

ORDINANCE NO. 1401

AN ORDINANCE OF THE CITY OF KALAMA, WASHINGTON AMENDING KALAMA MUNICIPAL CODE CHAPTER 12.08 SANITARY SEWAGE DISPOSAL – RATES AND CONNECTION CHARGES AND CHAPTER 12.36 WASTEWATER TREATMENT REGULATIONS TO INCLUDE THE MISSING 8-INCH METER BASE FEE AND ADDING SURCHARGES TO ADDRESS THE TREATMENT REQUIRED FOR HIGH-STRENGTH WASTEWATER FLOWS.

WHEREAS, Kalama’s Wastewater Treatment Facility has regulations and limitations on the concentration of biological oxygen demand (BOD) or total suspended solids (TSS) which require special approval by the City when the concentrations are in excess of 300 milligrams per liter which is classified as a high-strength flow;

WHEREAS, such high-strength flows will require additional treatment adding additional costs to the City;

WHEREAS, the City of Kalama needs to address the additional treatment and costs based on the recommendations of the engineers by implementing a surcharge for treating high-strength wastewater flows;

WHEREAS, City of Kalama finds the base rate for an 8-inch meter is not included in the current rates as adopted by Ordinance 1369 and needs to added;

NOW THEREFORE the City Council of the City of Kalama do ordain:

Section 1. Kalama Municipal Code Chapter 12.08 is amended to read as follows:

Chapter 12.08 - SANITARY SEWAGE DISPOSAL—RATES AND CONNECTION CHARGES

Sections:

12.08.011 - Monthly rates and charges for sanitary sewer collection and treatment service.

A. The monthly rates and charges for sanitary sewer collections and treatment services shall be based on the customer classification, size of water meter, number of units served at a location and the consumption rate per one hundred cubic feet of water provided for each respective location to all users within the city limits are fixed as follows:

1. The volume charge or per one hundred cubic foot rate for all users:

[Year]	2016	2017	2018	2019	2020
Rate per 100 cubic feet	\$6.00	\$7.00	\$7.85	\$8.55	\$8.70

2. Base rates based on meter classification and size are as follows:

[Year	2016	2017	2018	2019	2020]
Residential — All Meters	\$44.65	\$46.20	\$50.55	\$54.85	\$55.95
Multi-User — All Meters Charged Per Unit	\$39.20	\$40.15	\$44.00	\$47.70	\$48.70
Comm/Ind/School— ¼	\$54.75	\$57.50	\$59.95	\$63.00	\$66.00
Comm/Ind/School — 1	\$65.50	\$70.00	\$75.00	\$78.50	\$82.00
Comm/Ind/School — 1.5	\$155.50	\$165.00	\$175.00	\$180.00	\$186.00
Comm/Ind/School — 2	\$230.00	\$240.00	\$250.00	\$260.00	\$270.00
Comm/Ind/School — 3	\$385.00	\$415.00	\$450.00	\$475.00	\$495.00
Comm/Ind/School — 4	\$600.00	\$635.00	\$680.00	\$715.00	\$750.00
Comm/Ind/School — 6	\$925.00	\$975.00	\$1,025.00	\$1,065.00	\$1,100.00
Comm/Ind/School - 8	N/A	N/A	1540.50	1600.00	1650.00
Comm/Ind/School — 10	\$1,820.00	\$1,920.00	\$2,020.00	\$2,120.00	\$2,220.00

- B. All charges for sewer services provided to residential, multi-family residential, commercial, and industrial customers outside the city limits shall be set at the same rate as sewer services within the city limits.
- C. The base meter fee for sewer service provided to all manufactured home parks or housing developments with multi-family units serviced through a master meter shall be computed at single or multi-unit dwellings rates set in this section with the meter fee computed as if each individual unit were metered separately. Any location with multiple units shall be computed at the rate set in this section multiplied by the number of units served. A unit is described as each separate living, business, rental unit or other type of building space or premises served with water and sewer facilities; provided, however, in the case of a school, a unit shall constitute each separate building with sewer and water facilities.

