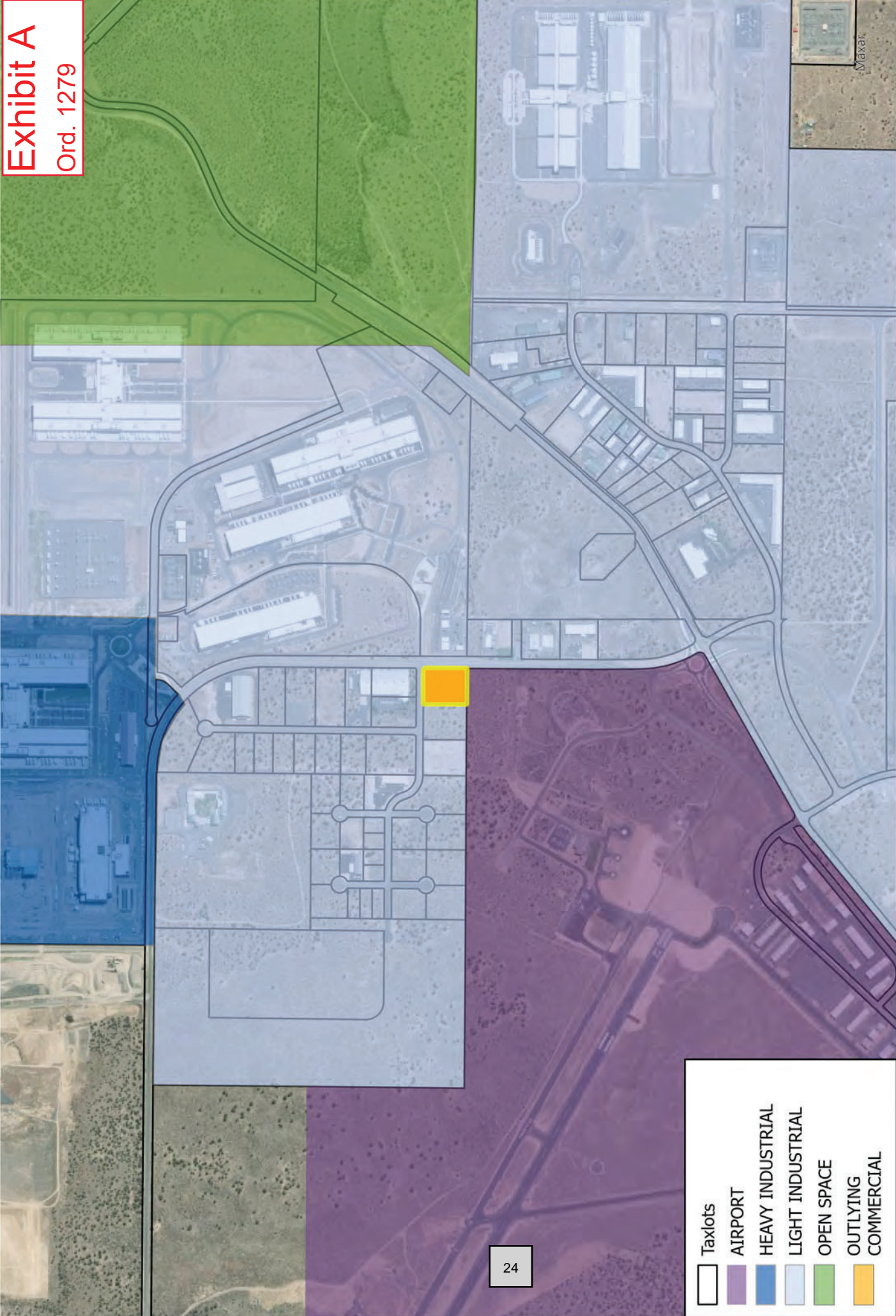
2021 Aerial Date: 7/26/2022



AM-2022-100
Current Comp Plan Designation
Light Industrial



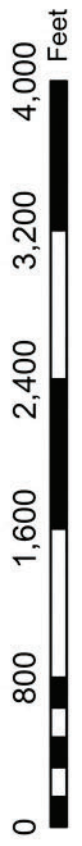
Exhibit A
Ord. 1279



24

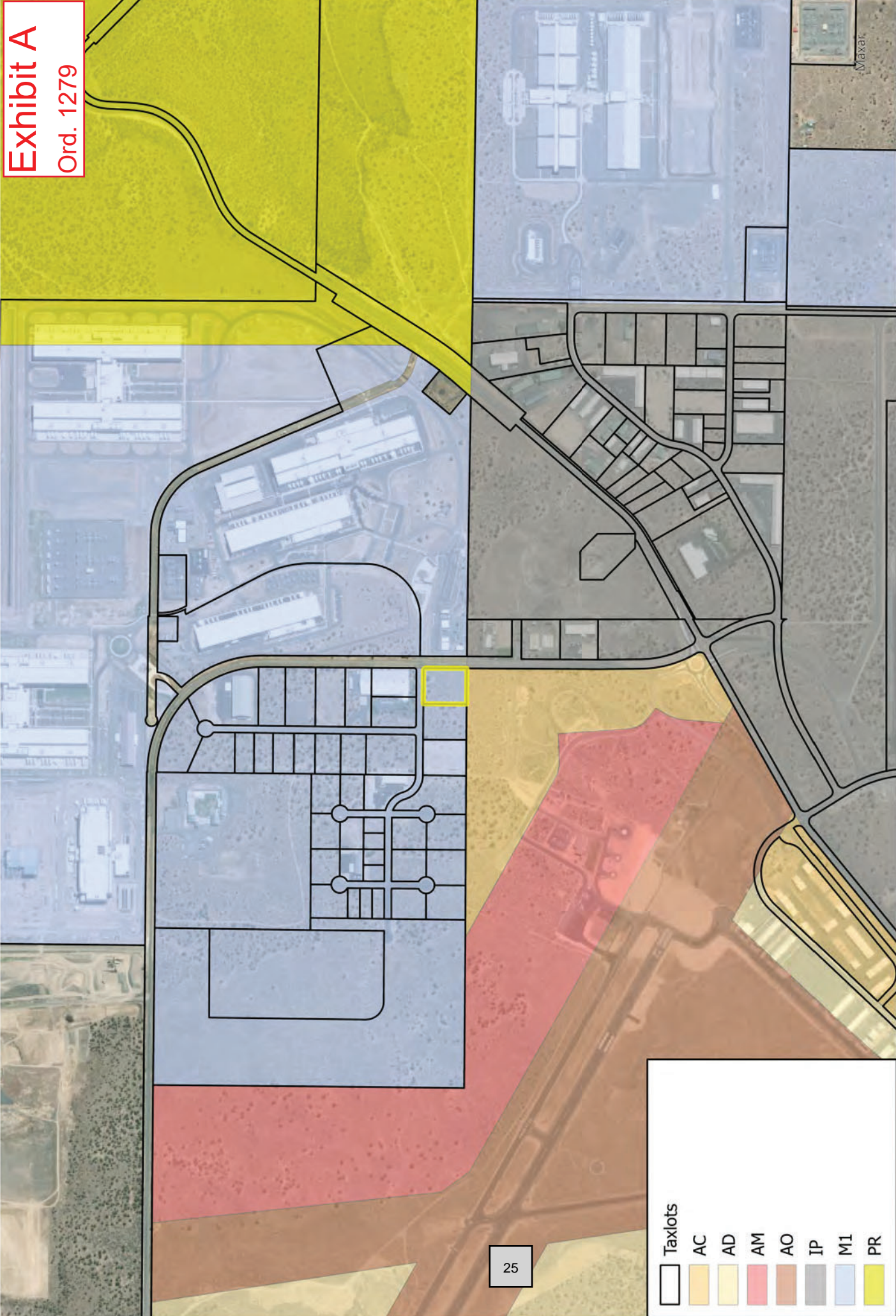
- Taxlots
- AIRPORT
- HEAVY INDUSTRIAL
- LIGHT INDUSTRIAL
- OPEN SPACE
- OUTLYING COMMERCIAL

2021 Aerial Date: 7/26/2022



AM-2022-100
Proposed Comp Plan
(Outlying Commercial)

Exhibit A
Ord. 1279



25

	Taxlots
	AC
	AD
	AM
	AO
	IP
	M1
	PR

AM-2022-100

Current Zone Designation

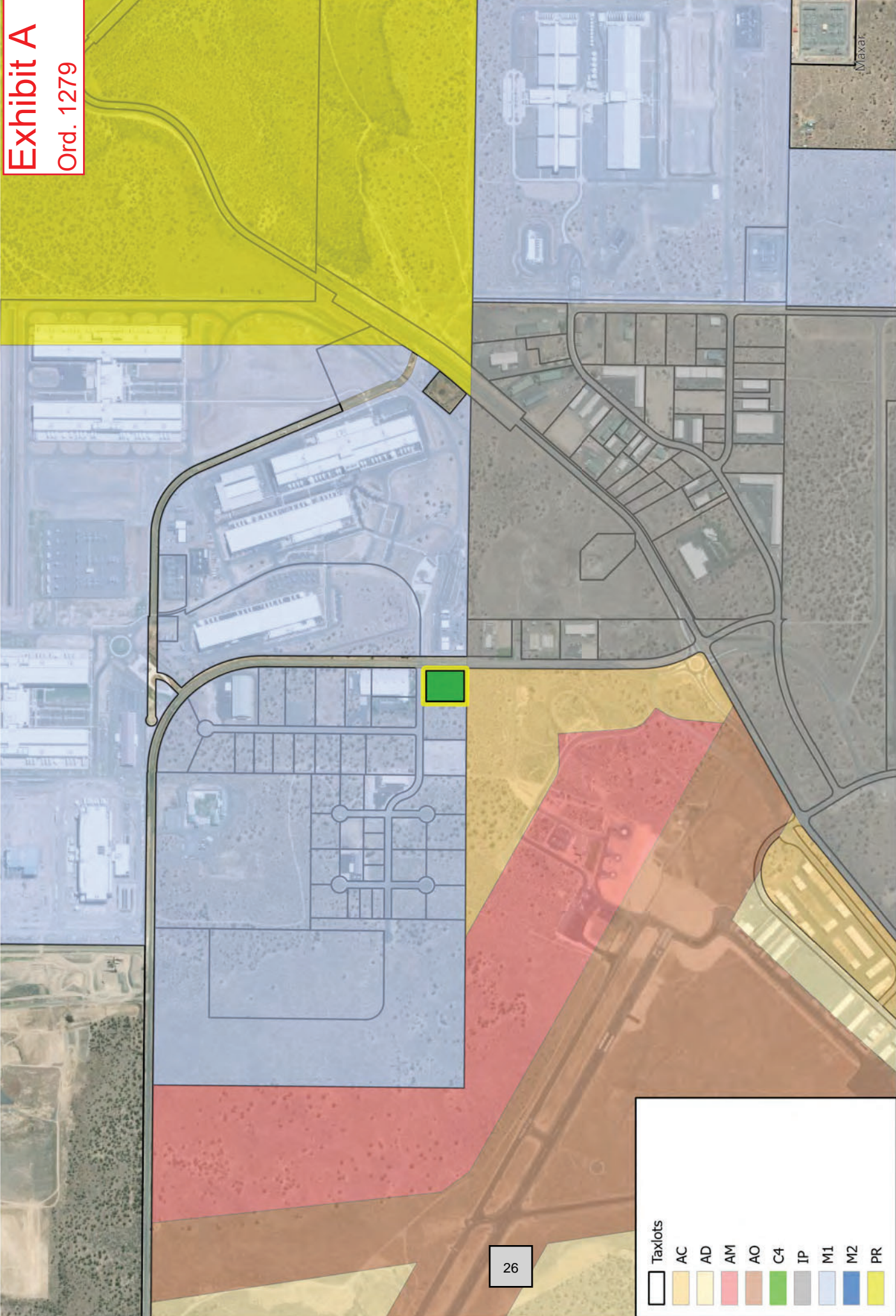
M1- Light Industrial

2021 Aerial

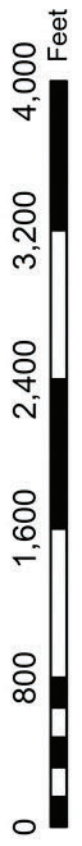
Date: 7/26/2022



Exhibit A
Ord. 1279



2021 Aerial Date: 7/26/2022



26

	Taxlots
	AC
	AD
	AM
	AO
	C4
	IP
	M1
	M2
	PR

AM-2022-100
Proposed Zone C4

ORDINANCE NO. 1280

AN ORDINANCE ADOPTING CHANGES TO PRINEVILLE CODE CHAPTERS 51 AND 53

Whereas, the City of Prineville (“City”) Code has Chapters 51 governing “Sewer” and Chapter 53 governing “Wastewater;” and

Whereas, recent increase in industry requires the development of an Industrial Pretreatment Program, which requires changes to both Chapters 51 and 53; and

Whereas, the City adopted Chapter 51 through Ordinance 981 passed January 28, 1992, which requires to be updated; and

Whereas, City staff has worked with the Oregon Department of Environmental Control (DEQ) to ensure ordinances that meet federal and state regulations and that is consistent with the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 USC 1251, et. seq.

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

1. The Council hereby amends Chapter 51 as set forth on Exhibit A, attached hereto and incorporated herein.
2. The Council hereby amends Chapter 53 as set forth on Exhibit B, attached hereto and incorporated herein.
3. The Ordinance shall be effective 30 days following its passage by the City Council.

Presented for the first time at a regular meeting of the City Council held on October 25, 2022, and the City Council finally enacted foregoing ordinance this ____ day of November, 2022.

Rodney J. Beebe, Mayor

ATTEST:

Lisa Morgan, City Recorder

**Chapter 51
SEWERS**

Sections:

GENERAL PROVISIONS

- 51.001 Adoption of Laws and Rules
- 51.002 Definitions

PUBLIC SEWER USE REQUIRED

- 51.015 Deposit of Objectionable Waste
- 51.016 Discharge of Untreated Waste
- 51.017 Privies and Cesspools
- 51.018 Connection to Public Sewer Required

PRIVATE SEWAGE DISPOSAL

- 51.030 Conflicting Provisions
- 51.031 Private Disposal Authorized
- 51.032 Permits and Waivers
- 51.033 Connection to Public Sewer Required
- 51.034 Operating Private Sewer Systems

BUILDING SEWERS AND CONNECTIONS

- 51.045 Permits
- 51.046 Fees, Charges, and Rates
- 51.047 Costs and Expenses
- 51.048 Separate Building Sewers
- 51.049 Use of Old Sewers
- 51.050 Construction Standards
- 51.051 Surface Runoff
- 51.052 STEP Systems
- 51.053 Excavation Regulations
- 51.054 Inspection and Connection

PUBLIC SEWER USE REGULATIONS

- 51.070 Use of Public Sewers

INFILTRATION AND INFLOW

- 51.085 Notice to Correct
- 51.086 Time Limit for Corrective Action
- 51.087 Notice of Corrective Action Taken
- 51.088 Failure to Correct

SERVICES; CHARGES AND BILLING

51.100	Definitions
51.101	Service
51.102	Charges
51.103	Billing, Payment, and Collection
51.104	Delinquent Accounts
51.105	Sewer Fund
51.115	Property Damage and Interference
51.116	Dangerous or Unsafe Apparatus
51.130	Disconnection Due to Noncompliance
51.131	Inspections: Right of Entry
51.998	Violations
51.999	Penalty

Cross-reference: Reimbursement districts for public improvements, see Chapter 39.

