

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Adopting Hazardous Substance User Fees for the Fiscal Year Commencing July 1, 2010

Meeting Date: February 16, 2010
Department: Fire & EMS
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Glen Potter
Contact Telephone Number: 541-682-7118

ISSUE STATEMENT

In accordance with provisions of the Eugene City Charter and City Code, the City's Toxics Right-to-Know Program is funded by fees assessed to local businesses that are hazardous substance users. For this year, to support the program for Fiscal Year 2010-2011, the Toxics Board is recommending a fee of \$55.48 per FTE (full-time-equivalent employee) employed by participating businesses in 2009, up to a maximum of \$2,000, as provided by state law.

BACKGROUND

Each year, beginning in 1998, the council has approved fees to support this program, first by resolution, and later, because of changes in state law, by ordinance. Throughout the life of this program, the City has always assessed fees on the basis of number of persons employed by the participating businesses. This is because the City is prohibited by state law from charging on the basis of quantity of chemicals used, and number employed is at least generally reflective of ability to pay and also bears a rough correlation to chemical quantities used.

Until 2004, the methodology was to poll the businesses at the beginning of each calendar year and ask them to calculate and report their FTE for the preceding calendar year, then divide the program's revenue requirement for the upcoming fiscal year by the total number of FTE reported, and bill accordingly, with payment due May 1 each year as provided by the Charter.

In 2004, a state-imposed fee cap of \$2,000 took effect, resulting in fee reductions for larger participating companies and fee increases for smaller ones. Although participating employers are still polled for their FTE figures, those with a high number of FTE now pay a smaller amount per FTE to support the program, because of the state cap. Efforts to address this perceived inequity, both locally and before the State Legislature, have not been fruitful, and so the recommendation before the council at this time is to adopt a similar fee, similarly calculated, to those adopted in each of the past six years.

Participating employers have reported a total of 3,877 FTE in 2009. The program's FY11 revenue requirement is \$98,718 (compared to \$108,753 for FY10). After accounting for the cap, this has resulted in a recommended fee of \$55.48 per FTE, up to the maximum of \$2,000. Any company with more than 36 FTE would pay only the maximum.

The recommended fee of \$55.48 is slightly higher than last year's fee of \$52.38 due primarily to an overall decline in the total employment of participating businesses (4,826 in 2008 compared to 3,911 in

2009.) This decline was more than enough to offset reductions in the program's budget (due to a reduction in reserve for legal fees and to reductions in City-charged rates), resulting in the net increase in the per-FTE fee.

RELATED CITY POLICIES

Section 54, Article VII of the City Charter provides in part as follows:

- A. Each hazardous substance user shall pay an annual fee to the City of Eugene, sufficient to jointly cover the implementation of this section, including expenses incurred by the Eugene Public Library, Fire Marshal, City of Eugene and the Toxics Board.
- B. In order that this Section be self-supporting through hazardous substance user fees, the fee amounts shall be recommended annually by the Toxics Board and approved and amended as necessary by the Eugene City Council.
- C. All fees due under this section shall be paid by May 1 of each calendar year.

Section 3.694 of the City Code provides further for these fees.

The City's Legislative Policies perennially include support for legislative remedies to local Toxics Program fee inequities stemming from State law, specifically by raising or removing the \$2,000 cap so that all participating companies are assessed a similar amount per FTE.

COUNCIL OPTIONS

1. Conduct a public hearing and act on the ordinance.
2. Conduct a public hearing and postpone action on the ordinance (action is tentatively scheduled for February 22, if necessary.)
3. Provide other direction.

CITY MANAGER'S RECOMMENDATION

Adoption of the ordinance as per Option 1 or Option 2 is recommended by the City Manager and the Toxics Board.

SUGGESTED MOTION

Move to adopt an ordinance adopting hazardous substance user fees for the fiscal year commencing July 1, 2010.

ATTACHMENTS

- A. Proposed Ordinance

FOR MORE INFORMATION

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ORDINANCE NO. _____

**AN ORDINANCE ADOPTING HAZARDOUS SUBSTANCE USER FEES
FOR THE FISCAL YEAR COMMENCING JULY 1, 2010.****The City Council of the City of Eugene finds that:**

A. Pursuant to Article VII of Amendment IV to the Eugene Charter of 2002 (the "Amendment"), the City Council has previously adopted Resolutions and Ordinances establishing fees to be paid by hazardous substance users within the City with the most recent being Ordinance No. 20427 which established fees to be paid by hazardous substance users for the fiscal year commencing July 1, 2009.

B. In accordance with other requirements of the Amendment, the City Council, by ordinance, has adopted the City's Hazardous Substance Tracking Instructions, which provide guidance to hazardous substance users in completing and submitting the reports required by the Amendment.

C. Pursuant to ORS 453.370(2)(a), the City must adopt the hazardous substance user fee schedule via ordinance after notice and public hearing. The City published and posted notice of the public hearing to be held on February 16, 2010, concerning the proposed ordinance adopting hazardous substance user fees, and such hearing was held before the Eugene City Council on that date.

D. Pursuant to ORS 453.370(2)(b), the City cannot adopt a fee schedule that imposes a fee of more than \$2,000 for any single facility in any calendar year.

E. The Toxics Board has recommended a fee of \$55.48 per FTE, not to exceed \$2,000 for any single facility for the 2010 calendar year, in order to cover the expenses of the program for the fiscal year commencing July 1, 2010.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. A fee of \$55.48 per FTE, not to exceed \$2,000 for any single facility for the 2009 calendar year, is hereby imposed as the fee to be paid by hazardous substance users within the City of Eugene. The fee shall be due and payable by May 1, 2010.

Section 2. As used in this Ordinance, the terms "FTE" and "hazardous substance users" have the meanings ascribed to them in Section 3.692 of the Eugene Code, 1971.

Section 3. The fees collected pursuant to this Ordinance shall be used for the purpose of operating the Toxics Right-to-Know Program created by Amendment IV to the Eugene Charter of 2002 and implemented by subsequent ordinances of the City.

Passed by the City Council this

____ day of February, 2010.

City Recorder

Approved by the Mayor this

____ day of February, 2010.

Mayor