12.08.012 - Summer sewer rate—Established.

- A. A summer sewer rate is established for domestic sewer users for the months between the May meter reading and the September meter reading for all customers as follows:
- B. There shall be no charge for any usage in excess of ten percent of the average of the previous eight months' metered usage, if the previous eight months' average is representative of normal usage. If

the eight months' metered average is not representative of normal usage for the customer, the city clerk is authorized to calculate a representative usage using the customer's past billing history or the records of other representative customers.

12.08.013 - Summer sewer rate—Not available to commercial or industrial users.

The above summer sewer rate established in Section 12.08.012 shall not be available to any commercial or industrial user of sewers.

12.08.014 – High Strength Waste Surcharge.

A. For customers discharging high-strength waste exceeding the thresholds identified in Section 12.36.040, the following charges shall apply:

Criteria	Surcharge
5-day Biological Oxidation Demand (BOD5) Loading	\$0.79 / lb. BOD5 per day
Total Suspended Solids Loading	\$0.31 / lb. TSS per day

B. The surcharge may be calculated in one of the following ways at the discretion of the City:

1. Where the wastewater flow is metered, the surcharge will be calculated as follows:

$$\text{Monthly Surcharge} = \text{Total Month Flow (Million Gallons)} \times (\text{Average Strength (mg/L)} - 300 \text{ mg/L}) \times 8.34 \times \text{Surcharge Rate (\$/lb/day)}$$

BOD5 and TSS concentration shall be determined by representative grab sample test results provided by the user once per year. The City reserves the right to conduct additional sampling of effluent to confirm discharge strength.

2. Where wastewater flow is not metered but is consistent with water use, water consumption may be used to determine total monthly flow. BOD5 and TSS concentrations shall be determined as described in Part B.1.

3. Where wastewater flow data is not metered and the water consumption is not an accurate representation of wastewater flow, the City may accept an estimate of flow provided by the user based on an engineering analysis of the operation. If a reasonable flow cannot be estimated, the City may require a flow meter to be installed on the wastewater discharge. BOD5 and TSS concentrations shall be determined as described in Part B.1.

12.08.030 - Sewage connection charges.

A. In addition to the foregoing rates and charges, beginning on September 1, 2006 the city shall charge the sum of seven thousand dollars, plus the city's cost of labor and material from existing main line to property line, for each connection made within or outside the city limits to the city's sanitary sewage

system. The connection charge shall be paid concurrent with city building permit fees for new connections inside the city limits and prior to connecting to the city system with proof of a county building permit for new connections outside the city limits.

- B. The cost of all labor and material actually expended by the city in making such connections becomes due and payable at the time the connection is completed and, in any event, shall be paid in full before any occupancy certificate is issued.

12.08.035 - Sewage connection charge—Multiple dwellings.

- A. In addition to the regular hook-up charges as specified in Section 12.08.030, the connection for a multi-dwelling facility such as an apartment or condominium, shall require an additional one thousand two hundred dollars for the second and each additional permanent dwelling unit within the city limits, and one thousand eight hundred dollars for second and each additional permanent dwelling unit outside of the city limits.
- B. The connection charge to multiple-dwelling facilities such as hotels, motels and recreational vehicle parks shall include an additional one hundred dollars for the second and each transient dwelling unit or space within the city limits and one hundred fifty dollars for the second and each additional transient dwelling unit or space outside the city limits.
- C. These connection charges shall apply to all users regardless of their residential, commercial or industrial status. The city shall be the final authority as to the permanent or transient status of the dwelling unit in all new connections to multiple-dwelling units.
- D. In addition to the regular hook-up charges as specified in Section 12.08.030, the connection charges for mobile home parks and manufactured home parks shall require an additional four hundred dollar hook-up fee for the second and each additional permanent dwelling unit within such park, provided the same is located within the city limits, and six hundred dollars for the second and each additional permanent dwelling unit within such park if the same be located outside of the city limits.