GENERAL PROVISIONS

51.001 ADOPTION OF LAWS AND RULES.

The City adopts and incorporates herein by reference the following as they presently exist or may hereinafter be amended: O.R.S. 447.010 through 447.140, the State Plumbing Code and applicable administrative rules of the Director of Commerce.

51.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The person(s) applying for a sewer connection permit. The applicant shall be the owner of the premises to be served by the sewer for which a permit is requested, or his/her designated agent authorized in writing to act on his/her behalf.

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

BUILDING. Any structure used for human habitation, employment, place of business, recreation, or any other purpose, containing sanitary facilities.

BUILDING DRAIN. That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes within or adjoining the building or structure and conveys the discharge to the building sewer, beginning at a point five feet outside the established line of the building structure including any structural projection except eaves.

BUILDING SEWER. The extension from the building drain to the public sewer service connection or other points of disposal.

CITY. The corporate limits of the City of Prineville or the municipal government thereto.

CLEANOUT. A sealed aperture permitting access to the building sewer pipe for stoppage removal and other cleaning purposes.

COLLECTION SYSTEM. The system of public and private sewers which are operated by the City and are designed for the collection and conveyance of sanitary sewage.

DEQ. Means the Oregon Department of Environmental Quality.

DWELLING UNIT. A structure, or portion thereof, consisting of one or more rooms designed for permanent or semi-permanent occupancy which at a minimum provides the occupants with a kitchen, sleeping and sanitary facilities.

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

INDUSTRIAL WASTES. Any liquid, gaseous, radioactive or solid waste substance, or a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources as distinct from sanitary sewage.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

OWNER OF RECORD. The person(s) or legal entity as shown on the last available complete County tax assessment rolls or deed records. "Property owner" or "owner" shall be equivalent terms for "owner of record".

PERSON. Any individual, firm, company, association, society, corporation or group.

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

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food, and the handling, storage and sale of produce, that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights that is owned and controlled by the City. This includes the system from the point of connection of the building drain and/or building sewer to a septic tank effluent pumping (STEP) system to the sanitary sewer collection system and the ultimate sewage treatment process.

PUBLIC WORKS DIRECTOR. The Public Works Director of the City, or his/her authorized deputy, agent, or representative.

SANITARY SEWER. A pipe or conduit intended to carry liquid and water-carried wastes, from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not intentionally admitted into the system.

SERVICE CONNECTION. That part of the public sewer which extends from the main line in a street, alley or public easement and receives flow from a building sewer or a building drain and which may or may not include a STEP system.

SEWAGE. A combination of water-carried wastes, from residences, commercial buildings, industrial establishments and institutions or other places, together with minor quantities of ground, storm and surface waters that are not intentionally admitted into the sewer system.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used in the process of treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SHALL is mandatory; **MAY** is permissive.

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour sewage concentration or flows during normal operation.

STANDARDS and SPECIFICATIONS. A City document adopted by resolution of the City Council and any amendments thereof, which sets forth the minimum standards for Public Works improvements within the Urban Growth Boundary of the City.

STEP SYSTEM. A septic tank effluent pump system designed for a specific user application which is owned, operated and maintained privately or by the City. It is required as a condition for service to pretreat sewage and pressurize the resulting effluent for delivery to a street sewer in areas where gravity sewer is not possible or the street sewer is a pressure sewer designed for septic tank effluent.

STORM SEWER or **STORM DRAIN.** A sewer designated to carry only storm waters, surface run-off, drainage and street wash waters, but excludes sewage and industrial wastes, other than unpolluted cooling water.

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

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

PUBLIC SEWER USE REQUIRED

51.015 DEPOSIT OF OBJECTIONABLE WASTE.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, sewage, garbage or other objectionable waste.

51.016 DISCHARGE OF UNTREATED WASTE.

It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter, City Ordinance and enacting Council Resolutions.

51.017 PRIVIES AND CESSPOOLS.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy vault, septic tank, cesspool or any other facilities intended or used for the disposal of sewage.

51.018 CONNECTION TO PUBLIC SEWER REQUIRED.

The owner of all property, buildings or dwelling units used for human occupancy, employment, recreation or any other purpose situated within the City that needs or requires sewer service by law, shall connect to the public sewer system in accordance with the provisions of this chapter, the City's Standards and Specifications, The City's Land use code and any other applicable City Ordinance. If the public sewer system is not available within the abutting street, alley or through public easement, the public sewer may need to be extended at the owner's expense.

PRIVATE SEWAGE DISPOSAL

51.030 CONFLICTING PROVISIONS.

No statement contained in this subchapter shall be construed to interfere with any current or to-be-published requirements that may be imposed by the Oregon State Department of Environmental Quality.

51.031 PRIVATE DISPOSAL AUTHORIZED.

Where a public sanitary sewer connection is not available or required by this chapter or any other City, County or State law, ordinance or regulation, a private sewage disposal system may be authorized by the City and any applicable agency.

51.032 PERMITS AND WAIVERS.

Before construction is commenced relative to a private sewage disposal system, the property owner must obtain a written waiver from the City concerning the current availability of the City sewer system or written permission by the City and applicable agency to construct a private sewage disposal system. Secondly, the property owner shall obtain a written permit from the local authority for such systems and/or Oregon State Department of Environmental Quality (DEQ) relating to the construction and use of a private sewage disposal system.

51.033 CONNECTION TO PUBLIC SEWER REQUIRED.

A property or building with an existing private sanitary sewer system that is within 100 feet of a public sewer system or other distance prescribed by DEQ, shall connect to that system upon failure of a private sanitary sewer system. Failure of a private sanitary sewer system shall be determined by the local authority for such systems and/or DEQ. Any connections made to the public sewer shall be made in compliance with this chapter and any other applicable City Ordinance. Any septic tank, cesspools or other similar private sewage disposal facilities shall be abandoned at the property owner's expense, in accordance with the local authority and existing state law.

51.034 OPERATING PRIVATE SEWER SYSTEMS.

The property owner shall be required to operate and maintain the private sewage disposal system facilities in a sanitary manner at all times and at no expense to the City.

BUILDING SEWERS AND CONNECTIONS

51.045 PERMITS.

(A) *Authority to open into, make connections or cover.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. Applications for permits shall be made at the City Hall.

(B) *Before permit issuance.* Before the applicant can be issued a permit, the applicant must pay the connection fee and inspection fee for the installation of the public sewer system connection. Once issued, each permit shall be valid for 60-days from the date of issuance.

(C) *Classes of connection permits.* There shall be three classes of building service connection permits: for residential services, for commercial service, and for service to establishments producing industrial wastes. In any case, the applicant shall make application on a special form furnished by the City. The permit application shall be supplemented by a site plan or other information considered pertinent in the judgement of the Public Works Director. The specific permit and inspection fees for each class of building service connection permits, which are to be paid at the time the application is filed, are set out under a separate City ordinance.

51.046 FEES, CHARGES AND RATES.

All permit fees, inspection fees, installation charges, connections fees and user rates for the City shall be set by separate Council resolution.

51.047 COSTS AND EXPENSES.

All costs and expenses incident to the associated extension of the public sewer, and the ultimate installation and connection of the building sewer to the public sewer shall be borne by the property owner and shall be in accordance with City standards and specifications. The property owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. If the City is requested to make the connection to the applicant's building drain or building sewer, the costs shall include engineering, construction management, excavation, installation, materials, backfill, street repair and related overheads. Before construction commences the applicant shall deposit with the City the necessary funds, or security acceptable to the City, as estimated by the City, for the completion of the extension of the public sewer, including the estimated cost of a STEP system when required. Within 30 days after completion of the project the property owner will pay or the City will return to the property owner any difference in the actual cost of the project and the estimated cost for which the deposit was made.

51.048 SEPARATE BUILDING SEWERS.

(A) A separate and independent building sewer shall be provided for each individual building. Each building on the same property may collect into a single larger service for connection to the public sewer.

(B) Each separate and independent building shall pay all applicable fees associated with connecting to the public sewer system. These fees may include System Development Charges (SDCs), connection fees and inspection fees.

51.049 USE OF EXISTING BUILDING SEWERS.

Existing building sewers may be used in connection with new buildings only when they are found, with proper examination and testing by the City and/or its Public Works Director, to meet all requirements of this chapter and City standards and specifications.

51.050 CONSTRUCTION STANDARDS.

(A) *Sewer construction standards.*

(1) The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench and the connection to the public sewer, including a STEP system where applicable, shall all conform to the City's standards and specifications, requirements of any applicable building code, the State Plumbing Code and the Administrative Rules of the Director of Commerce, and other applicable rules, regulations and resolutions of the City, as they presently exist, or may hereinafter be amended or enacted.

(2) All ultimate connections to the public sewer, including a STEP system where applicable, shall be made gastight and watertight. Any deviations from the prescribed procedures and materials must be approved by the City's Public Works Director before installation.

(B) *Building drain connection elevation.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which the building drain is too low to permit gravity flow to the public sewer, the sanitary sewage carried by the building drain shall be lifted by a means approved by building code and discharged to the building sewer. This lift system shall be designed, constructed, maintained, owned, and operated by the building owner.

51.051 SURFACE RUNOFF.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless expressly allowed by the City.

51.052 STEP SYSTEMS.

Specific STEP system installation requirements are as follows:

(A) *Ownership.* A STEP system may be privately or publicly owned as required by the City. If publicly owned, a dedication of property or an easement to access, operate and maintain the system shall be given to the City prior to use of the public sewer. The pressure pipelines located in public rights-of-way, shall be owned and operated by the City.

(B) *Notice of connection.* The applicant for the STEP system construction shall notify the Public Works Director at least two weeks prior to the need for the sewer application in order for the City to arrange for connection to the public sewer.

(C) *Installation specifications.* The materials, excavation and installation of the STEP system shall be in accordance with the plans and specifications of the City, whether it is publicly or privately owned. As such, individual electrical and pump needs will have to be determined for each individual service connection.

(D) *Operation and Maintenance.* STEP systems shall be owned maintained and operated by the property owner or owners. Electrical power for the STEP system shall be arranged and provided by the applicant. Suitable electrical rough-in, consistent with applicable City and state electrical codes, for the structure(s) to be served is a condition for the connection of service to the sewer system. Rough-in, as well as other electrical costs, is the responsibility of the applicant. All installation, operation, and maintenance costs shall be paid for by the applicant. Installation of a STEP system shall not be done in an attempt to limit monthly sewer charges.

51.053 EXCAVATION REGULATIONS.

(A) *Restoration of public property.* All streets, sidewalks, parkways and any other public property disturbed in the course of the service connection installation shall be restored in a manner satisfactory to the City. All repairs or replacements shall be made at the expense of the property owner.

(B) *Safety measures.* All excavation for building sewer installation shall be adequately guarded with barricades and lights in order to protect the public from hazard. The type of safety measures relied upon will be conducted in a manner satisfactory to the City. Construction safety shall be the ultimate responsibility of the installation contractor.

51.054 INSPECTION AND CONNECTION.

The applicant for the building sewer permit shall notify the Public Works Director when the building sewer installation is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Public Works Director or a designated representative. No cover shall be added until the proper level of inspection and connection related supervision has been conducted.

PUBLIC SEWER USE REGULATIONS

51.070 USE OF PUBLIC SEWERS.

(A) No person shall discharge or cause to be discharged into a sanitary sewer the following described substances, materials, waters or wastes if it appears likely, in the opinion of the Public Works Director and/or the Department of Environmental Quality, that the wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his/her opinion as to the acceptability of these wastes, the Public Works Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. Refer to Prineville Code section 53.125 for additional guidance on prohibited discharges.

(B) Waste rejection, discharge control, or pretreatment.

(1) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics in division (A) of this section, and which in the judgement of the Public Works Director, may have a deleterious effect upon the sewage works, processes, equipment or irrigation lands and/or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director may do the following:

- (a) Reject the wastes.
- (b) Require pretreatment to an acceptable condition as a requirement for discharge to the public sewers.
- (c) Require control over the quantities and rates of discharge.
- (d) Require additional payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under section 51.078.

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

INFILTRATION AND INFLOW**51.085 NOTICE TO CORRECT.**

All property owners identified by the City as contributors to excessive or improper infiltration or inflow into the public sewer shall be advised in writing of their infiltration and inflow problems by the City.

51.086 TIME LIMIT FOR CORRECTIVE ACTION.

The owners of all properties who need to take corrective action shall be provided a 60-day grace period in which to correct the infiltration and inflow problems as identified by the City unless such inflows are detrimental to the public sewer. The 60-day grace period shall commence on the date of notification.

51.087 NOTICE OF CORRECTIVE ACTION TAKEN.

By the end of the 60-day grace period, each property owner shall notify the City that corrective actions have been or are in progress of being taken.

Details with respect to corrective actions taken or expected to be taken and the anticipated completion date shall be specified in the notification to the City.

51.088 FAILURE TO CORRECT.

(A) *Failure to notify.* A property owner who fails to notify the City of corrective actions prior to the end of the 60-day grace period shall be subject to termination of service, without further notice. The termination of service shall include immediate discontinuance and shut off of the property owner's water service, if the service is provided by the City, until the violation shall have been corrected in accordance with federal, state and City regulations.

(B) *Continuation of excess infiltration or inflow.* In the instance that excessive or improper infiltration or inflow into the public sewer of the City is detrimental to the operation of the public sewer or continues beyond the 60-day grace period, it is hereby declared that the continuing infiltration or inflow is a public nuisance, that the City shall have the right to abate the public nuisance and to enter upon any private property connected to the public sewer for such purpose and shall assess the cost of the abatement as a lien against the property upon which the continuing infiltration and inflow occurs and shall assess the cost of the abatement to the property upon or from which the infiltration and inflow occurs. The assessment shall be levied by the filing of a statement of the costs together with the description of the property or properties to be assessed, together with the names of the owner(s) thereof with the City Manager, whereupon the City Manager shall forthwith enter the assessment as a lien against the property. An administration fee of 15% of the cost shall also be charged and collected by the City in addition to all costs of abatement.

SERVICE; CHARGES AND BILLING

51.100 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All definitions included in section 51.002 are incorporated herein by reference.

COMMERCIAL USER. Any premises used for commercial or business purposes which are not determined to be an industry as defined in this subchapter.

DOMESTIC WASTE. Any wastewater which would, under ordinary facts and circumstances, emanate from dwellings.

EQUIVALENT DWELLING UNIT (EDU). A volume of wastewater emanating from an average residential dwelling unit in the City's treatment works service area which is assumed to incur the same costs for operation and maintenance as the average volume of domestic waste. When EDU's are relied upon in establishing user charges, the City shall utilize the metered water use records of the residential dwelling units in the City's treatment works service area for purposes of making this determination.

INDUSTRIAL USER. Any source of a direct or indirect discharge to the sewage system other than a domestic or commercial user. Additionally, two specific types of industrial users exist and are defined below.

