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## Chapter 13-02

### Water Licenses

#### 13-02-010 Required.

It shall be unlawful to make a service connection to the city's water system without a water license therefor except for temporary connections for construction purposes made with the permission of the director of public works and in accordance with chapter 13-16. (Ord. 569 §5, 1984)

#### 13-02-020 Water license fee.

Water licenses may be purchased from the city at a fee of \$22,454.00 per three-quarter-inch equivalent tap. Tap fees and meter fees are separate and additional. (Ord. 710 §1, 1986; Ord. 752 §1, 1987; Ord. 805 §1, 1988; Ord. 871 §1, 1989; Ord. 887 §1, 1990; Ord. 918 §1, 1991; Ord. 949 §1, 1993; Ord. 1033 §1, 1994; Ord. 1105 §1, 1995; Ord. 1213 §1, 1996; Ord. 1304 §1, 1998; Ord. 1378 §1, 1999; Ord. 1430 §1, 1999; Ord. 1454 §1, 2000; Ord. 1516 §1, 2000; Ord. 1649 §1, 2001; Ord. 1702 §1, 2003; Ord. 1752 §1, 2003; Ord. 1786 §1, 2005; Ord. 1823 §1, 2006; Ord. 1852 §1, 2006; Ord. 1879 §1, 2008)

#### 13-02-025 Water license fee drought surcharge.

(A) At any time during which a declaration of drought has been declared by the city council and a Drought Condition I, II, or III has been imposed pursuant to chapter 13-36, B.M.C., a twenty-percent drought surcharge shall be added to the water license fee charged in section 13-02-020, B.M.C.

(B) Such surcharge may be used for any of the following purposes:

- (1) The purchase, lease, or acquisition of water rights, water, or use of water;
- (2) The reimbursement of water customers for installation of city-approved water conservation devices;
- (3) The payment of water fund debt service;
- (4) The acquisition of real property for construction of water facilities; or
- (5) To pay costs for the enforcement of drought restrictions.

(C) This section shall not apply to single-family, detached housing served by well water on the effective date of the enactment of this section. (Ord. 1720 §1, 2003; Ord. 1735 §1, 2003; Ord. 1838 §1, 2006)

#### 13-02-030 Application.

Applications for water licenses may be made to the public works department on forms provided by that department by any person owning property within the city or by his or her agent. Applications must be accompanied by the license fee and must contain the following:

(A) A description of the lot, tract, or parcel owned and to be served, including a legal description, a street address, or such other description as may be required by the public works department.

(B) The size of the water tap and water meter requested.

(C) A description of the purposes for which the water is to be used.

(D) The name, address, and signature of the applicant.

(E) Other information required by the public works department to assist in administering this chapter. (Ord. 546 §6, 1984)

#### 13-02-040 Issuance.

The department of public works shall issue a water license if the application complies with section 13-02-030. If the application does not comply with section 13-02-030, the department of public works shall deny the application. (Ord. 546 §6, 1984)

**13-02-050 Required for building permit.**

No building permit for a structure which will require a new water tap or connections shall be issued unless the applicant has a valid water license. (Ord. 546 §6, 1984)

**13-02-060 Transfer provisions.**

(A) A water license shall be issued for the lot, tract, or parcel described in the application and shall be issued to the owner of that property.

(B) Except as otherwise provided in subsections (D) and (E) below, a water license may not be transferred or sold except in conjunction with a sale or transfer of the underlying property, either as a whole or in smaller tracts, pursuant to the applicable provisions of title 16.

(C) If a water license is sold or transferred as provided in subsection (B), the city must be immediately notified in writing and may require evidence of such transfer or sale.

(D) The city manager may authorize the transfer of water licenses within the same development parcel on such terms and conditions as may be approved by the city manager, provided any such transfer is consistent with the provisions of this chapter. For purposes of this subsection, the term *development parcel* means one or more lots, tracts, or parcels of land that are contiguous to each other and are planned, developed, owned, and managed as a unit.

(E) The city manager may authorize the transfer of water licenses from one lot, tract, or parcel to another lot, tract, or parcel on such terms and conditions as may be approved by the city manager, provided any such transfer is made for the purpose of allowing the holder of a water license to convert outside irrigation to the city's water reclamation system and further provided any such transfer is consistent with the provisions of this chapter. (Ord. 546 §6, 1984; Ord. 1221 §1, 1997)

**13-02-070 Outside city.**

No new water licenses may be issued for property outside the city except pursuant to existing contracts unless first approved by the city council. Where an existing contract allows service, or where the city council approves service, outside the city, the property owner may apply for a water license even though the property is outside of the city. (Ord. 546 §6, 1984)

**13-02-080 Prior provisions.**

(A) Holders of valid or expired water licenses issued under former chapters 13-04, 13-08, and 13-10 who wish to buy a new license shall receive credit towards the current fees for any fees now on deposit with the city, except to the extent the Denver Water Department has made charges in relation to such licenses.

(B) Holders of expired water licenses issued under chapters 13-04 and 13-08, who do not want a new license, may, on written request, receive refunds in an amount equal to the difference between deposits previously made and fifty percent of the water availability of service fees in effect at the time of application for the expired water license. Such refunds shall be made within sixty days of receipt of the written request.

(C) Holders of expired water licenses issued under former chapter 13-10 may, on written request, receive refunds of all fees previously paid, less a two-hundred-ten-dollar forfeiture to the city and less any penalties or administrative charges paid to the Denver Water Department. Such refunds shall be made within sixty days of receipt of the written request. (Ord. 546 §6, 1984)

**13-02-090 Service charges.**

The flat monthly water service charges established by chapter 13-12 shall begin on the date a water license is purchased. (Ord. 546 §6, 1984)

**13-02-100 Definitions.**

As used in this chapter, unless the context clearly indicates otherwise, the following terms shall have the meanings indicated:

(A) *Three-quarter-inch equivalent tap.* The basic unit of comparison based on demand on the water system. Demand is compared to the demand characteristics of three-quarter-inch connections serving single-family

detached housing. Equivalence is determined on a case-by-case basis by the public works department, except for the following:

(1) Connections serving duplexes shall be equivalent to one three-quarter-inch equivalent tap per unit.