12.08.040 - Rates may be changed by resolution of city council.

The rates and charges in this chapter provided may hereafter be modified or amended by the city council by resolution duly enacted and approved at any regular meeting called for that purpose.

Section 2. Kalama Municipal Code Chapter 12.36 – Waste Water Treatment Regulations is amended to read as follows:

Chapter 12.36 - WASTEWATER TREATMENT REGULATIONS

Article I. - Definition of Terms

12.36.010 - Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

"Act" means the Clean Water Act (33 U.S.C. 1251 et seq.), as now or as it may be amended.

"Applicable pretreatment standards for any specified pollutant" means the general discharge prohibitions, the city's specific limitations on discharge, the state standards, or the national categorical pretreatment standards (when effective), whichever standard is most appropriate in a given situation.

"BOD (biochemical oxygen demand)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at twenty degrees Celsius (degrees C), expressed in milligrams per liter (mg/L).

"City" means the city of Kalama or its authorized deputy, agent or representative; "department of public works" means such department of the city of Kalama and includes its director and authorized representatives, and includes the term "director of public works" as used in this chapter.

"Discharger" means any person, individual, corporation, partnership, association or entity who discharges or causes to be discharged wastewater to the POTW.

"DOE" means the Washington Department of Ecology.

"DOE permittee" means a nondomestic wastewater discharger to the POTW who:

1. Is required by state law to obtain a discharge permit from the Washington State Department of Ecology; or
2. Is subject to national pretreatment standards promulgated under Section 306(b) or (c) of the Clean Water Act (CWA); or
3. Has in its wastes any priority toxic pollutants listed in 40 Code of Federal Regulations (CFR) 403; or
4. Has in its wastes toxic pollutants as defined pursuant to Section 307 of the Act; or
5. Has a discharge flow of twenty-five thousand gallons or more per average workday; or
6. Has an average monthly discharge flow greater than five percent of the average monthly flow in the city's wastewater treatment system; or
7. Is determined by the city to have a significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.

"Domestic discharger" means any single-family or multifamily residential customer, industrial customer or commercial business customer discharging domestic waste in connection with the residential, industrial or commercial premises.

"Domestic waste" means wastewater limited to kitchen wastes, human wastes and housekeeping cleaning materials, in volumes and/or concentrations normally discharged from each class of domestic users.

"Effluent" means waste flowing out of a POTW.

"Interference" means the inhibition or disruption of a POTW's sewer system, treatment process or operation which may contribute to a violation of any requirement of its NPDES permit.

"mg/L" means milligrams per liter; parts per million.

"National categorical pretreatment standards" means national categorical pretreatment standards as adopted and hereafter amended by the U.S. Environmental Protection Agency (EPA) pursuant to the Act specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a publicly owned treatment works (POTW).

"Nondomestic discharger" means any discharger who discharges nondomestic wastewater into a POTW by means of pipes, conduits, pumping stations, force mains, drainway or any constructed devices and appliances appurtenant thereto.

"Nondomestic waste" means wastewater containing solid, liquid or gaseous waste resulting from: any industrial, manufacturing, trade, or business process or activity; or, from the development, recovery or processing of natural resources.

"NPDES" means the national pollutant discharge elimination system permit program as administered by the United States Environmental Protection Agency (EPA) or state of Washington.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, grain, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except wastewater.

"Permitted peak flow" means the maximum flow during a certain period as stated in a wastewater discharge agreement or DOE permit.

"Person" means any individual, firm, company, corporation, association, society, governmental agency, public district or group.

"pH" means the logarithm of the reciprocal of the mass of hydrogen ions in grams per liter of solution.

"Pollutant" means any substance discharged into a POTW or its collection system which, if discharged directly, would negatively alter the chemical, physical, biological or radiological integrity of the water of the state.