- (1) Categorical Industrial User. A user regulated by one of the U.S. Environmental Protection Agency's (EPA) categorical pretreatment standards as listed in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471.
- (2) Significant Industrial User. A user subject to the categorical pretreatment standards; or a user that:
 - (a) Discharges an average of 25,000 gallons per day (GPD) or more of process wastewater to the City sewage system (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
 - (b) Contributes to a process wastestream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the treatment plant's operation or for violating any pretreatment standard or requirement.
 - (d) Upon finding that a user meeting the criteria in subsection (2)(a) of this definition has no reasonable potential for adversely affecting the publicly owned treatment works' (POTW) operation or for violating any applicable pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures established pursuant to 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

LARGE GENERAL USER. Any user who's water consumption averages more than 30 units/month.

OPERATION AND MAINTENANCE. All activities required to ensure the continuous, dependable and economical functions of collection, treatment and discharge of the public treatment works sewage or user wastes. The activities and attendant costs would include, but not be limited to, the following: preventive and corrective maintenance; replacement of equipment; debt service costs; and, control of the unit processes and equipment that make up the collection, treatment and discharge of the public treatment

works such as keeping financial and personal management records, laboratory control, process control, safety, emergency operation planning, employment of attorneys and consultants, and payment of court costs and fines.

PUBLIC TREATMENT WORKS. A collection, treatment and discharge sewerage system owned and operated by a public authority. "City(s) treatment works" shall be equivalent terms for "Public treatment works".

REPLACEMENT. Obtaining and installing any equipment, accessories or appurtenances that are deemed necessary by the City to maintain the capacity and performance for which the collection and treatment works were designed and constructed. This process shall continue during the designed for or useful life, whichever is longer, of the collection and treatment works facilities.

RESIDENTIAL USER. The user of a single-family dwelling or such other dwelling units included in multiple unit buildings designed for such purposes.

SERVICE AREA. All of the area served by the City collection and treatment works system for which there is one uniform user charge system. The service area shall include the corporate limits of the City and any other contiguous and neighboring territory as the City Council shall, from time to time, deem it necessary to service.

TREATMENT WORKS. All facilities used in any manner for the purpose of collecting, pumping, treating and the ultimate disposal of sewage. "Treatment system" and "sewerage system" shall be equivalent terms for "Treatment works".

USER. Every building or property owner and/or tenant of any building or property which is connected to, or required by City ordinance to be connected to, the City treatment works.

USER CHARGE. The periodic or monthly charges levied on all users of the City's public treatment works.

51.101 SERVICE.

Application for services to the City treatment works shall be made in the following manner.

(A) The application for services to the City treatment works shall be as prescribed by the City, giving such information as the purpose for which service is to be used, the address for mailing of the billings and other information as the City may reasonably require. By making a connection and/or using the public sewer, the property owner or user agrees to abide by the rules and regulations of the City's public sewer system. This includes payment of all applicable fees, including system development charges, connection fees and user fees in accordance with the City's fee schedule, adopted by resolution of the City Council.

(B) Deposits and establishment of credit shall be performed at the time the application for service to the City's public sewer system is made. The credit of the applicant shall be established if the applicant makes a cash deposit in accordance with the City's fee schedule, adopted by resolution of the City Council. At the time the deposit is given to the City, the applicant will be provided with a written receipt. The deposit is not to be considered as a payment on account. Deposits are refunded as a credit to the account after 12 consecutive non-delinquent payment. In the event that the service is discontinued, the deposit will be applied to the closing bill and any amount in excess of the closing bill will be refunded to the service account holder.

(C) Users desiring to make a material change in the type and/or quantity of sewage to be discharged into the City's sewerage system shall give the City written notice of the change prior to the change and the original application for service shall be amended.

51.102 CHARGES.

(A) *Sewer user charges.* Sewer user charges shall be billed on a monthly basis for the use of the City's sewerage facilities. All user charges and service connection, disconnection and reconnection charges will result from the fee schedule adopted by resolution of the City Council.

(B) *Applicability of user charges.* All user charges and other fees and charges provided for in section 51.101 shall apply to and be the responsibility of each user of the City's sewerage system.

(C) *Process of fixing responsibility.*

(1) The process of fixing responsibility for user charges shall be applied such that the property owner of record shall be responsible for the payment of all charges or surcharges for the City's provision of sewer services. The property owner, will be notified by mail of any delinquency in user charge or other associated billings rendered by the City.

(2) User charges shall be levied on all users of the City's public treatment works. The charges shall cover the costs of operation and maintenance, replacement and other administrative costs of the treatment works. The user charge system relied upon by the City shall distribute these costs in proportion to user responsibility for the wastewater loading of the treatment works.

(D) *Assignment of user charges.* Assignment of user charges to a specific user of the City's treatment works shall be the responsibility of the City. If at any point it is determined by the City that a user's assigned user charge has been incorrectly assigned, the City shall reassign a more appropriate user charge and notify the user of the reassignment. The number and type of sewer charge is generally based on the following criteria:

(1) The number of user charges assessed per month for those connected to the City's treatment works shall be assessed based on the greater of the following conditions:

(a) Each independent or separate building or property connected to the City's treatment works shall be assessed a minimum of one user charge.

(b) Each dwelling unit shall be assessed one user charge.

(c) A building or property with multiple connections to the City's treatment works or multiple water meters shall be assessed one user charge per connection or meter, whichever is greater.

(d) Additional user charges may be assessed for anything other than a dwelling unit based on usage exceeding that of an average equivalent dwelling unit.

(2) Some buildings or properties shall be charged "Sewer by Consumption" based on their water usage under the following conditions:

(a) Any user that meets the definition of a "Large General Service User".

(b) Any user that meets the definition of a "Significant Industrial User".

Exhibit A

(E) *Records.* Available records which justify the basis used to assign wastewater charges and form the foundation for existing user charges shall be maintained within the current user account system and be available for public inspection.

(F) *Beginning of sewer user charges.* The beginning of sewer user charges for all occupied property shall be the day following when the sewer service became available or the day that the connection is made to the public treatment works, whichever occurs first. The sewer user charges for all unoccupied property shall commence on the day after the property is ready for occupancy or on the first day of occupancy, whichever occurs first. All unoccupied property which is ready for occupancy at the time the sewer service becomes available shall be treated as occupied property and charged as such.

(G) *Credit for vacancy.* Once the sewer user charge has been commenced, a user shall not be allowed a credit for vacancy. In the event a building being supplied City sewer service is removed, condemned, destroyed by fire or other calamity, the owner of record must notify the City of Prineville to discontinue monthly billing charges. Once the City has verified the condition, and confirmed that City sewer service cannot be utilized, the monthly billing charges will be suspended. If the property owner of record later wishes to re-establish sewer service to the property, the connection fees will be waived unless there is a change of use on the property that would normally require additional fees or charges to be collected.

(H) *Review and revision of sewer user charges.* Review and revision of sewer user charges established in this section shall, at a minimum, be reviewed annually and if necessary be revised periodically to reflect user changes and the recovery of actual costs of operation, maintenance and replacement of the City's treatment works. Adjustments may also be made between specified types of applicable user charges to maintain the equitability of the user charges with respect to cost causation criteria. Cost causation charges will be determined on the basis of the proportional distribution of the costs of sewer service in proportion to each user group's contribution to the total wastewater loading of the City treatment works.

(I) *User notification of the need for revised user charges.* User notification of the need for revised user charges will be made, in conjunction with a regular bill or through other standard means of public announcement, at least one month prior to the effective date of the revised user charges.

(J) *Waiver of notification requirements.* Waiver of notification requirements will be allowed in case of emergency. In such instances, an emergency will be declared to exist when it is necessary for the health and safety of the people of the City for additional funds to be collected for the proper operation and maintenance of the public treatment works. In such cases an emergency may be declared to exist by the City Manager and upon approval by the City Council. The revised user charges shall be placed into effect immediately. When such an emergency is declared, the user notification requirements relative to a change in user charges shall be waived.

(K) *Cost of service notification.* Cost of service notification for user charges shall be pursuant to the adoption of the City's fee schedule by resolution of City Council.

(L) *Responsibility for payment of sewer user charges.* Responsibility for payment of sewer user charges shall be that of the owner of record. The responsibility for payment to the City does not pass to the tenant or other occupants, notwithstanding the fact that tenants or other occupants may be required by the property owner to pay the charges. A new tenant shall not be allowed to open an account for City sewer service until all balances owing for water and sewer charges on the property are paid in full.

(M) *Appeals.* Appeals of the sewer user charges established by the City shall be made in writing to the City Manager within ten days of the billing of the sewer user charges. The City Manager shall respond in writing within ten days of receipt of any appeal. If the user wishes to appeal further, he/she shall request in writing that the City Manager place his/her specific appeal on the agenda of the next scheduled regular City Council session. The decision of the City Council at the session shall be final.

(N) *Disputed Charge*. A customer of the City's sewer system has six (6) months from the date of billing to notify the City of any disputed charge. The City shall not be obligated to issue a credit for billing disputes occurring more than six (6) months prior to the date of such notification.

51.103 BILLING, PAYMENT AND COLLECTION.

The billing process will be conducted in the following manner.

(A) The users of the public treatment works system shall be billed no more frequently than on a monthly basis for services provided by the City in accordance with the City's fee schedule as set by resolution of City Council.

(B) The sewer user charges shall be due and payable to the City no later than the due date shown on the bill . If not paid on or before the due date, the sewer user charges shall be deemed delinquent.

(C) Payments for combined water/sewer bills shall be credited to the oldest bill. The payment shall be applied first to amounts owing on the sewer account and then to amounts owing on the water account.

(D) The billing address for City sewer user charges shall be the address specified in the application for the permit to make the connection. This will continue until a different owner or user of the property, and a corresponding change in billing address, is reported to the City's Finance Department.

(E) All collections of sewer user charges and other specified fees and charges shall be made by the City's Manager or designee. Sewer user charges and other fees and charges shall be set by City resolution.

51.104 DELINQUENT ACCOUNTS.

(A) Delinquent accounts shall be charged a service charge set by resolution of the City Council in order to allow for the recovery of the City's administrative costs relative to the delinquent account. The service charge shall be added to the account balance and shall accrue interest in the same manner as all other delinquent charges.

(B) Disconnection/reconnection in the event of extended delinquencies shall be conducted in the following manner.

(1) After an account becomes delinquent, a suspension notice will be sent to the billing address. The notice shall state a date not less than 10 days from the date of the notice on which water service to the premises will be turned off if the delinquent amount is not paid in full prior thereto. On or after the 10 days from the date of the notice, if the delinquent amount has not been paid in full, the City may disconnect the service of the water system to the premises. Water services will be withheld until all amounts owing for services supplied to the premises have been paid in full, together with the suspension fee for the water services.

(2) In some instances, such as when the City does not control the water supply, the City shall have the right to remove or close the sewer connection in the event of failure to pay sewer charges after they have become delinquent. The same delinquency and notification period as detailed in paragraph

(B)(1) of this section would also apply. In these cases, the City shall be allowed the right of entry upon the property owner's property for accomplishing such purposes.

The total expense of the discontinuance, removal or closing, as well as the expense of restoring service, shall be a debt due to the City and be represented by a lien upon the property. In such cases the amount owed the City, as represented by the lien on the property, may be recovered by civil action in the name of the City against the property owner, the person, or both. Also, the City may enforce the collection of the charges by any means that may be provided by the laws of the state or permitted by the charter and ordinances of the City. This would include certification to the Tax Assessor of Crook County for collection in the manner provided for under O.R.S. 454.225.

(C) Change in ownership or occupancy of premises for which the sewer user charge account is found to be delinquent shall not be cause for reducing or eliminating any of the aforementioned penalties.

51.105 SEWER FUND.

The City Manager is hereby directed to deposit in the City Sewer Fund all of the gross revenues received from charges, rates and penalties collected for the use of the sewerage system as herein provided. As such, the funds deposited in the City's Sewer Fund shall be used for the operation and maintenance and replacement of the City's treatment works; administration costs; expenses of collection of charges resulting from this subchapter; and, the payment of the principle and interest on any debts which are directly or indirectly related to the City's treatment works.

PROHIBITIONS AND RESTRICTIONS

51.115 PROPERTY DAMAGE AND INTERFERENCE.

(A) *Tampering with the sewage works system is prohibited.* No unauthorized person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works system.

(B) *Liability for damages.* The property owner shall be liable for damage to a tank or pump or other equipment or property owned by the City which is caused by an act of the customer, his/her tenants, or agents. The City shall be reimbursed by the customer for the damages upon presentation of a bill.

51.116 DANGEROUS OR UNSAFE APPARATUS.

The City may refuse to furnish sewer service to a premises where an apparatus, appliance or other type of equipment using the sewer system is dangerous or unsafe or the devices are being used in violation of laws, ordinances or legal regulations. The City does not assume liability for inspecting apparatus on the customer's property. The City does reserve the right of inspection, however, if there is reason to believe that an unsafe or illegal apparatus is in use. The right to access for the inspections, when requested by the City, shall not be withheld by the property owner.

ADMINISTRATION AND ENFORCEMENT

51.130 DISCONNECTION DUE TO NONCOMPLIANCE.

The City may discontinue sewer service and/or water service to a customer for noncompliance with the terms of this chapter if the customer fails to comply with the terms within ten days after receiving written notice of the City's intention to discontinue service. Provided, however, if the noncompliance materially affects the health, safety or other conditions that warrant the action, the City may discontinue water service immediately and without notice.

51.131 INSPECTIONS; RIGHT OF ENTRY.

(A) *Entry on owner's property to be permitted.* The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private and public properties for the purposes of, but not limited to, installations as required, connections, maintenance, inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The Public Works Director or his/her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond those which have a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) *Conformance with safety rules.* While performing the necessary work on private properties referred to in paragraph (A) of this section, the Public Works Director or duly authorized employees of the City shall observe all safety rules applicable to the premises.

(C) *Easements allowing entry on property.* The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purposes of, but not limited to, installations of facilities, connections, inspections, observation, measurement, sampling, repairs and maintenance of any portion of the sewage works lying within the easement.

51.998 VIOLATIONS.

(A) *Notice of violation.* Any person found to be violating any provision of this chapter, with the exception of sections 51.086, 51.115 and 51.116, shall be served with written notice stating the nature of the violation, with notification that the violator is given 10-days to satisfactorily correct the violation. The offender shall, within the time stated in the notice, permanently cease all violations. With respect to damages to the sewer system and associated cost and fines to the City resulting from the violation(s), the property owner shall be responsible for the costs and be billed accordingly.

(B) *Liability.* Any person violating any of the provisions of this chapter shall become liable to the City for any expense, including reasonable attorney fees, loss or damage occasioned the City by reason for the violation, and in action or suit in the name of the City may be instituted against the person for the recovery of the expense, loss or damage; and the same may be undertaken in addition to other penalties imposed under the provisions of the chapter.

51.999 PENALTY.

Any person who shall continue any violation beyond the time limits provided for in section 51.998(A), shall be deemed guilty of a violation, and, upon conviction, shall be penalized as provided in section 10.99.

