INDUSTRIAL PRETREATMENT PROGRAM
ADMINISTRATIVE RULE 4.0503

Pursuant to the authority contained in Chapter 4, Sections 4.008 and 4.070 of the Springfield Municipal Code, I hereby adopt Industrial Pretreatment Program Administrative Rule R4.0503, to read and provide:

R4.0503 - INDUSTRIAL PRETREATMENT PROGRAM

R4.0503-A General Provisions.

These rules are intended to ensure that the City's pretreatment program complies with the objectives of the Springfield Municipal Code, applicable state and federal law, and rules and regulations adopted thereunder. Notwithstanding the specific requirements of these rules, each industrial user of the City Sewerage System shall comply with all applicable local, state and federal laws and regulations governing the pretreatment of industrial wastes. Therefore, all references in these rules to other statutes and regulations are to those statutes and regulations as amended.

R4.0503-B Specific Restricted Substance Limitations.

No industrial user shall discharge wastewater containing pollutants in excess of:

Arsenic, total	0.3 milligrams per liter
Cadmium, total	0.3 milligrams per liter
Chromium, total	2.0 milligrams per liter
Copper, total	1.5 milligrams per liter
Cyanide, total	2.6 milligrams per liter
Lead, total	1.4 milligrams per liter
Mercury, total	0.05 milligrams per liter
Nickel, total	1.7 milligrams per liter
Silica Gel Treated Hexane Ext. Material	100 milligrams per liter
Phenols, total	3.5 milligrams per liter
Silver, total	0.8 milligrams per liter
Zinc, total	1.6 milligrams per liter

or further limitations as may from time to time be ordered by the City Manager, or concentration limits set by any local, state or federal regulatory agency having jurisdiction, whichever is stricter.

R4.0503-C Fees.

1. **Annual Permit Fee**. A nonrefundable annual permit fee in the amount listed in the most recent amendment of the Oregon Administrative Rule (OAR) 340-045-0075: Permit Fee Schedule Table 70E (Annual Pretreatment Fees – Significant Industrial User) shall be paid to the City by each permitted Significant Industrial User (SIU). The fee shall be due annually on August 1 and will be applied to each SIU specified in the City's annual DEQ Pretreatment Report for the previous calendar year.

2. **Resample Fees.** Resampling and analytical costs which result from the exceedance of an effluent limitation included in a wastewater discharge permit shall be borne by the responsible industry in accordance with the Schedule of Sampling and Analytical Costs attached as Appendix B and incorporated herein.

R4.0503-D Enforcement.

1. **Definitions.** As used herein, the following words and phrases mean:

(a) Noncompliance. A violation.

(b) Upset. An exceptional incident in which an industrial user is in unintentional and temporary noncompliance with applicable pretreatment standards or requirements set forth in Sections 4.006 to 4.018 of the Springfield Municipal Code, these rules, or its permit, because of factors beyond the reasonable control of the industrial 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.

(c) Violation.

(1) A discharge exceeding a constituent limitation; or

(2) A failure to comply with requirements of a discharge permit, an order issued by the City Manager, these rules, an Administrative Compliance Order issued under these rules, or the Springfield Municipal Code.

(d) City Manager. The City Manager of the City as defined by the City's charter, or the City Manager's designee.

2. **Enforcement Orders.**

(a) Notice of Noncompliance. The City Manager may issue a Notice of Noncompliance for any violation. A Notice of Noncompliance shall be in writing and specify the violation(s) and the consequences of continued noncompliance.

(b) Notice of Violation. The City Manager may issue a Notice of Violation for any violation. A Notice of Violation shall be in writing and specify the violation(s). The Notice may require a written response from the violator detailing the actions that will be taken to resolve the violation(s). A Notice of Violation may also include a Notice of Civil Penalty Assessment.

(c) Notice of Civil Penalty Assessment. As part of a Notice of Violation, Administrative Compliance Order, or separately, the City Manager may issue a Notice of Civil Penalty Assessment pursuant to subsection 4.074 of the Springfield Municipal Code for any violation. The amount of the civil penalty shall be determined through the use of the

Enforcement Response Guide attached as Appendix A to these rules and incorporated herein.

(d) Administrative Compliance Order. The City Manager may issue an Administrative Compliance Order for any violation. The Order shall be in writing and shall specify the violation(s) and require compliance measures. The order may also include a Notice of Civil Penalty Assessment for the violation.