"POTW (publicly owned treatment works)" means any wastewater treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the city.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

"Public sewer" means a sewer constructed for conveyance of wastewater which is controlled by a public authority.

"Sewer" means any pipe, conduit, or other device used to collect and transport wastewater from the generating source.

"Shall" is a mandatory requirement.

"Slugload" means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW; or flowrate exceeding the permitted peak flow.

"Storm sewer" means any pipe, conduit, ditch or other device which collects and carries storm and surface waters and drainage, but from which wastewater is excluded.

"Suspended solids" means 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.

"Toxic pollutants" means those substances listed in the federal priority pollutant list and any other pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under Section 307 of the Clean Water Act.

"Upset" means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this chapter due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent solely caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.

"Waste" means wastewater containing solid, liquid or gaseous waste including domestic and nondomestic wastes.

"Wastewater" means domestic waste, nondomestic waste or any other waste that is or may be discharged to the POTW.

"Wastewater discharge agreement" means a written set of conditions between the city and a nondomestic discharger who is not subject to a DOE wastewater discharge permit (see definition of DOE permittee). It shall set forth the terms and conditions of the city's acceptance of wastewater from such nondomestic discharger. The agreement shall be approved and signed by the mayor and a person(s) duly authorized by the discharger.

Article II. - Regulations

12.36.020 - DOE permittees.

Nondomestic dischargers who meet any of the criteria stated in Section 12.36.010, "DOE permittee," shall not contribute or cause to be discharged directly or indirectly into the POTW any wastewater until a permit from DOE has first been obtained.

12.36.030 - General discharge prohibitions.

No discharger shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the POTW:

- A. Any liquids, solids or gasses which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or to be injurious in any other way to the operation of the POTW. At no time shall two successive readings on a combustible gas meter, at the point of discharge into the system (or at any point in the system), be more than five percent, nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromines, carbides, hydrides, sulfides and any other substances which the city, the state, or the EPA has notified the user is a fire hazard or hazard to the system;
- B. Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the POTW, including but not limited to, any garbage or putrescible material that has not been properly comminuted to one-fourth inch or less in any direction;
- C. Any wastewater having a pH less than 5.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system;
- D. Any wastewater having a fat waste, oil or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of fifty mg/L; or any substance which may solidify or become discernable viscous at temperatures above zero degrees Celsius (thirty-two degrees Fahrenheit). **Fats, Oil, and Grease means those components of wastewater amenable to measurement by the methods described in *Standard Methods for the Examination of Water and Wastewater, Latest Edition*. The term Fats, Oils, and Grease shall include polar and no-polar fats, oils and grease, and other components extracted from wastewater by these methods.;**
- E. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in categorical pretreatment standards, or state or local standards;
- F. Any noxious or malodorous liquids, gases or solids which either singly or by interaction are capable of creating a public nuisance or, hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair;
- G. Any substance which may cause the POTW's effluent or treatment residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance be discharged to the POTW that will cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; or with any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act; or with the Clean Air Act, state, local or standards applicable to the sludge management method being used;
- H. Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits;
- I. Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, **or substances that pass through the plant and significantly (by more than 2%) reduce effluent ultraviolet transmittance.;**

- J. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty degrees Celsius (one hundred four degrees Fahrenheit);
- K. Any slugload;
- L. Any wastewater containing radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the city in compliance with applicable state or federal regulation;
- M. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA), including, but not limited to:
 - 1. Aldrin,
 - 2. Dieldrin,
 - 3. Chlordane,
 - 4. 4,4'-DDT,
 - 5. 4,4'-DDX (p,p'-DDX),
 - 6. 4,4'-DDD (p,p'-TDE),
 - 7. A-endosulfan-Alpha,
 - 8. B-endosulfan-Beta,
 - 9. Endosulfan sulfate,
 - 10. Endrin,
 - 11. Endrin aldehyde,
 - 12. Heptachlor,
 - 13. Heptachlor epoxide,
 - 14. A-BHC-Alpha,
 - 15. B-BHC-Beta,
 - 16. C-BHC-(Lindane)-Gamma,
 - 17. G-BHC-Delta,
 - 18. Toxaphene;
- N. Septic tank solids.
- O. Stormwater and ground water.