(2) Connections serving mobile homes shall be equivalent to eighty percent of a three-quarter-inch equivalent tap per unit.

(3) Connections serving townhouses or other single-family attached and detached housing with no individual outside irrigation shall be equivalent to sixty percent of a three-quarter-inch equivalent tap per unit.

(4) Connections serving apartments or apartment-style condominium units with no individual outside irrigation shall be equivalent to forty percent of a three-quarter-inch equivalent tap per unit.

(B) *City water system.* The water reservoir, plant, lines, pumps, facilities, assets, and appurtenances controlled by the city.

(C) *Tap.* A physical connection to a distribution main.

(D) *Stub-in.* A tap made to allow streets to be paved before a service connection is made. A stub-in line ordinarily extends only to just beyond the curb line. A stub-in does not provide service.

(E) *Service connection.* A tap and appurtenances capable of effecting water service to a water meter. (Ord. 546 §6, 1984; Ord. 1907 §1, 2009)

## Chapter 13-06

### Water Taps, and Tap and Meter Fees

#### 13-06-010 Requirements for water taps and service connection.

(A) No water tap may be made unless all of the following conditions are met, except for temporary connections pursuant to chapter 13-16:

(1) The lot, tract, or parcel of land to be served must be properly platted and the plat therefor must be approved and recorded pursuant to title 16, if such platting is required by title 16.

(2) A distribution main providing sufficient pressure and volumes as determined by the public works department must be in place, ready to provide service, and approved for tapping by the public works department.

(3) All fees for the water tap have been paid.

(B) No service connection may be made unless all of the conditions for a water tap and the following additional conditions are met:

(1) There must be a valid water license for the service connection.

(2) All fees for the water meter and the water license have been paid. (Ord. 546 §7, 1984; Ord. 575 §2, 1984)

#### 13-06-020 Fees for water taps.

(A) The following fees shall be paid for water taps up to two inches in diameter:

| <i>Tap Size</i> | <i>Water Tap Fee</i> |
|-----------------|----------------------|
| ¾"              | \$ 75.00             |
| 1"              | 100.00               |
| 1½"             | 150.00               |
| 2"              | 200.00               |

(B) For water taps of larger sizes, a tap inspection fee of \$100.00 shall be paid to the public works department. Material and work conforming to city standards and specifications will be provided by the person making the tap.

(C) Fees for water taps shall be those in effect when the tap is made and shall be paid before a tap is actually made, whether for a stub-in or for a service connection. (Ord. 546 §7, 1984)

#### **13-06-030 Fees for water meters.**

Fees for water meters will be paid at the same time the water license fee is paid. The fee will be based on the size of the meter, the cost of the meter at the time the fee is paid, and the cost for the installation of the meter. The city will maintain a current price listing for the cost of different-sized meters and the installation cost for the meters. (Ord. 546 §7, 1984; Ord. 1202 §1, 1996; Ord. 1253 §1, 1997; Ord. 1823 §3, 2006)

### **Chapter 13-07**

#### **Cross-Connection and Backflow Connection Control Program**

##### **13-07-010 Purpose.**

It is the intent of the city council to protect the city's water system from contamination or pollution by backflow from a customer's internal distribution system or private water system, and to provide for the maintenance of a continuing program of cross-connection control, which will systematically prevent the contamination of the city water system. This ordinance does not apply to residential services unless there are more than two dwelling units per service connection. (Ord. 1796 §1, 2005)

##### **13-07-020 Implementation.**

(A) The city manager is hereby delegated the responsibility for implementing a Cross-Connection and Backflow Control Program in accordance with this chapter and for enforcement thereof. If a backflow prevention device is required at the city water service connection to the customer's premises for the protection of the city's water system, the city manager shall give notice in writing to the customer to install an approved backflow prevention device or devices at the customer's own expense.

(B) No provision of this chapter exempts the customer from the cross-connection control provision for internal water distribution system as contained in the International Plumbing Code and the International Residential Code, which have been adopted by reference in chapter 15-05 of this code. (Ord. 1796 §1, 2005)

##### **13-07-030 Definitions.**

For purposes of this chapter, unless the context clearly indicates otherwise, the following terms shall be defined as follows:

(A) *Auxiliary water supply* means any water supply on or available to the premises other than the approved public potable water supply, including water from another purveyor's public potable water supply or any natural source such as a well, spring, or stream.

(B) *Backflow prevention device* means a device or other means designed to prevent backflow or back-siphonage, as follows:

(1) *Air gap* means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the edge of the vessel from which water overflows, which shall be at least two times the diameter of the supply pipe, measured vertically above the top of the rim of the vessel, and in no case, less than one inch. When an air-gap is used at the service connection to prevent the contamination or pollution of the public potable water system, an emergency bypass shall be installed around the air-gap system and an approved reduced pressure principle device shall be installed in the bypass system.

(2) *Reduced pressure principle device* means an assembly of two independently operating approved check valves with an automatically opening differential relief valve between the two check valves, tightly closing shut-off valve on either side of the check valves, plus properly located test cocks for the testing of the check and relief valves. The device shall operate to maintain the pressure in the zone between the two check valves at a level less than the pressure on the public water supply side of the device. At cessation of normal

flow, the pressure between the two check valves shall be less than the pressure on the public water supply side of the device. In case of leakage of either of the check valves, the differential relief valve shall operate to maintain the reduced pressure in the zone between the check valves by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere.

(3) *Double check valve assembly* means an assembly of two independently operating approved check valves tightly closing shut-off valves on each side of the check valve, plus properly located test cocks for the testing of each check valve.