CHAPTER 53: WASTEWATER

Sections:

PRETREATMENT

- [53.105 Purpose and policy](#)
- [53.110 Administration](#)
- [53.115 Definitions](#)
- [53.120 Abbreviations](#)
- [53.125 Prohibited discharges](#)
- [53.130 Federal categorical pretreatment standards](#)
- [53.135 State requirements](#)
- [53.140 Local limits](#)
- [53.145 Right of revision](#)
- [53.150 Special agreement](#)
- [53.155 Dilution](#)
- [53.160 Pretreatment facilities](#)
- [53.165 Compliance deadline](#)
- [53.170 Additional pretreatment measures](#)
- [53.175 Slug control plan](#)
- [53.180 Septic tank wastes](#)
- [53.185 Permits](#)

DISCHARGE PERMITS

- [53.205 Existing SIU](#)
- [53.210 New sources and new users](#)
- [53.215 Application contents](#)
- [53.220 Signatory and certification requirement](#)
- [53.225 Wastewater discharge authorization](#)
- [53.230 Wastewater discharge permit decisions](#)
- [53.235 Wastewater discharge permit contents](#)
- [53.240 Appeals](#)
- [53.245 Duration](#)
- [53.250 Modification](#)
- [53.255 Transfer](#)
- [53.260 Revocation](#)
- [53.265 Reissuance](#)

REPORTING REQUIREMENTS

- [53.305 Baseline monitoring reports](#)
- [53.310 Final compliance report](#)
- [53.315 Periodic compliance report](#)
- [53.320 Pretreatment standards compliance schedules](#)
- [53.325 Notification of significant production changes](#)
- [53.330 Hazardous waste notification](#)
- [53.335 Notice of potential problems](#)
- [53.340 Noncompliance reporting](#)
- [53.345 Notification of changed discharge](#)
- [53.350 Reports from unpermitted users](#)
- [53.355 Recordkeeping](#)
- [53.360 Annual certification](#)

SAMPLING AND ANALYTICAL REQUIREMENTS

- 53.405 General requirements
- 53.410 Sampling
- 53.415 Analytical requirements
- 53.420 City monitoring

COMPLIANCE MONITORING

- 53.505 Inspection and sampling
- 53.510 Monitoring facilities
- 53.515 Search warrants
- 53.520 Vandalism
- 53.525 Confidential information
- 53.530 Users in significant noncompliance

ENFORCEMENT

- 53.605 Notice of violation
- 53.610 Consent orders
- 53.615 Show cause hearing
- 53.620 Compliance orders
- 53.625 Cease and desist orders
- 53.630 Emergency suspensions
- 53.635 Termination of discharge permit (nonemergency)
- 53.640 Administrative penalties
- 53.645 Injunctive relief
- 53.650 Judicially imposed civil penalties
- 53.655 Criminal prosecution
- 53.660 Remedies nonexclusive
- 53.665 Performance bonds
- 53.670 Liability insurance
- 53.675 Water supply discontinuance
- 53.680 Administrative review of permit
- 53.685 Public nuisances
- 53.690 Informants
- 53.695 Contractor listing
- 53.700 Affirmative defense of upset
- 53.705 Affirmative defense - Lack of knowledge
- 53.710 Affirmative defense - Bypass

FEES

- 53.805 Fees

PRETREATMENT

53.105 PURPOSE AND POLICY.

(A) Chapter [53](#) regulates discharges into the city’s sewage system to protect the functioning of the system, including the treatment plant, and to comply with applicable regulations. The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the system that will interfere with the operation of the treatment plant;
- (2) To prevent the introduction of pollutants that cannot be adequately treated before discharge from the treatment plant or that are otherwise incompatible with the treatment plant;
- (3) To ensure that the quality of the treatment plant sludge is maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;
- (4) To protect city personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and
- (5) To improve the opportunity to recycle and reclaim wastewater and biosolids from the treatment plant.

(B) This title shall apply to all who discharge into the city sewage system. This chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees to recover the city’s costs.

53.110 ADMINISTRATION.

Except as otherwise provided, the Public Works Director shall administer, implement and enforce this title. The Public Works Director may delegate authority and responsibilities granted by this title.

53.115 DEFINITIONS.

The following definitions apply to Chapter [53](#):

ACT means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, [33](#) USC [1251](#) et seq.

APPLICABLE PRETREATMENT STANDARDS means, for any specified pollutant, city prohibitive standards, city specific pretreatment standards (local limits), State of Oregon pretreatment standards, or EPA’s categorical pretreatment standards (when effective), whichever standard is appropriate or most stringent.

AUTHORIZED REPRESENTATIVE OF THE USER means:

(1) By a responsible corporate officer, if the industrial user submitting the reports required by this chapter is a corporation for the purpose of this subsection, a responsible corporate officer means:

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

(b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectfully.

(3) If the user is a federal, state, or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.

(4) The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

BEST MANAGEMENT PRACTICE(S) (BMPS) means a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to comply with this chapter. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIOCHEMICAL OXYGEN DEMAND (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (milligrams per liter (mg/l)).

BIO-SOLIDS means solid or semisolid material obtained from treated wastewater, often used as fertilizer.

CATEGORICAL PRETREATMENT STANDARD or *CATEGORICAL STANDARD* means any regulation containing pollutant discharge limits promulgated by the U.S. EPA that apply to a specific category of users. The standards are listed in [40](#) CFR Chapter I, Subchapter N, Parts [405](#) through [471](#).

Exhibit B

CATEGORICAL USER means a user regulated by one of U.S. Environmental Protection Agency's (EPA) categorical pretreatment standards.

CHEMICAL OXYGEN DEMAND means a test to measure the amount of oxygen consumed where the oxygen is derived from chemicals.

COMPOSITE SAMPLE means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

COOLING WATER/NONCONTACT COOLING WATER means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchanges, cooling or refrigeration to which the only pollutant added is heat.

DEQ means the Oregon Department of Environmental Quality.

DISCHARGE, including *INDIRECT DISCHARGE*, means any liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, that are discharged into the city sewage system and ultimately to the treatment plant.

DOMESTIC USER (RESIDENTIAL USER) means any person discharging wastewater into the city sewage system similar in volume and/or chemical make-up to the discharge of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 80 gallons per capita per day, 0.2 pounds of BOD per capita per day, and 0.17 pounds of TSS per capita per day.

EPA means the U.S. Environmental Protection Agency, including its authorized officials.

EXISTING SOURCE means a wastewater discharge source that was in operation or began construction before the EPA's publication of proposed categorical pretreatment standards applicable to the source if and when the standard is promulgated.

EXISTING USER means any noncategorical user that was discharging wastewater prior to the effective date of the city's pretreatment regulations.

GRAB SAMPLE means a sample taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

INTERFERENCE means:

- (1) Inhibition or disruption of the city sewage system, including treatment processes or operations;
- (2) Inhibition or disruption of sludge processes, use or disposal; or
- (3) Causation of a violation of the city's water pollution control facility (WPCF) permit or of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued under those provisions (or more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II, commonly referred to as the Resource Conservation and Recovery

Exhibit B

Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act. Interference is normally caused by discharge.

MAXIMUM ALLOWABLE DISCHARGE LIMIT means the maximum concentration or mass loading of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

MEDICAL WASTES means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

NAICS CODES means North American Industry Classification System codes.

NEW SOURCE means:

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

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

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

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

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

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

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

1. Any placement, assembly, or installation of facilities, or equipment; or

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

Exhibit B

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

NEW USER means a user that is not regulated under federal categorical pretreatment standards but that applies to the city for a new building permit or occupies an existing building and plans to commence discharge of wastewater to the city's collection system after the effective date of the ordinance codified in this title. Any person that buys an existing facility that is discharging nondomestic wastewater will be considered an existing user if no significant changes are made in the manufacturing operation.

PASS THROUGH means a discharge that exits the treatment plant into waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of the city's water pollution control facility (WPCF) permit. This includes an increase in the magnitude or duration of a violation.

PERMITTEE means a person or user issued a wastewater discharge permit by the city.

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

pH means a measure of the acidity or alkalinity of a substance, expressed in standard units.

POLLUTANT means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand [COD], toxicity, or odor).

PRETREATMENT means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the city sewage system. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

PRETREATMENT REQUIREMENT means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

PRETREATMENT STANDARDS or *STANDARDS* means prohibited discharge standards, categorical pretreatment standards, and local limits established by the city.

PROHIBITED DISCHARGE STANDARDS or *PROHIBITED DISCHARGES* means absolute prohibitions against the discharge of certain substances imposed by this chapter.

Exhibit B

PUBLICLY OWNED TREATMENT WORKS or *POTW* means a treatment works, as defined by section 212 of the Act ([33 USC § 1292](#)), which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

SEPTIC TANK WASTE means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks, trucked waste and waste tanks.

SEWAGE means human excrement and gray water (household showers, dishwashing operations, etc.).

SEWAGE SYSTEM means the entire system used by the city to collect, transport, treat, and discharge treated effluent, including all sewers and treatment plants.

SEWER means any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

SIGNIFICANT INDUSTRIAL USER means:

(1) A user subject to the categorical pretreatment standards; or a user that:

- (a) Discharges an average of 25,000 gallons per day (GPD) or more of process wastewater to the city sewage system (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
- (b) Contributes to a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
- (c) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the treatment plant's operation or for violating any pretreatment standard or requirement.

(2) A significant industrial user is an industrial user subject to categorical pretreatment standards under [40 CFR 403.6](#) and [40 CFR Chapter I, Subchapter N](#).

(3) Upon a finding that a user meeting the criteria in subsection (1)(a) of this definition has no reasonable potential for adversely affecting the publicly owned treatment works' (POTW) operation or for violating any applicable pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures established pursuant to [40 CFR 403.8\(f\)\(6\)](#), determine that such user should not be considered a significant industrial user.

SLUDGE means semisolid material such as the type precipitated by sewage treatment.

SLUG CONTROL PLAN ([40 CFR 403.8\(B\)\(6\)\(iv\)](#)) means requirements to control slug discharges, which include development of a compliance schedule for installation of technology required to meet pretreatment standards and submission of all notices and reports.

Exhibit B

SLUG LOAD means any discharge at a flow rate or concentration which could cause a violation of the discharge standards in this code or any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

STORMWATER means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowfall.

TOTAL SUSPENDED SOLIDS or *TSS* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

TREATMENT PLANT means a “treatment works,” as defined by the Act, that is owned by the city.

TREATMENT PLANT EFFLUENT means liquid discharge from the treatment plant.

USER or *INDUSTRIAL USER* means a source of a direct or indirect discharge to the sewage system other than a domestic user.

WASTEWATER means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged to the sewage system and treated by the treatment plant.

WASTEWATER DISCHARGE PERMIT means an authorization or equivalent control mechanism issued by the city to users discharging wastewater to the sewage system. The permit or control mechanism may contain appropriate pretreatment standards and requirements.

WASTEWATER TREATMENT PLANT or *TREATMENT PLANT* means the facility that treats municipal sewage and industrial waste.

53.120 ABBREVIATIONS.

The following lists the meanings of abbreviations used in Chapter [53](#):

BOD means biochemical oxygen demand.

CFR means Code of Federal Regulations.

COD means chemical oxygen demand.

DEQ means Department of Environmental Quality.

EPA means U.S. Environmental Protection Agency.

GPD means gallons per day.

l means liter.

LEL means lower explosive limit.

mg means milligrams.

mg/l means milligrams per liter.

NPDES means National Pollutant Discharge Elimination System.

O&M means operation and maintenance.

PCC means Prineville City Code.

POTW means publicly owned treatment works.

RCRA means Resource Conservation and Recovery Act.

SIC means standard industrial classifications.

Slug control plan means requirement to control slug discharges.

SWDA means Solid Waste Disposal Act ([42 USC 6901](#) et seq.).

TSS means total suspended solids.

USC means United States Code.

WPCF means water pollution control facility.

(Ord. 1240 § 53.10.010, passed 6-12-18)

53.125 PROHIBITED DISCHARGES.

(A) *General prohibitions.* No user shall introduce or cause to be introduced into the sewage system any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all users whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(B) *Specific prohibitions.* No user shall introduce or cause to be introduced into the sewage system the following pollutants, substances, or wastewater:

(1) Pollutants that create a fire or explosive hazard, including, but not limited to, wastestreams with a closed-cup flash point of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in [40 CFR 261.21](#).

(2) Wastewater having a pH less than 6.0 or more than 10.0, or that otherwise will cause corrosive structural damage to the sewage system or equipment.

Exhibit B

- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in or to the sewage system resulting in interference (but in no case solids greater than one-half inch or one and one-quarter centimeters in any dimension).
- (4) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the sewage system.
- (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 77 degrees Fahrenheit (25 degrees Celsius) unless DEQ, upon the request of the city, approves alternate temperature limits not to exceed 104 degrees Fahrenheit (40 degrees Celsius).
- (6) Petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, or synthetic oils in the amounts that will cause interference or pass through.
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the sewage system in a quantity that may cause acute worker health and safety problems.
- (8) Trucked or hauled pollutants, except at discharge points designated by the city.
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, is sufficient to create a public nuisance or a hazard to life or health, or to prevent entry into the sewers for maintenance or repair.
- (10) Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions that impart color to the treatment plant's effluent. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10% from the seasonably established norm for aquatic life.
- (11) Wastewater containing any radioactive wastes or isotopes.
- (12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized in writing by the city.
- (13) Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes.
- (14) Medical wastes, except as specifically authorized by the city.
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (16) Detergents, surface-active agents, or other substances that may cause excessive foaming in the sewage system.

Exhibit B

(17) Any liquids, solids, or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the sewage system or to the operation of the sewage system. At no time shall two successive readings of an explosion meter, at the point of discharge into the system (or at any point in the system), be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

(18) Grease, animal renderings or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gasoline, tar asphalt residues, petroleum products, residues from refining or processing of fuel or lubricating oil, mud, glass grinding or polishing wastes.

(19) Any substance which will cause the city to violate its WPCF and/or other disposal or discharge permits or system permits.

(20) Any wastewater, which in the opinion of the city can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the groundwater or receiving waters; or can otherwise endanger life, limb, public property, or constitute a nuisance.

(21) The contents of any tank or other vessel owned or used in the business of collecting or pumping sewage, effluent, septic tank waste, or other wastewater unless the operator has obtained testing and approval by the city and paid all fees assessed for the privilege of the discharge.

(22) Any hazardous wastes as defined in state regulations or in [40 CFR Part 261](#).

(23) Persistent pesticides and/or pesticides regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

(24) Sewage sludge, except in accordance with the city's WPCF permit.

Pollutants, substances, or wastewater prohibited by this chapter shall not be processed or stored in such a manner that it could be discharged to the sewage system.

(C) Waste Rejection, Discharge Control, or Pretreatment

(1) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in division (A) of this section, and which in the judgement of the Public Works Director, may have a deleterious effect upon the sewage works, processes, equipment or irrigation lands and/or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director may do the following:

(a) Reject the wastes.

(b) Require pretreatment to an acceptable condition as a requirement for discharge to the public sewers.

(c) Require control over the quantities and rates of discharge.

(d) Require additional payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under § 51.078.

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

53.130 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

The national categorical pretreatment standards promulgated by EPA and found at [40](#) CFR Chapter I, Subchapter N, Parts [405](#) through [471](#) are incorporated into and are enforceable under this title. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the city convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the city.

(A) The city may establish equivalent mass limits only if the industrial user meets all the following criteria:

(1) The industrial user employs or demonstrates that it will employ water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit.

(2) The industrial user uses control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, without using dilution as a substitute for treatment.

(3) Sufficient information is provided to establish the facility's actual average daily flow rate for all wastestreams based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions.