12.36.040 - Discharge limitations—City agreement—DOE permit.

- A. Discharge of any one of the following substances shall only occur by dischargers who have either a written wastewater discharge agreement with the city or a discharge permit from DOE:
 - 1. Any wastewater having a BOD of more than three hundred mg/L; or
 - 2. Any wastewater having a suspended solids content of more than three hundred mg/L.
- B. By separate ordinance the city may establish rates for approved discharges at levels exceeding those levels stated in subsections (A)(1) and (2) of this section.

12.36.050 - Limitations on wastewater strength.

- A. National categorical pretreatment standards shall be met by all dischargers of the regulated industrial and all other nondomestic discharger categories.

- B. State Requirements. State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this or any other applicable ordinance.
- C. Right of Revision. The city reserves the right to amend this chapter to comply with state and federal regulations.
- D. Dilution. No discharger shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.
- E. Supplemental Limitations. No discharger shall discharge nondomestic wastewater containing concentrations (and/or mass limitations) that exceed any of the following values unless prior written approval has been obtained from the department of public works:

Material Concentration (mg/L)

Arsenic	As	0.1
Barium	Ba	5.5
Cadmium	Cd	0.3
Copper	Cu	0.5
Chromium	Cr	1.7
Cyanide	CN	0.2
Iron	Fe	10.0
Lead	Pb	0.4
Mercury	Hg	0.05
Nickel	Ni	0.5
Selenium	Se	0.1
Silver	Ag	0.1
Zinc	Zn	1.0
Phenols or cresols		0.6

At its sole discretion, the city may impose mass limitations on dischargers in cases where necessary to be consistent with national categorical pretreatment standards, or under circumstances where concentration limits are impractical to apply.

12.36.060 - Accidental discharges.

- A. Each discharger not required to obtain a DOE wastewater discharge permit shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's own cost and expense. Detailed plans showing facilities to provide this protection shall be submitted to the city with the building permit application.
- B. Dischargers shall immediately take action to correct the accidental discharge and verbally notify the city upon the occurrence of a slugload, or accidental discharge of substances prohibited by this chapter, and follow-up within five days with a written notification to the department of public works. The notifications shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to any other liabilities established by this chapter or other city ordinances and the amount of any fines imposed on the city on account thereof under state or federal law.
- C. Signs shall be permanently posted in conspicuous places on discharger's premises, advising employees whom to call in the event of a slugload or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

12.36.070 - Grease traps.

Dischargers who operate restaurants, cafes, lunch counters, cafeterias, bars or club; or hotel, sanitarium, factory or school kitchens; or other establishments that serve or prepare food where grease may be introduced to the sewer system shall have pretreatment facilities to prevent the discharge of fat waste, oil or grease. Take-out food establishments or other establishments that prepare food, but do not cook in oil or grease, and who served food only in disposable containers, may be exempted from this requirement, provided their discharges do not violate the general discharge prohibitions of this chapter. These pretreatment facilities must have grease traps installed in the waste line leading from sinks, drains or other fixtures in accordance with specifications of Sections 711, 712, and 713 of the Uniform Plumbing Code (1985), and as amended and adopted by the city. Dischargers must maintain these facilities in a manner that will always prevent fat waste, oil or grease from being carried into the sewer system. Fat waste, oil or grease removed from such facility shall not be disposed of in sanitary or storm sewers.

12.36.080 - Nondomestic discharger.

No single nondomestic discharger shall have an average daily discharge (during any calendar month) to the POTW which exceeds fifteen thousand gallons without approval of the city council.

Article III. - Charges and Fees

12.36.090 - Purpose.