(C) *Back pressure* means backflow caused by a pump, elevated tank, boiler or other means that could create pressure within the system greater than the supply pressure.

(D) *Back siphonage* means the flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply system, from any source other than its intended source, caused by the sudden reduction of pressure in the potable water supply system.

(E) *Certified Cross-Connection Control Technician* means an individual that possesses a valid cross-connection control certification from the American Society of Sanitary Engineering (ASSE), the American Backflow Prevention Association (ABPA) or the Association of Boards of Certification (ABC). *Cross-Connection Control Technicians* certified prior to January 1, 2003, under the program administered by the Colorado Water and Wastewater Collection Systems Certification Council, Inc., shall be considered compliant with the certification requirements through the scheduled expiration date of their certification except those individuals whose certification expired between January 1, 2003, and December 31, 2004, had until December 31, 2004, to obtain certification from one of the organizations listed above or their certification lapsed as of January 1, 2005.

(F) *Cross-connection* means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow determined by the pressure differential between the two systems.

(G) *Customer* means user, owner, or occupant.

(H) *Industrial fluids system* means any system containing a fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health hazard, pollution, or contaminated water; all types of process water and "used water" origination from the public potable water system which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulated cooling water connected to an open cooling tower that is chemically or biologically treated or stabilized with toxic substances; contaminated waters, oils, gases, glycerine; paraffins; caustic and acid solution, and other liquid and gaseous fluids used for industrial, fire-fighting, or other purposes.

(I) *Spill-proof vacuum breaker* means an assembly consisting of one check valve force-loaded closed and an air-inlet vent valve force-loaded open to atmosphere, positioned downstream of the check valve, and located between and including two tightly closing shutoff valves and test cock.

(J) *Utility Operations Division* means the Utility Operations Division of the city's Public Works Department.

(K) *Vacuum breaker – atmospheric non-pressure type* means a vacuum breaker designed so as to be subjected to static pressure or installed where it would be under pressure for not more than twelve hours in any 24-hour period.

(L) *Vacuum breaker – pressure type* means a vacuum breaker designed so as to be subjected to static line pressure.

(M) *Water service connection* means the terminal end of a service connection where the city loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then *the service connection* shall mean the downstream end of the meter. The term shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

(N) *Water supply system* includes:

(1) *Utility system* shall consist of the source facilities and the distribution system; and shall include all those facilities of the water system under the complete control of the utility, up to the point where the

customer's system begins. The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system;

(2) *Distribution system* shall include the network of conduits used for the delivery of water from the source to the customer's system; and

(3) *Customer system* shall include those parts of the facilities, beyond the termination of the utility distribution system, which are utilized in conveying utility-delivered domestic water to points of use. (Ord. 1796 §1, 2005)

#### **13-07-040 Fire system.**

(A) The chief of a fire department in the city, or his or her designee, shall have the authority to review the plans submitted for fire protection systems, approve the system installed, inspect the system and enforce the fire systems section herein.

(B) Whenever practicable, water systems for fighting fire derived from a supply that cannot be approved as potable shall be kept wholly separate from drinking water pipelines, and equipment. Where the domestic water system is used for both drinking and fire fighting purposes, approved backflow prevention devices shall be installed to protect individual drinking water lines that are not used for fire fighting purposes.

(C) Fire protection systems are classified as low hazard, moderate hazard, or high hazard, as follows:

(1) A low hazard system is a single nonpumped system serving a building with a maximum height of thirty feet or a dry system. Backflow prevention devices required for a low hazard system are single detector check meter, alarm check valve, or single soft seat check valve.

(2) A moderate hazard system is any wet system without corrosion prohibition or freeze protection chemicals. This may include systems with pumper connections, in-line booster pumps, private hydrants, or looped system. Backflow prevention devices required for a moderate hazard system are approved double check valve assembly or approved detector double check valve assembly.

(3) A high hazard system is any system where an auxiliary water supply is permanently connected to the fire system, corrosion, prohibition, or antifreeze chemicals are used or a foamite installation is used. The backflow prevention device required for a high hazard system is an approved reduced pressure principal backflow device.

(D) It is hereby declared that it is the responsibility of the person causing the introduction of unapproved or unsafe water into the city's pipeline during an emergency to see that a procedure to notify and protect customers of this piping system during the emergency is developed and implemented and that special precautions be taken to disinfect thoroughly and flush out all pipelines which may become contaminated before they are again used to furnish drinking water. (Ord. 1796 §1, 2005)

#### **13-07-050 Installation.**

(A) So that the public water system will be protected, customer shall install a backflow prevention device approved by the city at or near the property line or immediately inside the structure being serviced; but, in all cases, before the first branch line leading off the service line appropriate to the degree of hazard, wherever any of the following conditions exist:

(1) In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source to the city manager;

(2) In the case of premises in which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system. This will include the handling of process waters originating from the public water system which have been subject to deterioration in quality;

(3) In the case of premises having internal cross-connection that cannot be permanently corrected and controlled, or that have intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible for inspection purposes making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist; or

(4) As otherwise required by the International Plumbing Code.

(B) Facilities or premises required to have an approved cross-connection control device include the following:

- (1) Hospitals, clinics, medical, and dental laboratories;
- (2) Mortuaries;
- (3) Manufacturing and industrial facilities;
- (4) All buildings greater than 40 feet high;
- (5) All premises, public and private, which have irrigation systems separate from the potable system, including but not limited to cemeteries, churches, estates, golf courses, parks, playgrounds, schools, and ranches;
- (6) All facilities, areas, or locations that have pipe configurations in which piping containing potable water is physically joined to a piping system which contains any substance other than potable water; and
- (7) All facilities, areas or locations that have pipe arrangements in which piping containing potable water may be contaminated by any substance which may be forced, back-siphoned, or otherwise diverted into the potable water system.