(4) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge.

(5) Consistent compliance with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

(B) An industrial user subject to equivalent mass limits must:

(1) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(2) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(3) Continue to record the facility's production rates and notify the city whenever production rates are expected to vary by more than 20% from its baseline production rates. Upon notification of a revised production rate, the city will reassess the equivalent mass limit as necessary to reflect changed conditions at the facility; and

(4) Continue to employ the same or comparable water conservation methods and technologies as those implemented under this section so long as they discharge under an equivalent mass limit.

(C) Where the city chooses to establish equivalent mass limits, it will:

(1) Calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

(2) When notified of a revised production rate, reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(3) Retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water concentration methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to [40 CFR 403.6\(d\)](#) and this title. The industrial user must also be in compliance with [40 CFR 403.17](#) (regarding the prohibition of bypass).

53.135 STATE REQUIREMENTS.

State requirements and limitations on discharges to the sewage system shall be met by all users which are subject to the standards if they are more stringent than federal requirements and limitations or this title.

53.140 LOCAL LIMITS.

In addition to categorical pretreatment standards, no significant industrial user (SIU) shall discharge wastewater containing pollutants into the system in excess of limitations specified in its wastewater discharge permit or any other limits established by the city. The city may establish and revise from time to time standards for specified restricted substances. These standards shall be developed in accordance with [40 CFR 403.5](#) and shall implement the objectives of this title. These standards, including best management practices (BMPs), are applicable to all industrial users. Standards established in accordance with this title will be deemed pretreatment standards for the purposes of Section 307(d) of the Clean Water Act. Wherever a discharger is subject to both categorical pretreatment standards and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply. The city may also develop best management practices (BMPs) to implement permit specific and local limits for industrial users. BMPs shall be considered local limits and pretreatment standards. The city may impose mass limitations in addition to (or in place of) concentration-based limitations.

Exhibit B

(A) Concentration-based numeric local limits for the City of Prineville have been established as follows:

Pollutant	Limit (mg/L)
Arsenic	0.54
Cadmium	0.72
Chromium	2.16
Copper	1.01
Cyanide	1.15
Lead	0.54
Mercury	0.16
Nickel	1.86
Selenium	0.05
Silver	1.09
Zinc	0.82

(B) In addition to the City's numeric local limits and to promote rate equity, wastewater with BOD or TSS concentrations higher than 400 mg/L will be considered extra strength wastewater and may be subject to an extra strength charge. Refer to Chapter 54 of the City of Prineville Municipal Code for more information regarding extra strength wastewater.

(C) Commercial and industrial users shall not discharge wastewater with a pH lower than 5.5 standard units or greater than 9.5 standard units.

(D) Commercial and industrial users with potential to discharge fats, oils, or grease (FOG), such as restaurants, hotels, etc., are required to provide regularly maintained grease traps and/or grease separators. Commercial and industrial users shall not discharge wastewater with FOG concentrations greater than 400 mg/L.

(F) Commercial and industrial users shall not discharge wastewater with a Total Dissolved Solids (TDS) concentration greater than 500 mg/L.

53.145 RIGHT OF REVISION.

The city reserves the right to establish, by ordinance, resolution or in wastewater discharge permits, more stringent standards or requirements on discharges to the sewage system.

53.150 SPECIAL AGREEMENT.

The city may enter into special agreements with users setting out special terms under which they may discharge to the sewage system. Users may request a net/gross adjustment to a categorical standard in accordance with [40 CFR 403.30](#). They may also request a variance from the categorical pretreatment standard from DEQ in accordance with [40 CFR 403.13](#). In no case will a special agreement waive compliance with a categorical pretreatment standard, federal pretreatment requirement, or this title.

53.155 DILUTION.

No user may increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on users that may be using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

53.160 PRETREATMENT FACILITIES.

Users shall provide wastewater treatment to comply with Chapter [53](#) and shall achieve compliance within the time limitations specified by the EPA, the state, or the city, whichever is most stringent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and construction shall not proceed until the plans are approved in writing by the city. The review of the plans and operating procedures does not relieve the users from the responsibility of modifying the facility as necessary to produce a discharge that complies with Chapter [53](#).

53.165 COMPLIANCE DEADLINE.

Compliance by existing sources covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standard. The city shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for said user are more restrictive than the federal categorical pretreatment standards.

New sources and new users shall install, have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's categorical pretreatment standards. Any other existing user or a categorical user that must comply with a more stringent local limit who is in noncompliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to ensure compliance within the shortest time feasible.

53.170 ADDITIONAL PRETREATMENT MEASURES.

(A) The Director of Public Works may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the sewage system and determine the user's compliance with the requirements of this title.

(B) Each user discharging into the sewage system more than 25,000 gallons per day or more than 5% of the average daily flow into the sewage system, whichever is less, shall install and maintain, on its property and at its expense, a suitable storage and flow-control facility to ensure equalization of flow over a 24-hour period. The facility shall have a capacity for at least 50% of daily discharge volume and shall be equipped with alarms and a rate of discharge controller and shall be regulated as directed by the city. A wastewater discharge permit may be issued solely for flow equalization.

(C) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All grease, oil, and sand interceptors shall be installed in conformance with the most recent revision of the Oregon Plumbing Specialty Code, the rules adopted thereunder, and any statute or rule of general applicability administered by the State of Oregon Building Codes Division. All interception units shall be of type and capacity approved by the city and shall be located to be easily accessible for cleaning and inspection. Interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at its expense. All records for inspection, cleaning and repair must be maintained and readily available for review by city staff. Records should include third party cleaning manifests.

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

53.175 SLUG CONTROL PLAN.

(A) *General provisions.* All users shall provide protection from accidental or intentional discharges of materials that may interfere with or cause pass through to the sewage system by developing and implementing a slug control plan. Facilities necessary to prevent the discharge of prohibited or restricted substances shall be provided and maintained at the user's cost and expense. A plan showing facilities and operating procedures to provide this protection shall be submitted to the city for review and approval before implementation of the plan. Review and approval of the plans and operating procedures by the city does not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of Chapter 53. The plan shall be posted and available for inspection at the facility during normal business hours. SIUs must notify the city immediately of any changes at their facilities, not already addressed in their slug control plan or other slug control requirements, that may affect the potential for slug discharge.

(B) *Specific provisions.* The city may require any user to develop, submit for approval, and implement a slug control plan. The need and requirement for a plan shall be included in the user's wastewater discharge permit.

(C) A slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the city of any accidental or slug discharge; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(D) Users shall notify the city immediately after the occurrence of a slug or accidental discharge of substance regulated by Chapter 53. The notification shall include location, date and time of discharge, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage incurred by the city, in addition to the amount of any penalties imposed on the city as a result of the discharge.

(E) Within five days following an accidental discharge, the user shall submit to the city a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification does not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the sewage system, fish kills, or any other damage to person or property. The notification does not relieve the user of any fines, civil penalties, or other liabilities that may be imposed by Chapter [53](#) or other applicable law.

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

53.180 SEPTIC TANK WASTES.

(A) Septic tank waste may be introduced into the sewage system only at a designated receiving structure within the treatment plant area, and only at times designated by the city. Those wastes must comply with Chapter [53](#) and other requirements imposed by the city. Wastewater discharge licenses for individual vehicles to use the facilities shall be issued by DEQ. Licenses must be current, up to date, in good standing, and have obtained testing and approval by the city before discharge will be allowed.

(B) Septic tank waste haulers may only discharge loads at locations specifically designated by the city. The city may require the hauler to provide a waste analysis of any load prior to discharge.

(C) Septic tank waste haulers must provide a city waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, license number, truck identification, sources of waste, and volume and characters of waste.

53.185 PERMITS.

(A) No significant industrial user (SIU) may discharge wastewater into the sewage system without first applying for and obtaining a wastewater discharge permit from the city. Any violation of the terms and conditions of a wastewater discharge permit is a violation of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of the obligation to comply with all federal and state pretreatment standards and requirements or with any requirements of federal, state, and local law.

(B) The city may require other users, including those delivering trucked waste, to obtain wastewater discharge permits to carry out the purposes of this title.

DISCHARGE PERMITS

53.205 EXISTING SIU.

Any SIU that does not currently have a wastewater discharge permit must cease discharges until a wastewater discharge permit is obtained.

53.210 NEW SOURCES AND NEW USERS.

Any new source and any new user that is an SIU must apply for a wastewater discharge permit at least 90 days before startup and may not discharge until its wastewater discharge permit is issued. New sources and new users must include in their application information on the method of pretreatment they intend to use to meet applicable pretreatment standards.

53.215 APPLICATION CONTENTS.

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. Submitting the following information complies with [40 CFR 403.12\(b\)](#).

(A) *Identifying information.* The user shall submit the name and address of the facility, including the names of the operator and owners.

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

(C) *Description of operations.* The user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by the industrial user, including a list of all raw materials and chemicals used or stored at the facility which are or could accidentally or intentionally be discharged to the sewage system; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the sewage system from the regulated or manufacturing processes; site plans; floor plans; mechanical and plumbing plans; and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(D) *Flow measurement.*

(1) *Categorical User.* The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the sewage system from each of the following:

(a) Regulated or manufacturing process streams; and

(b) Other streams as necessary to allow use of the combined wastestreams formula ([40 CFR 403.6\(e\)](#)).

(2) *Noncategorical user.* The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the sewage system from each of the following:

(a) Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Director of Public Works. The city may allow for verifiable estimates of these flows where justified by costs or feasibility considerations.

(E) *Measurements of pollutants.*

(1) Categorical user.

(a) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

(b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the categorical pretreatment standard or as required by the city) of regulated pollutants in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard required compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard. Sampling performed shall conform to sampling and analytical procedures required by Chapter [53](#).

(c) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

(d) Where an alternate concentration or mass limit has been calculated in accordance with [40 CFR 403.6\(e\)](#) for a categorical user, this adjusted limit along with supporting data shall be submitted as part of the application.

(2) *Noncategorical significant industrial user (SIU).*

(a) The user shall identify the applicable pretreatment standards for its wastewater discharge.

(b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration in the discharge (or mass where required by the city) of regulated pollutants, as appropriate. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures required by Chapter [53](#).

(c) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

(F) *Certification.* The user shall submit a statement that has been reviewed by an authorized representative of the user, and certified by a qualified professional, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standards and requirements.

(G) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the applicable pretreatment standards, the user shall submit the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The user's schedule shall conform to the requirements of Chapter [53](#). The completion date in this schedule shall not be later than the compliance date established by Chapter [53](#).

(1) Where the user's categorical pretreatment standard has been modified by a removal allowance (CFR 403.7), the combined wastestream formula ([40 CFR 403.6\(e\)](#)), and/or a fundamentally different factors variance ([40 CFR 403.13](#)) at the time the user submits the report required by this subsection, the information required by this section shall pertain to the modified limits.

(2) If the categorical pretreatment standard is modified by a removal allowance ([40 CFR 403.7](#)), the combined wastestream formula ([40 CFR 403.6\(e\)](#)), and/or a fundamentally different factors variance ([40 CFR 403.13](#)) after the user submits the report required by this section, then a report containing the modified information shall be submitted by the user within 60 days after the new limit is approved.

(H) *Submittal of information.* The user shall submit any other information as may be deemed necessary by the city to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

53.220 SIGNATORY AND CERTIFICATION REQUIREMENT.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

53.225 WASTEWATER DISCHARGE AUTHORIZATION.

The city may use alternate control mechanisms to control wastewater being discharged into the city's sewage system. These control mechanisms may include best management practice (BMP).

53.230 WASTEWATER DISCHARGE PERMIT DECISIONS.

The city will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete wastewater discharge permit application, the city will determine whether or not to issue a wastewater discharge permit. The permit shall be issued within 60 days of full evaluation and acceptance of the data furnished if all requirements are complied with. The city may deny any application for a wastewater discharge permit that does not meet the applicable standards or that lacks sufficient information.

53.235 WASTEWATER DISCHARGE PERMIT CONTENTS.

Wastewater discharge permits shall include conditions as to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the sewage system.

(A) Wastewater discharge permits must contain the following conditions:

- (1) A statement that indicates wastewater discharge permit duration shall not exceed five years;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the city, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, including best management practices, based on applicable pretreatment standards and requirements, including any special state requirements;
- (4) Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and recordkeeping requirements. These requirements shall include an identification of pollutants, or best management practices, to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type based on federal, state, and local law;
- (5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with § [53.315](#);
- (6) Requirement for immediate notification to the city where self-monitoring results indicate noncompliance;
- (7) Requirement to report a bypass or upset of a pretreatment facility;
- (8) Requirement to control slug discharges, if determined by the city to be necessary;
- (9) Requirement to report immediately to the city all discharges, and facility changes, including slug loadings, that could cause problems to the sewage system;
- (10) Requirement for the SIU who reports noncompliance to repeat the sampling and analysis and submit results to the city within 30 days after becoming aware of the violation;
- (11) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

(B) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the sewage system;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the sewage system;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
- (8) Other conditions as deemed appropriate by the city to ensure compliance with this title, and state and federal laws, rules and regulations.

53.240 APPEALS.

Any person, including the user, may petition the city to reconsider the terms of a wastewater discharge permit or the denial of a wastewater discharge permit within 30 days of its issuance or denial. A wastewater discharge permit or notice of denial of such permit shall contain notice of the petition for review procedures that a person may follow to obtain administrative review of the permit decision.

(A) Failure to submit a timely petition for review waives any right to an administrative appeal.

(B) A petition for review shall be in writing and served either in person or by certified mail to the city. In its petition, the appealing party must specify the name and address of the person filing the petition for review, the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(C) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(D) The city shall conduct a hearing to determine the merits of the petition. Prior to the hearing, the person conducting the hearing shall notify the petitioner of the time and place of the hearing, and that the petitioner will have the opportunity to present evidence and make statements in support of the appeal. The person conducting the hearing shall have the sole discretion to determine the amount of time allowed for the appeal hearing. The person conducting the hearing may rely on any relevant evidence provided by city staff or obtained by any other reasonable means. The decision on the hearing shall be in writing. If the city fails to make a determination on the petition within 30 days, the petition shall be deemed to be denied, and the permit denial or permit conditions appealed from shall be the final decision of the city.

(E) The decision on the petition for review is the final decision of the city. The final decision may only be challenged under the writ of review provisions of Oregon law.

53.245 DURATION.

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the city. Each wastewater discharge permit will indicate its expiration date.

53.250 MODIFICATION.

The city may modify a wastewater discharge permit for good cause including, but not limited to, the following:

- (A) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (B) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (C) A change in the sewage system that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (D) Information indicating that the permitted discharge poses a threat to the sewage system, city personnel, or receiving waters;
- (E) Violation of any terms or conditions of the wastewater discharge permit;
- (F) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or any required report;
- (G) Revision of categorical pretreatment standards pursuant to [40 CFR 403.13](#);
- (H) To correct typographical or other errors in the wastewater discharge permit; or
- (I) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

53.255 TRANSFER.

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 90 days' advance notice to the city and the city approves the transfer. The notice must include a written certification by the new owner and/or operator that:

- (A) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (B) States the date on which the transfer is to occur; and
- (C) Assumes full responsibility for complying with the existing wastewater discharge permit beginning on the date of the transfer.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

Provided that the notice required above occurred and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and will be covered by the existing limits and requirements in the previous owner's permit.