It is the purpose of this article to establish appropriate discharge fees to compensate the city for the cost of operating, maintaining and further improving POTW facilities and collection system. The charges are based upon the cost to the city of treating the waste and upgrading its POTW to provide secondary treatment of wastes.

Article IV. - Administration

12.36.100 - Wastewater discharge.

It is unlawful for any nondomestic discharger to discharge any nondomestic wastes into the city's POTW except as authorized by a DOE permit or by a written agreement with the city.

12.36.110 - Request for service by nondomestic discharger—Environmental survey.

- A. All new persons seeking to discharge nondomestic waste into the POTW shall complete an environmental survey on a form to be supplied by the city. All existing nondomestic dischargers connected to or discharging to the POTW shall complete a survey form within ninety days after the effective date of the ordinance codified in this chapter or at a later time if approved in writing by the city.
- B. Upon completion of the environmental survey, the city shall determine whether adequate capacity exists at the POTW and if the person seeking to discharge is required to obtain a discharge permit from the Washington Department of Ecology (DOE).
 1. In the event adequate capacity exists and a DOE permit is required, the person shall be referred to DOE to acquire the permit. The issuance of a DOE permit will be necessary before the person can commence discharging into the POTW.
 2. In the event adequate capacity exists and no DOE discharge permit is necessary, then the city shall identify, in consultation with the discharger, the acceptable volume and component levels for the discharge. A wastewater discharge agreement shall be prepared which shall reduce to writing the discharge terms and conditions. Continued compliance with the wastewater discharge agreement shall be a condition for continued discharge into the POTW.

12.36.120 - Wastewater discharge agreement—General terms.

The wastewater discharge agreement shall be based on the environmental survey and shall address the following:

- A. Volume of average discharge;
- B. Nature of constituents in wastewater;
- C. Discharge limits on certain constituents;
- D. Need for a treatment facility and design criteria;
- E. Accident prevention and upset contingency planning;
- F. The terms and conditions for monitoring needs;
- G. Peak flow conditions;
- H. Other terms and conditions necessary to carry out the intent of this chapter.

12.36.130 - Inspection and sampling.

- A. The city shall have the right to inspect all monitoring facilities, sewer lines and plant facilities during all hours that a discharger is operating or at any time upon twenty-four hours notice. The city shall have the right to erect or install on the discharger's property such devices as are reasonably necessary to conduct sampling, inspection, compliance monitoring or metering operations.
- B. Failure to allow inspection, sampling, monitoring or metering as authorized by this section shall be grounds for termination of the discharger's wastewater discharge agreement by the city or other appropriate action by DOE concerning the DOE permit.
- C. The courts of the state of Washington shall have authority to issue administrative inspection warrants for the purpose of enforcing this chapter.
- D. Nothing in this chapter shall be construed to limit the city's rights to obtain a criminal search warrant.

12.36.140 - Confidential information.

- A. Information and data furnished to the city with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharger under the laws or regulations of the state or federal government. If a discharger furnishing a report requests that information provided as part of a report or the permit process be kept confidential, and the discharger marks such pages as "confidential," then the portions of a report or other information which may disclose trade secrets or secret processes protected by state or federal law, shall not be made available for inspection by the public, subject to the provisions of RCW Chapter 42.17, but shall be made available upon written request of governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report or other information shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
- B. Information accepted by the city as confidential, shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the discharger. Once notice of intent to release information has been given to the discharger, if the discharger fails to contest the release, then any rights created by this section shall be deemed to have been waived.

12.36.150 - Agreement modifications.

The city reserves the right to amend the wastewater discharge agreement issued under this chapter in order to assure compliance or continued compliance by the city with applicable laws and regulations. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge agreement of each discharger subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standards.

Article V. - Enforcement

12.36.160 - Termination of treatment services.