(C) The customer of any building, facility, or premises not referenced in the foregoing list may be required by the city manager to install a backflow prevention device as provided in this section. The compliance period and backflow device required will be determined by the city manager.

(D) Backflow prevention devices are to be installed in an accessible location to facilitate inspection, testing, and maintenance. Adequate drainage area for the device must be provided for in the event water is released. (Ord. 1796 §1, 2005)

#### **13-07-060 Inspection, testing and repair.**

(A) At least once per year, it will be the duty of the customer at any premises where any backflow prevention devices are installed to have certified tests made of these devices. In those specific instances where the city manager deems the hazard great enough, he will require certified inspections at more frequent intervals. These tests shall be made at the expense of the customer and shall be performed by a certified cross-connection control technician.

(B) As necessary, the device shall be repaired or replaced at the expense of the customer whenever the device(s) are found to be defective. Records of copies of same, of all such tests, repairs or replacement shall be kept with a copy sent to:

The City and County of Broomfield  
Utility Operations Division  
3001 W. 124<sup>th</sup> Avenue  
Broomfield, CO 80020

(C) Existing devices shall be sealed by the technician performing the test at the completion of the test.

(D) All testing gauges shall be checked for accuracy yearly, or more often, on the event of questionable readings.

(E) The Utility Operations Division retains the right to test or otherwise check the installation and operation of any containment device.

(F) The certified inspector will report on the form prescribed by the Utility Operations Division, the results of inspections, tests, and maintenance to the Utility Operations Division and the water owner. This report will be submitted to the Utility Operations Division within ten days following the completion of the inspection, test, or maintenance of the device. The certified inspector shall also, on the form prescribed by the city, attach a card to the backflow prevention device following each inspection, test, or maintenance activity to document and date the activities performed. Records of all inspections, tests, or maintenance activities, including materials and parts changed, shall be kept by the certified inspector, the property customer, and the city and Utility Operations Division for a period of not less than three years. (Ord. 1796 §1, 2005)

### **13-07-070 Right of entry.**

(A) The city's water utility representative assigned to inspect premises relative to potential hazards shall carry proper credentials of his or her office, upon exhibit of which he or she shall have the right of entry during usual business hours to inspect any and all buildings and premises for cross-connection in the performance of his or her duties. If the city or its duly authorized representative is denied access for inspection, water service may be suspended by the city in accordance with the provisions of section 13-12-040, B.M.C.

(B) This right of entry shall be a condition of water service in order to provide assurance of the health, safety, and welfare of the people throughout the city's potable water distribution system. Where building security is required, the backflow device(s) should be located in an area not subject to security. Questions regarding the proper credentials should be directed to the Utility Operations Division. (Ord. 1796 §1, 2005)

### **13-07-080 Violation and penalties.**

(A) Failure of the customer to cooperate in the installation, maintenance, testing, or inspection of backflow prevention devices required by these regulations shall be grounds for the discontinuance of water service to the premises or the requirement for an air-gap separation from the public water system.

(B) Service of water to any premises may be discontinued by the city manager after written notification for any violations of this chapter, including, but not limited to, if unprotected cross-connection exists on the premises, or if any defect is found in an installed backflow prevention device which has been removed or bypassed. Service shall not be restored until such conditions or defects are corrected.

(C) Discontinuance of service may be summary, immediate, and without written notice whenever, in the judgment of the city manager, such action is necessary to protect the purity of the public potable water supply or the safety of the water system.

(D) Customers are referred to section 25-1-114, C.R.S., which sets forth the penalties for criminal violations of the health laws, and to section 25-1-114.1, C.R.S., which sets forth the available civil remedies for violations of such health laws. Copies are available for review at the Utility Operations Division, 3001 W. 124<sup>th</sup> Avenue, Broomfield, CO 80020.

(E) In accordance with section 25-1-114.1, C.R.S., any customer who is found to have willfully or negligently failed to comply with any provision of these regulations shall be assessed a penalty and charge of \$1,000 for each offense plus interest as provided by statute. Each day on which a violation shall occur or continue shall be deemed a separate offense. In addition to the penalties provided herein, the city manager may recover reasonable actual damages incurred by the city by appropriate suit at law against the person or entity who is found to have violated any provision of these regulations. Such damage shall include, but not be limited to, actual damages incurred by the city and costs incurred by Publicly Owned Treatment Works for violation of its national Pollutant Discharge Elimination System permit where such permit violation is a direct result of a violation of these regulations.

(F) In addition to any other penalties set forth herein, any person who shall violate any of the provisions of this chapter shall be subject to the penalties set forth in chapters one through twelve, B.M.C.

(G) Any charges imposed by the city in accordance with the code relating to the cross-connection and backflow connection control program, together with the cost of collecting those charges, including court costs and attorney's fees, are a lien that is prior and superior to all other liens, claims, titles, and encumbrances, whether prior in time or not, except liens for general taxes, and remain a lien upon the real property served by the water connection from the date such charges and the cost of collecting them, if any, become due, until they are paid. Said lien shall be enforced in accordance with the provisions set forth in section 13-12-045, B.M.C. (Ord. 1796 §1, 2005)

### **13-07-090 Compliance.**

(A) Customer shall test annually all existing backflow devices installed on customer's systems. Any failed devices, as evidenced on the test inspection report, shall be repaired by the customer within ten days.

