

# EUGENE CITY COUNCIL

## AGENDA ITEM SUMMARY



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### Public Hearing: An Ordinance Adopting Hazardous Substance User Fees for the Fiscal Year Commencing July 1, 2012

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Meeting Date: February 21, 2012  
Department: Fire & EMS  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 1  
Staff Contact: Jo Eppli  
Contact Telephone Number: 541-682-7118

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#### ISSUE STATEMENT

In accordance with provisions of Section 54, Article VII of the Eugene City Charter and Section 3.694 of the City Code, the City's Toxics Right-to-Know Program is fully-funded by fees assessed to local manufacturing businesses that are hazardous substance users. To support the program for fiscal year 2012-2013 (FY13), the Toxics Board is recommending a fee of \$79.00 per full-time-equivalent employee (FTE) employed by participating businesses in 2011, 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.

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 businesses, 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-imposed fee 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 eight years.

After performing a task analysis on managing the program, the Toxics Board is recommending an increased budget to cover 90 percent staff time (instead of 75 percent staff time as in previous years) to support the program for FY13, resulting in a revenue requirement of \$107,747. This is an additional budget increase of \$14,126 (or 15.3 percent), which more accurately reflects the cost of staff time spent managing the program, and complies with provisions of the Eugene City Charter and City Code that require the Toxics Right-to-Know Program be fully-funded by fees assessed to local businesses that are

hazardous substance users. The benefit to the public and to the businesses in the program of the budget covering more staff time, is that staff will be able to provide more focused efforts on effectively managing the program, and will be able to work with the Toxics Board to increase transparency and public awareness of the program. Participating employers reported a total of 3,713 FTE in 2011. The total number of FTE for 2011 was then used in conjunction with the revenue requirement to calculate the fees for FY13. After accounting for the state-mandated maximum of \$2,000, this resulted in a recommended fee of \$79.00 per FTE, up to \$2,000 per entity for FY13. Consequently, 16 more businesses in the program will pay \$2,000 in FY13 than in FY12.

## **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.

## **COUNCIL OPTIONS**

1. Conduct public hearing and act on the ordinance.
2. Conduct public hearing and postpone action on the ordinance.
3. Provide other direction.

## **CITY MANAGER'S RECOMMENDATION**

The City Manager and the Eugene Toxics Board recommend adoption of the ordinance.

## **SUGGESTED MOTION**

Move to adopt an ordinance adopting hazardous substance user fees for the fiscal year commencing July 1, 2012.

## **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, 2012.**

**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. 20471 which established fees to be paid by hazardous substance users for the fiscal year commencing July 1, 2011.

**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 21, 2012, 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 \$79.00 per FTE, not to exceed \$2,000 for any single facility for the 2012 calendar year, in order to cover the expenses of the program for the fiscal year commencing July 1, 2012.

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** A fee of \$79.00 per FTE, not to exceed \$2,000 for any single facility for the 2012 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, 2012.

**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, 2012.

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City Recorder

**Approved by the Mayor this**

\_\_\_\_\_ day of February, 2012.

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Mayor