- A. The city shall have authority to terminate wastewater treatment services and to terminate the wastewater discharge agreement of any discharger if it determines that the discharger has:
1. Failed to accurately report wastewater constituents and characteristics;
 2. Failed to report significant changes in wastewater constituents or characteristics;
 3. Refused reasonable access to the discharger's premises for purposes of inspection or monitoring;
 4. Violated conditions of the wastewater discharge agreement;
 5. Violated any of the provisions of this chapter or regulations promulgated thereunder; or
 6. Violated any lawful order of the city issued with respect to the discharger's wastewater discharge agreement or this chapter.
- B. The discharger shall be given written notice of the city's decision and the basis therefor to terminate wastewater services. Prior to termination date established in the notice the discharger shall have a right to request an administrative hearing under this article.
- C. During the administrative hearing process the termination of service shall be stayed, provided, this shall not preclude emergency suspension of service under this article, if appropriate. The administrative hearing board shall fix a termination of service date in its order if it upholds the city's action.

12.36.170 - Compliance schedule order.

- A. The city and the discharger may agree to a compliance schedule order in lieu of termination under this article. The order shall establish specific actions to be taken and/or procedures to be implemented by the discharger to assure compliance with this chapter and with the wastewater discharge agreement or DOE permit. The order shall also establish specific time limits for such actions or procedures.
- B. Failure to comply with any terms or requirements of a compliance schedule order by the discharger shall be an additional and independent grounds for termination of wastewater treatment services and termination of the wastewater discharge agreement.

12.36.180 - Administrative hearing.

- A. An aggrieved applicant or discharger shall have the right to an administrative hearing to contest any determination made by the city.
- B. Any hearing pursuant to this section must be requested by the applicant/discharger in writing within ten business days after the applicant/discharger receives written notice of the city's determination. The applicant/discharger's written request for hearing shall be filed with the city clerk. The city shall conduct the hearing within ten business days of the receipt of the request (or within five business days if a discharger is contesting suspension of wastewater services and a wastewater discharge agreement). Public notice shall be posted at city hall not less than forty-eight hours prior to hearing.
- C. The administrative hearing authorized by this section shall be held before an administrative hearing board. The administrative hearing board shall consist of the mayor and two council members, one selected by the Mayor and one selected by the applicant/discharger. All three have an equal vote. Formal rules of evidence shall not apply but the applicant/discharger and the city shall have the right to present witnesses and documentary evidence. The mayor or another member of the administrative hearing board designated by the mayor shall issue a written decision within five business days after the conclusion of the hearing. The decision shall be supported by written findings of facts and conclusions of law.
- D. The city shall provide an electronic recording of the proceedings. The applicant/discharger may arrange at his/her expense to have a court reporter record of the hearing.
- E. The city council may by resolution adopt additional rules for the conduct of hearings pursuant to this section.

12.36.190 - Civil penalties authorized.

In lieu of or in addition to any other enforcement action authorized in this chapter, the city shall have authority to assess against a discharger civil penalties in the manner and amount specified in Article IV.

12.36.200 - Judicial review.

The applicant/discharger may appeal the decision of the administrative hearing board. The procedure for such appeal shall follow the Administrative Procedure Act (APA), Part V, Judicial Review and Civil Enforcement, RCW 34.05.510, et seq.

12.36.210 - Right to written interpretation of chapter.

Any discharger or any interested party shall have the right to request an interpretation or ruling by the city on any matter covered by this chapter. The request must be in writing and must be addressed to the city's director of public works. The city shall provide a written response within fifteen business days. A request pursuant to this section shall not stay or otherwise affect enforcement proceedings.

12.36.220 - Operating upsets.