(B) The compliance period for new installations is set forth in subsection 13-07-090(C) of this code. If a new device is found not to be tested, the customer has ten days from the date of issuance of the notice of noncompliance by the Utility Operations Division to have the device tested. All test reports shall be mailed to:

The City and County of Broomfield

Utility Operations Division  
3001 W. 124<sup>th</sup> Avenue  
Broomfield, CO 80020

(C) The compliance period for installation, inspection, and testing of a backflow prevention device, including air-gap (AG), double check valve assembly (DC), or reduced pressure principal device (RP), shall be as follows:

- (1) An existing facility shall comply within 60 days of the date of issuance of a notice of noncompliance issued by the Utility Operations Division.
- (2) An existing facility that is being altered to the extent that it requires a building permit shall comply at the time of final inspection by the Building Division.
- (3) A newly constructed facility shall comply prior to the issuance of the Certificate of Occupancy.
- (4) Any facility with a documented or suspected backflow incident shall comply within ten days from the date of backflow occurrence. (Ord. 1796 §1, 2005)

### **13-07-100 Backflow prevention devices.**

(A) Any backflow prevention device required herein will be of a model and size approved by the city manager. The term *approved backflow prevention device* means a device that has been manufactured in full conformance with the standards established by the American Water Works Association entitled, "AWWA C506-78 Standards for Reduced Pressure Principal and Double Check Valve Backflow Prevention Devices," which is hereby adopted by reference in its present form as the city standard. The term *approved backflow prevention device* also means a device that has met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research (FCC and HR) of the University of Southern California established by "Specifications of Backflow Prevention Devices – Section 10" of the current issue of the *Colorado Department of Health Cross-Connection Manual*, which is hereby adopted by reference as the city cross-connection manual and laboratory and field performance specifications. Final approval is evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with said AWWA standards and FCC and HR specifications. In addition to the aforementioned standards and specifications, all backflow prevention devices will have a unique serial number attached to the device by the manufacturer.

(B) Backflow prevention devices currently installed which are not approved shall be replaced by the customer with an approved device within three years of adoption of this chapter, unless the device fails an annual operational test. If the device fails any such test, the customer shall replace it with an approved device in accordance with this section.

(C) Backflow prevention devices that may be subjected to back-pressure or back-siphonage that have been fully tested and have been granted a certificate of approval by said qualified laboratory and are listed on the laboratory's current list of approved devices, and newly installed devices which have been inspected and installed to the satisfaction of the city manager, are deemed to be in compliance with this chapter. (Ord. 1796 §1, 2005)

## **Chapter 13-08**

### **Sewer Licenses**

#### **13-08-010 Required.**

It shall be unlawful to make a service connection to the city's sewer system without a sewer license therefor. (Ord. 604 §2, 1984)

#### **13-08-020 Sewer license fee.**

Sewer licenses may be purchased from the city at a fee of \$8,427.00 per equivalent sewer tap. Tap fees are separate and additional. (Ord. 710 §2, 1986; Ord. 752 §2, 1987; Ord. 805 §2, 1988; Ord. 871 §2, 1989; Ord. 887 §2, 1990; Ord. 918 §2, 1991; Ord. 949 §2, 1993; Ord. 1033 §2, 1994; Ord. 1105 §2, 1995; Ord. 1167 §1, 1996; Ord. 1213 §2, 1996; Ord. 1304 §2, 1998; Ord. 1378 §2, 1999; Ord. 1430 §2, 1999; Ord. 1516 §2, 2000;

Ord. 1649 §2, 2001; Ord. 1702 §2, 2003; Ord. 1753 §1, 2003; Ord. 1787 §1, 2005; Ord. 1824 §1, 2006; Ord. 1853 §1, 2006; Ord. 1880 §1, 2008)

**13-08-030 Application.**

Applications for sewer licenses may be made to the public works department on forms provided by that department by any person owning property within the city or by his or her agent. Applications must be accompanied by the license fee and must contain the following:

(A) A description of the lot, tract, or parcel owned and to be served, including a legal description, a street address, or such other description as may be required by the public works department.

(B) The size of the sewer tap requested.

(C) A description of the purposes for which the sewer is to be used.

(D) The name, address, and signature of the applicant.

(E) Other information required by the public works department to assist in administering this chapter. (Ord. 604 §2, 1984)

**13-08-040 Issuance.**

The department of public works shall issue a sewer license if the application complies with section 13-08-030. If the application does not comply with section 13-08-030, the department of public works shall deny the application. (Ord. 604 §2, 1984)

**13-08-050 Required for building permit.**

No building permit for a structure which will require a new sewer tap or connection shall be issued unless the application has a valid sewer license. (Ord. 604 §2, 1984)

**13-08-060 Transfer provisions.**

(A) A sewer license shall be issued for the lot, tract, or parcel described in the application and shall be issued to the owner of that property.

(B) A sewer license may not be transferred or sold except in conjunction with a sale or transfer of the underlying property, either as a whole or in smaller tracts, pursuant to the applicable provisions of title 16.

(C) If a sewer license is sold or transferred as provided in subsection (B), the city must be immediately notified in writing and may require evidence of such transfer or sale. (Ord. 604 §2, 1984)

**13-08-070 Outside city.**

No new sewer licenses may be issued for property outside the city except pursuant to existing contracts unless first approved by the city council. Where an existing contract allows service, or where the city council approves service, outside the city, the property owner may apply for a sewer license even though the property is outside of the city. (Ord. 604 §2, 1984)

**13-08-080 Service charges.**

The minimum monthly sewer service charges established by chapter 13-12 shall begin on the date a sewer license is purchased. (Ord. 604 §2, 1984)

**13-08-090 Definitions.**

As used in this chapter, unless the context clearly indicates otherwise, the following terms shall have the meanings indicated:

(A) *Equivalent sewer tap.* The basic unit of comparison based on demand on the sewer system. Demand is compared to the demand characteristics of sewer connections serving single-family detached housing. Nonresidential equivalence is determined on a case-by-case basis by the public works department and is based on 320 gallons of average daily flow per equivalent sewer tap. All residential uses, including single-family detached, attached, mobile homes, condominiums, townhouses, apartments, and motels or hotel rooms with kitchen facilities, shall have one equivalent sewer tap per dwelling unit.

(B) *City sewer system.* The wastewater plant, lines, pumps, facilities, assets, and appurtenances controlled by the city.

(C) *Tap.* A physical connection to a collection main.