53.260 REVOCATION.

Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- (A) Failure to notify the city of significant changes to the wastewater prior to the changed discharge;
- (B) Failure to provide prior notification to the city of changed conditions;
- (C) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (D) Falsifying self-monitoring reports;
- (E) Tampering with monitoring equipment;
- (F) Refusing to allow the city timely access to the facility premises and records;
- (G) Failure to meet discharge limitations;
- (H) Failure to pay fines;
- (I) Failure to pay sewer charges;
- (J) Failure to meet compliance schedules;
- (K) Failure to complete a wastewater survey or the wastewater discharge permit application;

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

(M) If the city has to invoke its emergency provision; or

(N) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this title.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

53.265 REISSUANCE.

A user who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application at least 90 days prior to the expiration of the user's existing wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who has submitted its reapplication in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the city issues or denies the new wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who failed to timely submit its reapplication will be deemed to be discharging without a wastewater discharge permit.

REPORTING REQUIREMENTS

53.305 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under [40 CFR 403.6\(a\)\(4\)](#), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the sewage system shall submit to the city a report which contains the information listed in subsection (B) of this section. At least 90 days prior to the commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report that contains the information listed in subsection (B) of this section. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(B) Users described above shall submit the information set forth below.

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary to allow use of the combined wastestream formula set out in [40 CFR 403.6\(e\)](#).

(5) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard required compliance with a best management practices or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable pretreatment standard necessary to determine the compliance status of the user.

(c) Sampling must be performed in accordance with the procedures required by Chapter [53](#). Samples should be taken immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to the pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastewater formula in [40 CFR 403.6\(e\)](#) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with [40 CFR 403.6\(e\)](#), this adjusted limit along with supporting data shall be submitted to the city.

(6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M will be used. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements of Chapter [53](#).

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified as required by this chapter.

53.310 FINAL COMPLIANCE REPORT.

(A) Within 90 days following the date for final compliance of an existing significant industrial user with applicable pretreatment standards and requirements set forth in this title, in federal categorical standards, or in a wastewater discharge permit, or, in the case of a new source or a new user considered by the city to fit the definition of SIU, within 90 days following commencement of the introduction of wastewater into the sewage system, the affected user shall submit to the city a report containing the information outlined in [§ 53.305](#).

(B) For users subject to equivalent mass or concentration limits established by the city in accordance with procedures established in [40 CFR 403.6\(c\)](#), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

53.315 PERIODIC COMPLIANCE REPORT.

(A) Any user that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to the city during the months of June and December, unless the city has determined that the self-monitoring may be reduced to report no less frequently than once a year, or unless required more frequently in the pretreatment standard or by the DEQ, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. A reporting form will be provided by the city. At a minimum, users shall sample their discharge at least twice per year, unless required less frequently as described above. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the city to determine the compliance status of the user.

(B) Periodic compliance reports are to be postmarked or received by the city by, on, or before the fifteenth of the month following the conclusion of the reporting period.

(C) The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations and shall also include any additional information required by this title or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the city or by this title, using methodologies in [40 CFR Part 136](#), it must submit all results of sampling and analysis of the discharge during the reporting period. All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number analytical method/number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected. Analytical results from samples sent to a contracted laboratory must have information on the chain of custody, the analytical method, QA/QC results, and documentation of accreditation for the parameter.

(D) The city may authorize the industrial user subject to a categorical pretreatment standard to forgo sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or is present only at background levels from intake waste and without any increase in the pollutant due to activities of the industrial user.

(E) Any user subject to equivalent mass or concentration limits established by the city or by unit production limits specified in the applicable categorical standards shall report production data.

(F) If the city calculated limits to factor out dilution flows or nonregulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and nonregulated flows.

(G) Flows shall be reported on the basis of actual measurement; provided, however, that the city may accept reports of average and maximum flows estimated by verifiable techniques if the city determines that an actual measurement is not feasible.

(H) Discharges sampled shall be representative of the user's daily operations and samples shall be taken in accordance with this title. In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the user shall submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.

(I) The city may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewage system.

(J) The city may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the city agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the city for sampling and analyses. The user may be charged for the cost of resampling by the city in the event of a violation or violations. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The city is under no obligation to perform periodic compliance monitoring for a user.

(K) Users that have approved monitoring waivers as to specific pollutants must certify on each report that there has been no increase in the specific pollutant in the wastestream due to activities of the user. The certification shall be in the following form:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR ____ [specify applicable National Pretreatment Parts], I certify that, to the best of my knowledge and belief, there has been no increase in the level of ____ [list pollutant(s)] in the wastewaters due to the activities at the facility since the filing of the most recent report.

53.320 PRETREATMENT STANDARDS COMPLIANCE SCHEDULES.

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

(B) No increment referred to in subsection (A) of this section shall exceed nine months.

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

53.325 NOTIFICATION OF SIGNIFICANT PRODUCTION CHANGES.

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits 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.

53.330 HAZARDOUS WASTE NOTIFICATION.

Any user discharging more than 33 pounds (15 kilograms) of hazardous waste as defined in [40 CFR 261](#) (listed or characteristic wastes) in a calendar month, or any facility discharging any amount of acutely hazardous wastes as specified in [40 CFR 261.30\(d\)](#) and [261.33\(e\)](#) is required to provide a one-time notification in writing to the city, to the EPA Region 10 Office of Waste and Chemicals Management Director, and to DEQ. Any existing user exempt from this notification shall comply with the requirements contained herein within 30 days of becoming aware of a discharge of 33 pounds (15 kilograms) of hazardous wastes in a calendar month or any discharge of acutely hazardous wastes to the city sewage system. The notification shall include:

- (A) The name of the hazardous waste as set forth in [40 CFR Part 261](#);
 - (B) The EPA hazardous waste number; and
 - (C) The type of discharge (continuous, batch, or other).
- (D) If an industrial user discharges more than 220 pounds (100 kilograms) of such waste per calendar month to the sewage system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:
- (1) An identification of the hazardous constituents contained in the wastes;
 - (2) An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month; and
 - (3) An estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the city of the discharge of such a substance within 90 days of the effective date of the regulations.

In the case of any notification made under this subsection, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

53.335 NOTICE OF POTENTIAL PROBLEMS.

A user shall notify the city immediately of all discharges and changes at the facility that could cause adverse impacts to the sewage system, including any slug loads. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a slug load of pollutants shall be liable for any expense, loss, or damage to the sewage system, in addition to the amount of any fines imposed on the city under state or federal law.

53.340 NONCOMPLIANCE REPORTING.

If sampling performed by a user indicates a violation, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling within five days and submit the results of the repeat analysis to the city within 30 days after becoming aware of the violation, except the user is not required to resample if:

(A) The city performs sampling at the user at the frequency of at least once per month; or

(B) The city performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

53.345 NOTIFICATION OF CHANGED DISCHARGE.

All users shall promptly notify the city in advance of any substantial change in the volume or any change in character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under [40 CFR 403.12\(p\)](#). Substantial change is defined to mean a change of 10% or more in discharge volume.

53.350 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide reports when and if required in writing by the city.

53.355 RECORDKEEPING.

Users subject to the reporting requirements of this title, including documentation associated with best management practices, shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least five years. This period shall be automatically extended for the duration of any litigation concerning the user or the sewage system or where the user has been notified in writing of a longer retention period by the city.

53.360 ANNUAL CERTIFICATION.

(A) A facility determined to be a nonsignificant categorical industrial user must annually submit the following certification statement. This certification must accompany an alternative report required by the city:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that (a) during the period from _____, _____ to _____, _____ [months, days, year], the facility described as _____ [facility name] met the definition of a non-significant categorical Industrial User; (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon information elsewhere in this document.

(B) A nondischarging categorical industrial user must annually submit the following certification statement.

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year], (a) the facility described as _____ [facility name] met the definition of a non-discharging categorical Industrial User as described in PCC 53.115; (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged categorical wastewater on any given day during this reporting period. This compliance certification is based upon information provided elsewhere in this document.

SAMPLING AND ANALYTICAL REQUIREMENTS

53.405 GENERAL REQUIREMENTS.

All sample preservation procedures, container materials, maximum allowable holding times and analytical techniques to be submitted as part of any application or report required by this chapter shall be performed in accordance with the procedures and techniques specified in 40 CFR Part 136. Alternatively, a contractor with the required protocols listed in an approved comprehensive quality assurance plan may sample and analyze according to the protocols specified in that document.

53.410 SAMPLING.

(A) Sampling for baseline monitoring reports (BMR) and 90-day compliance reports must include a minimum of four grab samples for total phenols and the parameters listed in § 53.140. The city may authorize a lower minimum for facilities with historical sampling data. The number of grab samples for periodic compliance reports shall be the number the city determines to be necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

The city will determine on a case-by-case basis whether the user will be able to composite the individual grab samples. Grab samples must be used for pH, total phenols, and FOG.. For all other pollutants, 24-hour composite samples must be obtained through flow- or time-proportional composite sampling techniques, depending on circumstances. The city may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional composite sampling is

infeasible. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in [40 CFR Part 136](#) and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate.

In those cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(B) Samples shall be taken immediately downstream from any pretreatment facilities, immediately downstream from the regulated or manufactured process if no pretreatment exists, or at a location determined by the city and specified in the user's wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of [40 CFR 403.6\(e\)](#) in order to evaluate compliance with the applicable categorical pretreatment standards. For other SIUs, for which the city has adjudged its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjudged pretreatment standard(s). In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the city to determine the compliance status of the user.

(C) All sample results shall indicate the time, date and place of sampling and methods of analysis and shall certify that the wastestream sampled is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed more frequently than required in its wastewater discharge permit using methodologies in [40 CFR Part 136](#), it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

53.415 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in [40 CFR Part 136](#), unless otherwise specified in an applicable categorical pretreatment standard. If [40 CFR Part 136](#) does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

53.420 CITY MONITORING.

The city will follow the procedures outlined in §§ [53.405](#) and [53.415](#) with sampling to monitor compliance.

COMPLIANCE MONITORING

53.505 INSPECTION AND SAMPLING.

The city shall have the right to enter the facilities of any user to ascertain compliance with this title and any wastewater discharge permit or order. Users shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(A) Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, on presentation of suitable identification, city representatives will be permitted to enter without delay for the purpose of performing their responsibility under this title.

(B) The city shall have the right to set up or require to be set up monitoring and sampling devices on the user's property to monitor compliance with this title.

(C) Any obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the city and shall not be replaced unless and until authorized in writing by the city. The user is responsible for the cost of clearing obstructions.

(D) Unreasonable delays in allowing the city access to the user's premises shall be a violation of this title.

53.510 MONITORING FACILITIES.

Each user shall provide and operate at its own expense a monitoring facility (including installation of a wastewater sample port) to allow inspection, sampling, continuous monitoring and flow measurements of each sewer discharge to the city in all commercial/industrial areas. Each monitoring facility shall be situated on the user's premises, except, where such a location would be impractical or cause undue hardship on the user, the city may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The city may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line or a wastewater treatment system).

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

The city may require the user to install monitoring equipment as necessary. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

53.515 SEARCH WARRANTS.

If the city has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this title, or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this title or any wastewater discharge permit or order, or to protect the overall public health, safety and welfare of the community, then the city may seek issuance of a search and/or seizure warrant from the Crook County Circuit Court. The warrant shall be served at reasonable hours by the city in the company of a uniformed city police officer.

53.520 VANDALISM.

No person shall break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the sewage system.

53.525 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the user furnishing a product that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, except when disclosure is required by the Oregon Public Records Law. Information shall be made available immediately upon request to governmental agencies for uses related to the NPDES permit or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" will not be recognized as confidential information.

53.530 USERS IN SIGNIFICANT NONCOMPLIANCE.

The city shall publish annually, pursuant to [40 CFR 403.8\(D\)\(viii\)](#), in a newspaper of general circulation in the city, a list of the industrial users that, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. For the purposes of this provision, a significant industrial user or any industrial user which violates subsection (C), (D), or (G) of this section is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six-month period exceed (by any magnitude) a numerical pretreatment standard or requirement, including instantaneous limits, as defined by [40 CFR 403.3\(I\)](#);

(B) Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by [40 CFR 403.3\(I\)](#), multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils, grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a pretreatment standard or requirement as defined by [40 CFR 403.3\(l\)](#) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);

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

(E) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to accurately report noncompliance; or

(G) Any other violation(s), which may include a violation of best management practices, which the city determines will adversely affect the operation or implementation of the local pretreatment program.

ENFORCEMENT

53.605 NOTICE OF VIOLATION.

When the city finds that a user has violated or continues to violate any provision of Chapter [53](#), a wastewater discharge permit or order, or any other pretreatment standard or requirement, in addition to other remedies provided by this title, the city may serve that user with a written notice of violation via certified mail. Within five days of the receipt of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention, to include specific required actions, shall be submitted by the user to the city. Submission of the correction plan in no way relieves the user of liability of any violations occurring before or after receipt of that notice of violation. Nothing in this chapter shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

53.610 CONSENT ORDERS.

The city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Those documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.

The documents shall have the same force and effect as administrative orders issued under this chapter and shall be judicially enforceable. Use of a consent order shall not be a bar against, or prerequisite for, taking any other action against the user.

53.615 SHOW CAUSE HEARING.

The city may, in addition to other remedies, order a user that has violated or continues to violate any provision of this title, a wastewater discharge permit or order, or any other pretreatment standard or requirement, to appear before the city and show cause why the proposed enforcement action should not be taken. The notice shall include the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. The notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

53.620 COMPLIANCE ORDERS.

When the city finds that a user has violated or continued to violate any provision of Chapter 53, a wastewater discharge permit or order, or any other pretreatment standard or requirement, the city may, in addition to other remedies provided by this title, issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

53.625 CEASE AND DESIST ORDERS.

When the city finds that a user has violated (or continues to violate) any provision of Chapter 53, a wastewater discharge permit or order, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the city may, in addition to other remedies provided by this title, issue an order to the user directing it to cease and desist all such violations and directing the user to:

(A) Immediately comply with all requirements; and

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

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

53.630 EMERGENCY SUSPENSIONS.

The city may immediately suspend a user's discharge permit when suspension is necessary to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the human health or welfare. The city may immediately suspend a user's discharge permit after notice and opportunity to respond if the discharge threatens to interfere with the operation of the sewage system or may endanger the environment.

(A) Any user notified of a suspension of its discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city may take steps, including immediate severance of the sewer connection, to prevent or minimize damage to the sewage system or endangerment to any individuals. The city shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed unless the termination proceedings of this title are initiated against the user.

(B) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment, shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the city prior to the date of any show cause or termination hearing.

Nothing in this chapter shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

53.635 TERMINATION OF DISCHARGE PERMIT (NONEMERGENCY).

Any user that violates the following conditions is subject to discharge permit termination:

- (A) Violation of wastewater discharge permit conditions;
- (B) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (C) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (D) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- (E) Violation of the pretreatment standards in this title.

The user will be notified of the proposed termination of its discharge permit and be offered an opportunity to show cause why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user.