(e) Appeals. A Notice of Violation, Notice of Civil Penalty Assessment or Administrative Compliance Order issued under this section may be appealed in the manner set forth in Subsections 4.090 and 4.092 of the Springfield Municipal Code.

(f) Service. All notices/orders shall be served by personal service or sent by certified mail and first class mail. Any notice/order served by mail shall be deemed received for purposes of any time computations hereunder, three days after the date mailed, if to an address within this state, and seven days after the date mailed, if to an address without this state.

(g) Settlement of Administrative Civil Penalty. Upon receipt of Notice of Civil Penalty Assessment, an industrial user may request a conference with the City Manager. The City Manager may waive the penalty in whole or part upon showing of good cause. A request under this paragraph shall not act as a stay, or otherwise constitute the filing or processing of an appeal under paragraph (e) of this section.

3. Other Administrative Orders.

(a) Stipulated Enforcement Order. The City Manager may issue a Stipulated Enforcement Order when an industrial user is in violation. The Stipulated Enforcement Order shall state findings, direct the user to come into compliance within a specified time and may contain other requirements to address the noncompliance, including but not limited to interim pretreatment limits and compliance goals, and additional self-monitoring and management designed to minimize the amount of pollutants discharged to the city sewerage system.

(b) Cease and Desist Order. The City Manager may issue a Cease and Desist Order in accordance with the provisions of Section 4.062 of the Springfield Municipal Code.

(c) Termination and Revocation Order. The City Manager may issue a Termination and Revocation Order in accordance with the provisions of Section 4.066 of the Springfield Municipal Code.

(d) Reconsideration and Appeal. Reconsideration and appeals of orders issued under subparagraphs (b) and (c) of this section shall be pursuant to Section 4.090 and 4.092 of the Springfield Municipal Code.

(e) Service. All notices/orders shall be served by personal service or sent by certified mail and first class mail. Any notice/order served by mail shall be deemed received for purposes of any time computations hereunder, three days after the date mailed, if to an address within this state, and seven days after the date mailed, if to an address without this state.

4. Affirmative Defense.

(a) An upset shall constitute an affirmative defense to an enforcement action if the requirements of paragraph (b) of this subsection are met.

(b) To establish the affirmative defense of upset, an industrial user must demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the industrial user can identify the specific cause(s) of the upset;

(2) The industrial user was at the time operating in a prudent manner and in compliance with applicable operation and maintenance procedures; and

(3) The industrial user has submitted the following information to the City Manager within 12 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 occurrence 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;

c. All steps being taken and/or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and

d. Evidence the industrial user took all reasonable steps to minimize or prevent any discharge resulting from the upset.

(c) The industrial user seeking to establish the occurrence of an upset in an enforcement proceeding shall have the burden of proof.

(d) Notwithstanding this rule providing for the upset affirmative defense, to the extent such an affirmative defense is not available to the City or the Metropolitan Wastewater Management Commission, it is not available to the industrial user.

5. Single Operational Event

(a) A single operational event is an exceptional incident which causes

simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one effluent discharge pollutant parameter. A single operational event does not include violations of Springfield Municipal Code involving discharge without a Wastewater Discharge Permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. A single operational event which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. The industrial user bears the burden of proving, by a preponderance of the evidence, the occurrence of the single operational event and its relationship to the effluent limitation exceedance in question. Each day of a single operational event is a violation.

(b) Notwithstanding the provisions of this rule, a single operational event shall be treated as a single violation only to the extent that, in resulting enforcement action against the City or the Metropolitan Wastewater Management Commission the single operational event is treated as a single violation.

Upon becoming effective, this Industrial Pretreatment Program Administrative Rule shall replace all previously adopted Pretreatment Program Administrative Rules.

Public notice of this Proposed Industrial Pretreatment Program Administrative Rule was given by making copies thereof available to any person who has requested such notice and by publication thereof in the Springfield News, a newspaper of general circulation within the City for at least two days, providing interested persons an opportunity of not less than 15 days to submit data or comments thereon. No valid comments or objections were received within the time and in the manner prescribed in the notice, and the proposed Rule as contained herein is hereby adopted.

Dated and effective this 19th day of July, 2013.

Gino Grimaldi
City Manager

REVIEWED & APPROVED
AS TO FORM
Joseph J. Leahy
DATE: 7/11/13
OFFICE OF CITY ATTORNEY