(D) *Service connection.* A tap and appurtenances capable of effecting sewer service. (Ord. 604 §2, 1984)

## Chapter 13-10

### Sewer Taps and Tap Inspection Fees

#### 13-10-010 Requirements for sewer taps and service connections.

(A) No sewer tap may be made unless all of the following conditions are met:

(1) The lot, tract, or parcel of land to be served must be properly platted and the plat therefor must be approved and recorded pursuant to title 16, if such platting is required by title 16.

(2) A collection main providing sufficient capacity as determined by the public works department, must be in place, ready to provide service, and approved for tapping by the public works department.

(3) The sewer tap inspection fees must have been paid.

(B) No service connection may be made unless all of the conditions for a sewer tap and the following additional conditions are met:

(1) There must be a valid sewer license for the service connection.

(2) The sewer license fees must have been paid.

(3) A service connection permit, and if required, a wastewater discharge permit has been issued pursuant to chapter 13-28. (Ord. 604 §3, 1984)

#### 13-10-020 Sewer tap inspection fee.

The tap inspection fee for all sizes and categories of sewer taps shall be \$50.00 per tap and shall cover the cost of inspection only. All taps shall be made according to the city's standards and specifications by a qualified plumber licensed by the city, and all material and labor shall be provided by the property owner. (Ord. 604 §3, 1984)

## Chapter 13-12

### Water and Sewer Service Charges

#### 13-12-010 Monthly water service charges.

(A) *Residential water service charges.* Residential customers shall be charged for the use of water from the city water system as set forth below:

(1) Flat monthly charge (no gallonage included): \$8.74 per dwelling unit; and

(2) Charge for all water use: \$2.80 per 1,000 gallons.

(B) *Business, commercial, industrial, and other nonresidential water service charges.* Business, commercial, industrial, and other nonresidential customers shall be charged for the use of water from the city water system the charges and rates set forth below:

(1) Flat monthly charge: There shall be a flat monthly charge for all business, commercial, industrial, and other nonresidential customers based upon the size of the water connection serving the property or customer account (no gallonage included) as follows:

| <i>Connection Size</i> | <i>Flat Monthly Charge</i> |
|------------------------|----------------------------|
| ¾"                     | \$ 11.60                   |
| 1"                     | 23.17                      |
| 1¼"                    | 34.78                      |
| 1½"                    | 46.37                      |
| 2"                     | 92.73                      |
| 3"                     | 208.64                     |
| 4"                     | 417.28                     |
| 6"                     | 1,089.63                   |
| 8"                     | 2,318.28                   |

(2) Charge for all water use: \$2.80 per 1,000 gallons. Nonresidential accounts shall include schools, churches, public or institutional buildings, parks, and irrigation accounts.

(3) Standby fire protection charges:

| <i>Connection Size</i> | <i>Monthly Charge</i> |
|------------------------|-----------------------|
| 2"                     | \$ 10.81              |
| 3"                     | 21.64                 |
| 4"                     | 43.26                 |
| 6"                     | 81.15                 |
| 8"                     | 108.19                |

(Ord. 709 §1, 1986; Ord. 872 §1, 1989; Ord. 888 §1, 1990; Ord. 919 §1, 1991; Ord. 950 §1, 1993; Ord. 1168 §1, 1996; Ord. 1305 §1, 1998; Ord. 1379 §1, 1999; Ord. 1650 §1, 2001; Ord. 1669 §1, 2002; Ord. 1686 §§1, 2, 2002; Ord. 1731 §1, 2003; Ord. 1752 §2, 2003; Ord. 1786 §2, 2005; Ord. 1823 §2, 2006; Ord. 1852 §2, 2006; Ord. 1879 §2, 2008)

### **13-12-020 Monthly sewer service charges.**

(A) *Residential sewer service charges.*

(1) All residential accounts shall be charged a gallonage charge based on average winter water consumption. The monthly charge is \$2.76 per 1,000 gallons, or \$11.04 per dwelling unit, whichever is greater.

(2) Any new occupant of a residential unit served by a separate connection and any new residential unit shall be charged a \$16.56 monthly sewer charge until average winter water consumption is established.

(3) Any new multi-unit account shall be charged a monthly sewer charge of \$16.56 per dwelling unit until average winter water consumption is established.

(4) *Average winter water consumption* shall be the average water consumption for the four monthly bills reflecting usage between November 1 and the following March 31. The average winter water consumption for each account shall be calculated once annually and shall be the basis for determining charges for the following twelve months.

(B) *Nonresidential sewer service charge.*

(1) Each nonresidential account shall be assigned by the director of public works to the most appropriate category listed in Table 13-12A, attached hereto and incorporated herein by reference. Values for concentration of BOD, COD, and TSS, as those terms are defined in chapter 13-28, will be as set forth in Table 13-12A, unless values are determined by the director of public works based on actual sampling of the effluent. Any sample taken for such purposes shall be a composite sample, as defined in chapter 13-28. Analysis shall be done in accordance with the procedures described in the latest edition of "Standard Methods for the Examination of Water and Wastewater," as published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation. Such

individual sampling and analysis will be offered by the department of public works on request of the user, at such user's expense and if requested, the sample will be split and half of the sample will be given to such user for analysis by an independent laboratory. If analysis ordered by the department of public works and that obtained by user are significantly different, the director of public works may accept the user's analysis, or may order a new sample and analysis done at city expense. Each nonresidential customer must provide suitable access for sampling purposes.

(2) The monthly charge for each nonresidential account shall consist of the following elements:

a. A gallonage charge based on year-round nonirrigation water consumption. The charge is \$2.76 per 1,000 gallons, or \$11.04 per equivalent sewer tap, whichever is greater.

b. A surcharge for excess BOD, COD, and TSS, as determined by whichever of the following formulae produces the higher surcharge:

$$S = Q (0.00833AR_A + 0.00833 CR_C) \text{ or}$$

$$S = Q (0.00833BR_B + 0.00833 CR_C)$$

where

S = Amount of surcharge (cannot be less than zero)

Q = 100% of year-round nonirrigation water consumption for the account, expressed in thousands of gallons per month (until year-round nonirrigation water consumption is established, Q = 100% of total water consumption).