53.640 ADMINISTRATIVE PENALTIES.

(A) When the city finds that a user has violated or continues to violate any provision of Chapter [53](#), a wastewater discharge permit or order, or any other pretreatment standard or requirement, the city may assess a penalty against the user in an amount not to exceed \$25,000 per violation per day.

The penalty may be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the period of violation.

(B) Users desiring to dispute the penalty must file a written request for the city to reconsider the penalty along with full payment of the penalty amount within 30 days of being notified of the penalty.

Where a request has merit, the Public Works Director shall convene a hearing on the matter within 60 days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with interest, shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

(C) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.

53.645 INJUNCTIVE RELIEF.

When the city finds that a user has violated (or continues to violate) any provision of Chapter [53](#), a wastewater discharge permit, or order, or any other pretreatment standard or requirement, the city may petition the Circuit Court for Crook County through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, to restrain or compel the specific performance of the wastewater discharge permit, order, or other requirement imposed by this title on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

53.650 JUDICIALLY IMPOSED CIVIL PENALTIES.

(A) Violation of any provision of Chapter [53](#), a wastewater discharge permit or order, or any other pretreatment standard or requirement is a civil infraction with a maximum civil penalty of \$25,000 but no less than \$1,000 per violation, for each day the violation persists. The violation shall be enforced through the civil infraction procedures of this code. In a proceeding under this section, the city shall not be required to prove that the user has acted intentionally, knowingly or willfully. The city shall be required to prove that the violation occurred, but the user's mental state shall not be an element of proving the violation.

(B) The city may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the costs of any actual damage incurred by the city, in addition to the civil penalty.

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

(D) Initiation of a civil infraction proceeding shall not be a bar against, or a prerequisite for, taking any other action against a user.

53.655 CRIMINAL PROSECUTION.

(A) Intentional, willful or knowing violation of any provision of Chapter [53](#), a wastewater discharge permit or order, or any other pretreatment standard or requirement is a Class A misdemeanor, punishable by a fine of not more than \$25,000 per violation, per day, or imprisonment for not more than one year, or both.

(B) Intentional, willful or knowing introduction of any substance into the sewage system that causes personal injury or property damage is a Class A misdemeanor punishable by a maximum penalty of

not more than \$25,000 and/or one year in prison. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law. Nothing in this title precludes prosecution under other criminal statutes, including statutes pertaining to damage to public utilities or injury to property or persons.

(C) The knowing making of any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to Chapter 53, wastewater discharge permit or order, or falsification, tampering with, or knowingly rendering inaccurate any monitoring device or method required under this title is a Class A misdemeanor punishable by a fine of not more than \$25,000 per violation per day, or imprisonment for not more than one year, or both.

(D) If the user is a corporation, the penalty provisions of ORS 161.655 shall be applicable. An employee, officer or agent of a corporation that commits a misdemeanor under this chapter may be prosecuted in that person's individual capacity, and, upon conviction, be personally subject to the penalties provided under this section if the person committed the offense intentionally, knowingly or willfully, notwithstanding that the permit was issued in the name of a corporation.

53.660 REMEDIES NONEXCLUSIVE.

The remedies provided by this chapter are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement in response to pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

53.665 PERFORMANCE BONDS.

The city may decline to issue or reissue a wastewater discharge permit to any user that has failed to comply with any provision of this title, a wastewater discharge permit or order, or any other pretreatment standard or requirement unless the user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the city to be necessary to achieve consistent compliance.

53.670 LIABILITY INSURANCE.

The city may decline to issue or reissue a wastewater discharge permit to any user that has failed to comply with any provision of this title, a wastewater discharge permit or order, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained insurance or other financial assurances satisfactory to the city, sufficient to restore or repair damage to the sewage system that may be caused by its discharge.

53.675 WATER SUPPLY DISCONTINUANCE.

The city may discontinue water service to a user for violation of any provision of this title, a wastewater discharge permit or order, or any other pretreatment standard or requirement. Service will only recommence at the user's expense, after it has satisfactorily demonstrated its ability to comply. The user shall be required to reimburse the city for expense incurred for disconnecting service. Any person, including the user, may petition the city to reconsider the terms of water supply severance within 30 days of termination or notice of termination.

53.680 ADMINISTRATIVE REVIEW OF PERMIT.

A wastewater discharge permit or notice of denial of the permit shall contain notice of the petition for review procedures that a person may follow to obtain administrative review of the permit decision.

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

(B) A petition for review shall be in writing and filed with the City Manager's office. In the petition, the appealing party must specify the name and address of the person filing the petition for review, and the reasons for this objection.

(C) The City Manager shall conduct a hearing to determine the merits of the petition. Prior to the hearing, the person conducting the hearing shall notify the petitioner of the time and place of the hearing, and that the petitioner will have the opportunity to present evidence and make statements in support of the appeal. The person conducting the hearing shall have the sole discretion to determine the amount of time allowed for the appeal hearing. The person conducting the hearing may rely on any relevant evidence provided by the city staff or obtained by any other reasonable means. The decision on the hearing shall be in writing. If the city fails to make a determination on the petition within 30 days, the petition shall be deemed to be denied, and the permit denial or permit conditions appealed from shall be the final decision of the city.

(D) The decision on the petition for review is the final decision of the city. The final decision may only be challenged under the writ of review provisions of Oregon law.

53.685 PUBLIC NUISANCES.

A violation of any provision of this title, a wastewater discharge permit, or order, or any other pretreatment standard or requirement, is a public nuisance and may be corrected or abated as provided by this code.

53.690 INFORMANTS.

The city may pay up to 100% of any collected fine or penalty imposed by any court, to a maximum amount of \$1,000, to an informant, subject to reduction by the amount of any assessments required by state law.

53.695 CONTRACTOR LISTING.

Users that have not achieved compliance with applicable pretreatment standards and requirements are not eligible to enter into contracts for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the city.

53.700 AFFIRMATIVE DEFENSE OF UPSET.

(A) For the purposes of this section, *UPSET* means an exceptional incident in which there is unintentional and temporary noncompliance with the applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(B) An upset shall constitute an affirmative defense to an action brought under this chapter for noncompliance with applicable pretreatment standards if the requirements of subsection (C) of this section are met. The affirmative defense of upset shall not be applicable to enforcement actions under any provision of this title other than those provided in this chapter, although facts indicating that an upset occurred may be considered in determining the appropriate remedy under enforcement proceedings other than those provided in this chapter.

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

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time operating in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the city within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(D) In any enforcement proceeding under this title, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(E) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with applicable pretreatment standards under this title.

(F) Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

53.705 AFFIRMATIVE DEFENSE - LACK OF KNOWLEDGE.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibited discharge standards if it can provide that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (A) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (B) no local limit exists, but the discharge did not change substantially in nature or constituent from the user's prior discharge when the city was regularly in compliance with its WPCF permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

53.710 AFFIRMATIVE DEFENSE - BYPASS.

(A) For the purposes of this section:

(1) *BYPASS* means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(2) *SEVERE PROPERTY DAMAGE* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.

(B) A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (C) and (D) of this section.

(C) Notice of Bypass.

(1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the city at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the city of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The city may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(D) *Bypass conditions.*

(1) Bypass is prohibited and the city may take an enforcement action against a user for a bypass unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods

of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under subsection (C) of this section.

(2) The city may approve an anticipated bypass, after considering its adverse effects, if the city determines that it will meet the three conditions listed in subsection (D)(1) of this section.

FEES

53.805 FEES.

All persons receiving sewer services shall pay the fees established by council resolution. Fees shall be set at an amount to cover the city's costs relating to the service for which the fee is paid. Fees may include:

(A) Fees for wastewater services. The fees for wastewater services may include a component or additional charge based on the strength of the discharge;

(B) Fees for wastewater discharge permit applications, including the cost of processing such applications;

(C) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

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

(E) Fees for filing appeals; and

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

ORDINANCE NO. 1281

**AN ORDINANCE ADDING CHAPTER 54 TO THE PRINEVILLE CITY CODE
SEWER EXTRA STRENGTH CHARGE**

Whereas, the City of Prineville (“City”) requires legal authority to regulate discharges into the City’s sewage system to protect the functioning of the system, including the treatment plant, and to comply with applicable federal and state regulations; and

Whereas, extra strength discharges, as defined within the Prineville Local Limits Report, have a concentration of biochemical oxygen demand (“BOD”) or total suspended solids (“TSS”) higher than the concentration part of the City’s base sewer user charge; and

Whereas, additional charges to ratepayers for extra strength wastewater are necessary for rate equity and to prevent the high costs of treatment of extra strength wastewater from being passed on to all other ratepayers; and

Whereas, a sewer extra strength should be established for nonresidential sewer customers whose wastewater discharges exceed residential levels of BOD or TSS in amount determined by Council; and

Whereas, City staff has worked with the Oregon Department of Environmental Control (DEQ) to ensure ordinances that meet federal and state regulations and that is consistent with the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 USC 1251, et. seq.

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

1. The Council hereby adopts proposed Chapter 54 Sewer Extra Strength Charge set forth on Exhibit A, attached hereto and incorporated herein.
2. The Ordinance shall be effective 30 days following its passage by the City Council.

Presented for the first time at a regular meeting of the City Council held on October 25, 2022, and the City Council finally enacted foregoing ordinance this ____ day of November, 2022.

Rodney J. Beebe, Mayor

ATTEST:

Lisa Morgan, City Recorder

Chapter 54 SEWER EXTRA STRENGTH CHARGE

Sections:

54.010 Imposition of Sewer Extra Strength Charge.

54.020 Purpose.

54.030 Rate Types.

54.040 New Development and Redevelopment.

54.050 Reclassification Requests.

54.060 Appeals.

54.070 Enforcement.

54.010 Imposition of Sewer Extra Strength Charge.

All nonresidential sewer customers are subject to evaluation to determine if they are required to pay a sewer extra strength charge (ESC). Nonresidential sewer customers whose wastewater discharges exceed or have the potential to exceed residential levels of biochemical oxygen demand (BOD) or total suspended solids (TSS) shall pay an ESC in an amount established by Council resolution, consistent with the provisions of this chapter. Refer to Ordinance 980 for standard Sewer System Users Charges.

54.020 Purpose.

The purpose of the ESC is to recover the cost of treating extra strength wastewater discharged into the City of Prineville sewer system. Extra strength discharges have a concentration of BOD or TSS higher than the concentration assumed as part of the city's base sewer user charge. Additional charges to ratepayers for extra strength wastewater are necessary for rate equity and to prevent the high cost of treatment of extra strength wastewater from being passed on to all other ratepayers.

54.030 Rate Types.

Ratepayers who discharge extra strength wastewater shall pay an ESC using either the industry average rate or the monitored rate.

A. Industry Average Rate.

1. All nonresidential customers who are not in the monitored program whose wastewater discharges exceed 400 mg/L for BOD or TSS shall pay the industry average rate.
2. The ESC industry average rate shall be established by Council resolution setting rates based on the following Extra Strength Charge Equation:

$$ESC = \frac{Base + \frac{R * (Q - 500)}{100}}{3} * \left[\frac{BOD}{LL_{BOD}} + \frac{TSS}{LL_{TSS}} + 1 \right]$$

Where:

Exhibit A

R = Excess flow charge rate as established by Council resolution. If Q is found to be less than 500, then zero (0) shall be used in place of R .

$Base$ = Monthly flat rate established by Council resolution

BOD = User's monthly average biochemical oxygen demand (BOD) in mg/L. If User's average BOD is less than the local limit, the local limit shall be used in place of BOD .

LL_{BOD} = The BOD local limit as established in § 53.140

TSS = User's monthly average total suspended solids (TSS) in mg/L. If User's average TSS is less than the local limit, the local limit for TSS shall be used in place of TSS .

LL_{TSS} = The TSS local limit as established in § 53.140

Q = Total monthly wastewater discharge from User in ft^3 . If User's discharge is not metered, total water usage (in ft^3) shall be used in place of Q .

Note: Regardless of the Extra Strength Charge Equation results, the minimum sewer charge shall be no less than the monthly flat rate established by Council resolution unless otherwise approved by the Public Works Director.

The Public Works Director shall maintain and may amend the Extra Strength Charge Equation constants.

3. The ESC sewer volume charge shall be based on the winter quarter average water consumption of the customer, and the amount shall be adjusted annually in the spring based on the most recent winter quarter average data. For new customers, the volume charge shall be based on a default average consumption value established in the city's fee resolution. The rates in the ESC industry average rate may include a phased rate increase, with initial rates that do not cover all extra strength costs, over a period to be established by City Council resolution.

4. Any changes in use of a nonresidential property or in processes that may affect the strength of wastewater discharges shall be reported to the city's Utility Billing Department by the customer.

5. When a single sewer account includes discharges from multiple sources, the account holder shall assign a proportionate share to each use, subject to city review and approval. The sewer volume charge will be applied by the city taking into account the proportionate use provided by the account holder. In the event that the account holder does not provide the city with an assignment of proportionate use, the total volume for the account will be assigned the highest strength among the sources of discharge on the account.

6. Any customer may request reclassification under § 54.50 at the time the classification is initially assigned, after any change in classification, or after any change in use or practice at the property.

B. Monitored Rate.

1. Nonresidential sewer customers may pay the ESC based on their sewer discharge if they are eligible for and participate in the monitored rate program as established in this subsection (B).

2. Customers are eligible to participate in the monitored rate program if there is a secure and accessible sampling location for the customer's discharge that allows representative samples to be taken; and

3. Customers with an average peak BOD or TSS greater than 1,000 mg/L must participate in the monitored rate program.
4. Any nonresidential customer may apply to be in the monitored rate program. The application shall be accompanied by an application fee in an amount established in the city's fee resolution.
5. An individual monitored program for each customer shall be established and agreed to in writing by the applicant for inclusion in the monitoring program. Each monitoring program shall be consistent with the city's sampling standards and include:
 - a. A description of the sampling location.
 - b. A sampling schedule for the samples to be taken by the customer.
 - c. The ability for the city to access the sampling site and take samples.
 - d. A requirement that the customer samples be analyzed for BOD and TSS by an independent laboratory approved by the city.
 - e. An agreement on when the data will be presented to the city for monthly billing purposes.
6. On determination of the actual strength of the discharge as monitored, the customer shall pay the rate based on monitored concentration and/or flow as established by the Extra Strength Charge Equation, based on a 12-month rolling average basis.
7. The application for participation in the monitoring program shall include a consent to the city's inspection of the property where the sewage discharge occurs to take samples and to inspect for compliance with the monitoring program.

54.040 New Development and Redevelopment.

Any new development that will likely host a business that has the potential to discharge wastewater at strengths above residential levels shall install a sampling manhole at time of development or redevelopment. Sampling manholes shall comply with the city's standards and specifications in effect at the time of installation.

54.050 Reclassification Requests.

- A. Application. Any customer in an industry that is required to pay a sewer ESC may request reclassification at any time by submitting a written application on a city-approved form and payment of a fee in an amount to be established in the city's fee resolution.
- B. Standard. The city shall reclassify the applicant's discharge if the applicant establishes by a preponderance of the evidence that:
 1. The applicant has in place a process, program and/or facilities that reduce the discharge strength to a lower category than would otherwise be applicable.
 2. Reliable published data indicates that the expected discharge strength of the industrial use type would place the use in a lower category.
- C. Effect of Reclassification. A reclassification shall be effective for a maximum of 12 months. Reclassifications may be extended for an additional 12 months using the same process and standards applicable to an original reclassification.
- D. Conditions. This city may impose conditions on a reclassification and may terminate a reclassification if the discharge no longer meets the standards established in subsection (B) of this section.