- A. Any discharger that experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter or the wastewater discharger agreement or DOE permit issued pursuant to this chapter shall inform the city of the upset immediately upon discovering the

upset. A written report describing the upset shall be filed with the city by the discharger within five business days after the discovery. This report shall include:

1. A description of the upset, the cause of the upset and the impact of the upset on the discharger's compliance with this chapter;
 2. The duration of noncompliance (including exact dates and times) and, if noncompliance is continuing, the time at which the discharger expects to be in compliance; 3. All steps which have been taken or will be taken to prevent the recurrence of the upset.
- B. A timely documented and properly verified operating upset shall be an affirmative defense to any enforcement action brought by the city against the discharger for failure to comply with this chapter or a wastewater discharge agreement or DOE permit issued pursuant to this chapter to the extent that the enforcement action arises out of violations which occurred during the period of upset; provided, however, that such an upset shall not relieve the discharger of any other liability for the upset including, but not limited to, liability for damages sustained by the POTW, the city or third persons.

12.36.230 - Records retention.

All dischargers subject to this chapter shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of an enforcement action or litigation shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

12.36.240 - Emergency suspension of service and permit.

- A. The city may order the suspension of wastewater treatment service if the discharger fails to comply with its DOE permit or its wastewater discharge agreement, and
1. Presents or threatens a substantial danger to the health or welfare of persons or to the environment; or
 2. Threatens to cause the POTW to exceed the specifications of its NPDES permit or to interfere with the operation of the POTW.
- Any discharger notified of the city's suspension order shall immediately cease all discharges.
- B. Any discharger whose wastewater treatment service has been suspended pursuant to this section shall have the right to a post-suspension hearing to be conducted in accordance with the procedures set forth in Section 12.36.180. Suspension of service shall continue during such hearing process. The city shall reinstate the wastewater treatment services upon proof by the discharger of the elimination of the risk of actual or potential violations stated in subsection A of this section unless the city commenced proceedings for service termination pursuant to Section 12.36.160.
- C. In addition to all other rights and remedies, the city shall have the authority to physically cap, block or seal the side sewer line at its juncture with the sewer line or elsewhere (whether on public property or private property) if the city determines that such action is reasonably necessary to suspend service as authorized above by subsection A of this section. The city shall have the right of access onto the discharger's private property to accomplish such capping, blocking or sealing of the sewer line.

Article VI. - Penalties and Liabilities

12.36.250 - Civil penalties.

Any discharger who violates an order of the city, or who fails to comply with:

- A. Any provision of this chapter; or

- B. Any regulation or rule of the city or any wastewater discharge agreement or DOE permit issued pursuant to this ordinance; shall be liable to the city for a civil penalty.

The amount of such civil penalty shall be not more than one thousand dollars per violation. The city may also recover the costs incurred by the city for monitoring activities associated with the investigation and establishment of such violation or failure to comply.

Each day upon which a violation occurs or continues shall constitute a separate violation. Such penalties may be recovered by judicial actions. A discharger's failure to pay such civil penalties shall be grounds for suspension of wastewater services and termination of the wastewater discharge agreement.

12.36.260 - Recovery of costs incurred by the city.

Any discharger violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction which causes damage to or impairs the city's POTW shall be liable to the city for any reasonable expense, loss, fines or damage caused by such violation or discharge including costs incurred by the city for violation of its NPDES permit. The city shall bill the discharger for the above costs as well as costs incurred for any cleaning, repair, replacement work or other damages caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of Article V.

12.36.270 - Falsifying information.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter (in addition to civil and/or criminal penalties otherwise provided by law) shall be guilty of a misdemeanor punishable by fine not to exceed five hundred dollars and/or imprisonment not to exceed ninety days.

12.36.280 - General criminal penalties.

Any person who willfully violates any provision of this chapter shall be guilty of a gross misdemeanor punishable by a fine not to exceed five thousand dollars and/or imprisonment not to exceed one year.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 4. This ordinance shall become effective five days after passage, approval, and publication as provided by law.

Passed by the City Council of the City of Kalama at a regular meeting held on the 18th day of April, 2018

Mayor Mike Reuter

Attest:

Coni McMaster, Clerk/Treasurer

Approved as to form:

City Attorney

Passed:

Published:

Effective:

DRAFT