A = Average BOD strength of wastewater expressed in mg/l minus 200 mg/l

B = Average COD strength of wastewater expressed in mg/l minus 300 mg/l

C = Average TSS strength of wastewater expressed in mg/l minus 200 mg/l

R<sub>A</sub> = \$0.27 per pound of excess BOD

R<sub>B</sub> = \$0.27 per pound of excess COD

R<sub>C</sub> = \$0.19 per pound of excess TSS

(3) Any new nonresidential account shall be charged a monthly gallonage charge of \$16.56 per equivalent sewer tap until year-round nonirrigation water consumption is established. In addition, any surcharges under subsection (2)b. above shall apply.

(4) Year-round nonirrigation water consumption shall be based on the average water consumption for the four monthly bills reflecting usage between November 1 and the following March 31, calculated once annually and used as the basis for determining charges for the following twelve months. As an alternative, it may be based on the consumption shown on a metering system indicating nonirrigation use only.

(5) *Equivalent sewer tap* shall be as defined in chapter 13-08.

(C) *Annual notification.* Each user will be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(D) All residential and nonresidential accounts shall be charged an unfunded mandate charge based on average winter water consumption of \$0.52 per 1,000 gallons. (Ord. 658 §2, 1985; Ord. 872 §§2-4, 1989; Ord. 888 §§2-4, 1990; Ord. 919 §§2-4, 1991; Ord. 950 §§2-4, 1993; Ord. 1034 §§1-3, 1994; Ord. 1106 §§1-3, 1995; Ord. 1168 §§2, 3, 1996; Ord. 1170 §1, 1996; Ord. 1214 §§1-3, 1996; Ord. 1305 §2, 1998; Ord. 1379 §3, 1999; Ord. 1650 §§2, 4, 2001; Ord. 1669 §§2, 3, 2002; Ord. 1730 §§1-3, 2003; Ord. 1753 §§2-4, 2003; Ord. 1787 §§2—4, 2005; Ord. 1824 §4, 2006; Ord. 1853 §§2—4, 2006; Ord. 1880 §§2—4, 2008)

**TABLE 13-12A**

| <i>Number</i> | <i>Category<br/>Type</i>                                      | <i>A</i>              |                                  | <i>B</i>              |                                  | <i>C</i>              |                                  |
|---------------|---|-----------------------|----------------------------------|-----------------------|----------------------------------|-----------------------|----------------------------------|
|               |   | <i>BOD<br/>(mg/l)</i> | <i>Excess<br/>BOD<br/>(mg/l)</i> | <i>COD<br/>(mg/l)</i> | <i>Excess<br/>COD<br/>(mg/l)</i> | <i>TSS<br/>(mg/l)</i> | <i>Excess<br/>TSS<br/>(mg/l)</i> |
| 1             | Meat Packing  | 848                   | 648                              | 1272                  | 972                              | 846                   | 646                              |
| 2             | Slaughterhouses   | 1420                  | 1220                             | 1150                  | 850                              | 1367                  | 1167                             |
| 3             | Dairy Products Processing                                     | 1127                  | 927                              | 3536                  | 3236                             | 445                   | 245                              |
| 4             | Fruits and Vegetables Canning                                 | 537                   | 337                              | 1309                  | 1009                             | 306                   | 106                              |
| 5             | Grain Mills   | 978                   | 778                              | 721                   | 421                              | 1406                  | 1206                             |
| 6             | Bakeries  | 688                   | 488                              | 1032                  | 732                              | 620                   | 420                              |
| 7             | Sugar Processing  | 395                   | 195                              | 999                   | 699                              | 274                   | 74                               |
| 8             | Fats and Oil Processing                                       | 403                   | 203                              | 1222                  | 922                              | 343                   | 143                              |
| 9             | Rendering Tallow  | 319                   | 119                              | 382                   | 82                               | 140                   | -0-                              |
| 10            | Beverage Bottling   | 536                   | 336                              | 804                   | 504                              | 192                   | -0-                              |
| 11            | Miscellaneous Food Manufacturing                              | 2961                  | 2761                             | 4354                  | 4054                             | 563                   | 363                              |
| 12            | Pulp Products   | 157                   | -0-                              | 293                   | -0-                              | 477                   | 277                              |
| 13            | Inorganic Chemicals   | 89                    | -0-                              | 134                   | -0-                              | 3249                  | 3049                             |
| 14            | Soap Manufacturing  | 156                   | -0-                              | 2224                  | 1924                             | 230                   | 30                               |
| 15            | Paint Manufacturing   | 487                   | 287                              | 4103                  | 3803                             | 1039                  | 839                              |
| 16            | Photographic Processing                                       | 300                   | 100                              | 1000                  | 700                              | 25                    | -0-                              |
| 17            | Ink Manufacturing   | 412                   | 212                              | 618                   | 318                              | 156                   | -0-                              |
| 18            | Pharmaceutical Industry                                       | 430                   | 230                              | 683                   | 383                              | 45                    | -0-                              |
| 19            | Leather Tanning   | 2039                  | 1839                             | 5139                  | 4839                             | 1435                  | 1235                             |
| 20            | Drum Cleaning   | 503                   | 303                              | 1226                  | 926                              | 974                   | 774                              |
| 21            | Restaurants   | 820                   | 620                              | 1230                  | 930                              | 905                   | 705                              |
| 22            | Hotels-Motels   | 310                   | 110                              | 465                   | 165                              | 121                   | -0-                              |
| 23            | Grocery Stores (with delicatessens<br>and garbage disposals)  | 400                   | 200                              | 600                   | 300                              | 400                   | 200                              |
| 24            | Fast Food Service   | 400                   | 200                              | 600                   | 300                              | 450                   | 250                              |
| 25            | Commercial Laundries  | 596                   | 396                              | 894                   | 594                              | 367                   | 167                              |
| 26            | Laundromats   | 219                   | 19                               | 320                   | 29                               | 87                    | -0-                              |
| 27            | Industrial Laundries  | 1322                  | 1122                             | 1983                  | 1683                             | 1461                  | 1261                             |
| 28            | Hospitals   | 231                   | 31                               | 347                   | 47                               | 266                   | 66                               |
| 29            | Service Stations  | 385                   | 185                              | 578                   | 278                              | 30                    | -0-                              |
| 30            | Beauty Salons   | 100                   | -0-                              | 150                   | -0-                              | 100                   | -0-                              |
| 31            | Grocery Store (without delicatessens<br>or garbage disposals) | 100                   | -0-                              | 150                   | -0-                              | 25                    | -0-                              |
| 32            | Funeral Homes   | 300                   | 100                              | 450                   | 150                              | 275                   | 75                               |
| 33            | Pet Shops, Grooming, Kennels                                  | 350                   | 150                              | 525                   | 225                              | 350                   | 150                              |
| 34            | Schools (kitchens for other schools)                          | 545                   | 345                              | 818                   | 518                              | 96                    | -0-                              |
| 35            | Car Washes  | 150                   | -0-                              | 225                   | -0-                              | 350                   | 150                              |
| 36            | Metal Plating   | 8                     | -0-                              | 27                    | -0-                              | 350                   | 150                              |
| 37            | Schools (kitchens for school use)                             | 330                   | 130                              | 495                   | 195                              | 112                   | -0-                              |
| 38            | Domestic Waste  | 200                   | -0-                              | 300                   | -0-                              | 200                   | -0-                              |
| 39            | Irrigation  | -0-                   | -0-                              | -0-                   | -0-                              | -0-                   | -0-                              |
| 40            | Other Categories  | *                     | *                                | *                     | *                                | *                     | *                                |