54.060 Appeals.

- A. An applicant for reclassification may appeal a whole or partial denial of the application for reclassification.
- B. Any applicant for participation in the monitoring program may appeal denial of participation in the monitoring program or any component of the monitoring program when finally approved.
- C. All appeals shall be filed within 10 business days of the date of the decision being challenged. The appeal shall be submitted to the city recorder and shall be accompanied by payment of the appeal fee established in the city's fee resolution.
- D. Within 45 days of filing the appeal, the appellant shall provide written justification, supported by evidence, in support of the appeal. The city shall provide a written response within 60 days of receiving the written materials from the appellant. The city and the appellant may agree in writing that the appeal will be determined on the written submissions.
- E. The appeal shall be submitted to the city manager, who will hold an in-person hearing unless the parties have agreed that the appeal will be determined on written submissions. The City Manager may delegate responsibilities under this section to the Assistant City Manager or the Prineville Business Advocate.
- F. The decision on appeal shall be reduced to writing and issued within 15 days of (1) the date of hearing, or (2) the date agreed upon in the written appeal submissions and determinations as referenced in Subsection D of this section.
- G. The written decision of the city manager or designee shall be the city's final decision and reviewable only by writ of review.
- H. If a final decision is issued denying the reclassification, the appellant may not seek reclassification or a change to the monitored rate program unless the use is discontinued or new facilities are put in place that would change the strength category.

54.070 Enforcement.

- A. A customer's failure to comply with any applicable provision of this chapter is a civil infraction with a maximum civil penalty of \$25,000.
- B. Knowingly submitting false information on any application provided for in this chapter or knowingly submitting false or erroneous information in connection with any monitoring program, or taking action that would lead to inaccurate or unrepresentative sampling, is a civil infraction with a maximum civil penalty of \$25,000.

**RESOLUTION NO. 1539
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION APPROVING A FOURTH AMENDMENT TO AGREEMENT FOR TEMPORARY
EASEMENT**

Whereas, the City of Prineville (“City”) and Crook County entered into an Agreement for Temporary Easement on or about January 8, 2020, recorded in the official records of Crook County, Oregon, as document number 2020-297627 (“Easement”).

Whereas, the City and County entered into a First Amendment to Agreement for Temporary Easement on or about March 11, 2020, recorded in the official records of Crook County, Oregon, as document number 2020-298894 (“First Amendment”).

Whereas, the City and County entered into a Second Amendment to Agreement for Temporary Easement on or about May 6, 2020, recorded in the official records of Crook County, Oregon, as document number 2020-299832 (“Second Amendment”).

Whereas, the City and County entered into a Third Amendment to Agreement for Temporary Easement on or about October 19, 2021, recorded in the official records of Crook County, Oregon, as document number 2021-312697 (“Third Amendment”).

Whereas, pursuant to the Third Amendment, the City was to have until November 7, 2022 to complete the drilling and testing operations of test wells and to determine if City would develop any test wells into a permanent municipal production well, hereinafter “Test Period.”

Whereas, City desires to extend the Test Period by two years, i.e., November 7, 2024.

Whereas, City staff and County have negotiated a Fourth Amendment to Agreement for Temporary Easement (“Agreement”) attached to this Resolution hereto and incorporated herein; and

Whereas, City staff believes it is in the best interest of the City to approve and execute this Agreement.

NOW, THEREFORE, the City of Prineville resolves that the Agreement between the City and County attached hereto is approved and the Mayor and City Manager are authorized and directed to sign the Agreement.

Approved by the City Council this ____ day of October, 2022.

Rodney J. Beebe, Mayor

ATTEST:

Lisa Morgan, City Recorder

After Recording Return to:
Jered Reid
35 SE C Street, Suite D
Madras, OR 97741

FOURTH AMENDMENT TO AGREEMENT FOR TEMPORARY EASEMENT

THIS FOURTH AMENDMENT TO AGREEMENT FOR TEMPORARY EASEMENT (“Fourth Amendment”) is entered into as of the date last written below, by and between **Crook County**, a political subdivision of the State of Oregon, of 300 NE Third Street, Room 10, Prineville, Oregon 97754 (hereafter “County” or “Grantor”) and the **City of Prineville**, an Oregon municipal corporation, of 387 NE Third Street, Prineville, Oregon 97754, its successors and assigns, (hereafter “City” or “Grantee”). County and City shall collectively be referred to as the “Parties” and individually as a “Party.”

RECITALS:

- A. The Parties entered into an Agreement for Temporary Easement on or about January 8, 2020, recorded in the official records of Crook County, Oregon, as document number 2020-297627 (“Easement”).
- B. The Parties entered into a First Amendment to Agreement for Temporary Easement on or about March 11, 2020, recorded in the official records of Crook County, Oregon, as document number 2020-298894 (“Amendment”).
- C. The Parties entered into a Second Amendment to Agreement for Temporary Easement on or about May 6, 2020, recorded in the official records of Crook County, Oregon, as document number 2020-299832 (“Second Amendment”).
- D. The Parties entered into a Third Amendment to Agreement for Temporary Easement on or about October 19, 2021, recorded in the official records of Crook County, Oregon, as document number 2021-312697 (“Third Amendment”).
- D. Pursuant to the Third Amendment, City had until November 7, 2022 (“Test Period”) to complete the drilling and testing operations of the test well and to determine if City would develop a test well into a permanent municipal production well.
- E. City desires, and County is willing, to extend the Test period for two years, i.e., November 7, 2024.
- F. The Parties desire to amend the Temporary Easement.

NOW, THEREFORE, City and County, for valuable consideration the receipt and sufficiency of which is hereby acknowledged, consent, and agree to amend the Easement as follows:

1. City shall have until November 7, 2024 (“Test Period”) to complete the drilling and testing operations of the test well and to determine if City will develop a test well into a permanent municipal production well.

2. This Fourth Amendment shall be binding on the successors and assigns of the parties.

3. Except as specifically amended hereby, all terms and conditions of the Easement, Amendment, Second Amendment, and Third Amendment shall remain in full force and effect. In the event of any conflict between the terms and conditions of this Fourth Amendment and the terms and conditions of the Easement, Amendment, Second Amendment, and Third Amendment, the terms and conditions of this Fourth Amendment shall control.

4. This Fourth Amendment may be executed in multiple counterparts, each of which will be considered to be an original.

Crook County

By: _____
Seth Crawford, County Judge

By: _____
Brian Barney, Commissioner

By: _____
Jerry Brummer, Commissioner

STATE OF OREGON)
) ss.
County of Crook)

Personally appeared the above-named **Seth Crawford, County Judge, Brian Barney, Commissioner,** and **Jerry Brummer, Commissioner,** for Crook County and acknowledged the foregoing instrument to be their voluntary act and deed on behalf of Crook County this _____ day of _____, 2022.

Notary Public for Oregon
My Commission Expires: _____

City of Prineville

By: _____
Steve Forrester, City Manager

By: _____
Rodney J. Beebe, Mayor

STATE OF OREGON)
) ss.
County of Crook)

Personally appeared the above-named **Steve Forrester, City Manager**, and **Rodney J. Beebe, Mayor**, for the City of Prineville and acknowledged the foregoing instrument to be their voluntary act and deed on behalf of the City this _____ day of _____, 2022.

Notary Public for Oregon
My Commission Expires: _____



STAFF REPORT

MEETING DATE: 10/25/2022 **PREPARED BY:** Casey Kaiser

SECTION: Resolutions **DEPARTMENT:** Public Works

CITY GOAL: Fiscal Responsibility, Provide Quality Municipal Services & Programs

SUBJECT: Res 1540 Declaring the Necessity and Intent to Acquire Property

ATTACHMENTS: Resolution 1540, Map of Needed Land Area

REASON FOR CONSIDERATION:

The City has identified the need for additional property in order to complete the critical Combs Flat to Peters Rd. Extension project. City of Prineville legal counsel has advised that formally declaring the need for and the intent to acquire the property is a recommended step in the process of acquiring the needed land area.

BACKGROUND:

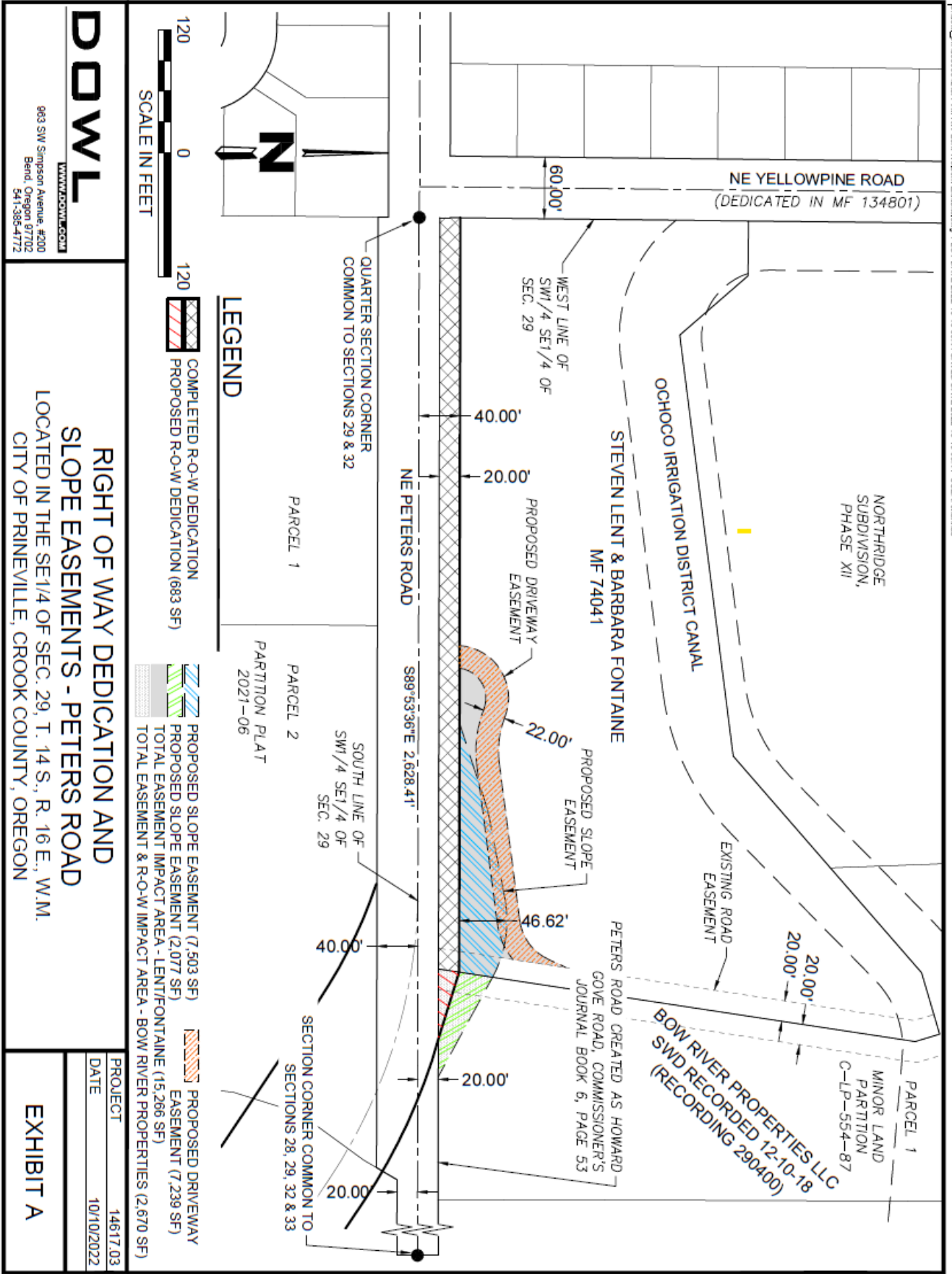
The City has been progressing the design of the critical Combs Flat to Peters Rd. Extension project. The layout for the road has been finalized and design is at approximately 80%. Through the design process it has been determined that the acquisition of land from two adjacent properties is needed to accommodate an area of slope created by the cutting and grading of the road. Additionally land is needed to provide for the relocation of the access and driveways of the two properties. Multiple design options were considered however constraints of topography, an adjacent protected wetland, and necessary safety related design features necessitate the proposed design.

FISCAL IMPACT:

There is no fiscal impact at this time. Staff will have an appraisal conducted to determine a fair value for the property and any improvements that will be impacted. Staff anticipates an offer consisting of monetary compensation for the value of the land as well as for the construction of a driveway to access both properties. We anticipate returning to Council when the appraisal has been received, the costs of the driveway and access have been determined, and a fair value has been established for the needed land area.

RECOMMENDATION:

Staff recommends that council approve Resolution 1540 declaring the necessity and intent to acquire the property needed to complete the Combs Flat to Peters Rd. extension.



DOWL
 WWW.DOWL.COM
 883 SW Simpson Avenue, #200
 Bend, Oregon 97702
 541-385-4772

RIGHT OF WAY DEDICATION AND SLOPE EASEMENTS - PETERS ROAD
 LOCATED IN THE SE 1/4 OF SEC. 29, T. 14 S., R. 16 E., W.M.
 CITY OF PRINEVILLE, CROOK COUNTY, OREGON

PROJECT	14617.03
DATE	10/10/2022
EXHIBIT A	

**RESOLUTION NO. 1540
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION DECLARING THE NECESSITY AND INTENT TO APPROPRIATE
CERTAIN DESCRIBED REAL PROPERTY, AUTHORIZING NEGOTIATION FOR
ITS ACQUISITION, AND AUTHORIZING INSTITUTION OF CONDEMNATION
PROCEEDINGS IF NECESSARY**

Whereas, the City of Prineville (“City”) may exercise the power of eminent domain pursuant to ORS 35.205 through ORS 35.415, and the laws of the State of Oregon generally, when the exercise of such power is deemed necessary by the City’s governing body to accomplish public purposes for which the City has responsibility; and

Whereas, City has the responsibility of providing transportation routes within city limits that mitigates traffic congestion; and

Whereas, City has proposed a Project that connects Peters Road to Combs Flat. Road (“Project”); and

Whereas, in order to construct the Project, the City must acquire right-of-way across certain real property, more particularly described below.

Now, Therefore, the City of Prineville resolves the following:

1. The City finds and declares that the Project will serve a valuable and necessary public purpose.
2. The City finds that it is necessary and desirable to acquire right-of-way over and along the relevant parcels necessary for the Project.
3. The relevant parcels of property to be acquired are strips of land within the following taxlots:
 - a. 141629DC01100
 - b. 141629DC01000
4. City staff is hereby authorized and directed to negotiate on behalf of the City of Prineville, with the owners of the above-described real property for the purchase of the necessary right-of-way.
5. If City staff is unable to reach an agreement with the owner(s) of the property as to the compensation to be paid therefor, the City Attorney is hereby authorized and directed to institute condemnation proceedings in the name of the City of Prineville in a court of competent jurisdiction for the purposes of acquiring title to possession of the necessary right-of-way.

Approved by the City Council this ____ day of October, 2022.

Rodney J. Beebe

ATTEST:

Lisa Morgan, City Recorder