\* Values to be determined as needed by the director of public works

**13-12-030 Out-of-city water and sewer service charges.**

Users outside the corporate limits of the city will be charged three times the rates set forth in this chapter unless separate agreement or contract with the city governs. (Ord. 397 §2, 1980; Ord. 1712 §1, 2003)

### **13-12-035 Payment responsibility.**

The owner of every premises, building, lot, house, or dwelling unit is liable for all charges for water and sewer services associated with said premises, building, lot, house, or dwelling unit. The owner may designate another person to whom bills containing the water and sewer charges and the notices of the proposed disconnection of water service shall be sent. Mailing of a bill for water and sewer service to any address shall in no way affect the power of the city to enforce payment of charges or to take any other action provided in this chapter or authorized by law or equity. (Ord. 825 §1, 1989)

### **13-12-040 Delinquencies and disconnection of service.**

(A) *Delinquencies.* Water and sewer service charges are due fifteen calendar days following the billing date. If the water and sewer charges are unpaid thirty calendar days after the billing date, the account shall be considered delinquent, and the person designated to receive the service will be sent notification of suspension of water service in accordance with subsection (D) below. In addition, all delinquent accounts shall be assessed a five-dollar-per-billing-period late charge.

(B) *Access to meter.* It is the responsibility of the property owner to provide the city with reasonable access to water meters located anywhere on the owner's property. If the property owner or occupant denies reasonable access to the city or its authorized representative to read a meter, remove a meter, repair a meter, replace a meter, or perform such other functions as the city is lawfully authorized to perform under this chapter, the owner shall be notified, in writing at the address designated to receive bills and notices pursuant to section 13-12-035 above, to schedule an appointment for the city or its duly authorized representative to perform the meter-related work. In the event the owner fails to schedule an appointment within ten days after receipt of the notification, or any scheduled appointment is not kept by the owner, the owner will be sent notification of suspension of water service in accordance with subsection (D) below and will be afforded the opportunity of a hearing in accordance with subsection (E) below. Subject to the provisions of subsection (E) below, if any person violates this subsection (B), the city will suspend water service until there is compliance with the requirements of this title, and the owner shall pay all associated costs, including the reconnect charges and all costs of collecting the charges, including court costs and attorneys' fees.

(C) *Suspension of water service.* Subject to the provisions of subsection (D) below, if any person fails or refuses to pay all charges prescribed by this title within forty-five days of the billing date or refuses to comply with the provisions of this title, the city may suspend water service until all charges, including the reconnect charge, late charges, and the cost of collecting the charges, including court costs and attorneys' fees, are paid or until the requirements of this title have been met.

(D) *Notification of suspension of service.* Water service may not be suspended unless the property owner or occupant has been given at least ten days' written notice. The written notice shall be mailed to the address designated to receive bills and notices pursuant to section 13-12-035 above. The ten-day period shall commence the day after the written notice has been mailed. The notice shall include:

- (1) The cause for suspension;
- (2) The effective date of the suspension;
- (3) A provision advising that the property owner or occupant is entitled to an administrative hearing and advising the property owner or occupant of the hearing procedures; and
- (4) A statement to the occupant that if he or she is a tenant and he or she believes that the property owner is responsible for payment of charges or for corrections of violations of title 13, he or she must notify the city of the name and address of the property owner at the time he or she requests a hearing. If the occupant notifies the city of the name and address of the property owner pursuant to this subsection, notice shall also be provided to the property owner.

(E) *Hearing procedures.*

(1) The property owner or occupant shall be entitled to an administrative hearing before the city manager or his or her designee. The hearing shall be for the purpose of determining whether cause exists for the suspension of water service.

- (2) All requests for hearings must be made in writing prior to the effective date of suspension.

(3) Upon receipt of a request for a hearing, the city manager or his or her designee shall set a time and place for the hearing; provided, however, that the hearing must be held within ten working days of said request.

(4) The city manager or his or her designee shall decide whether cause exists for suspension of water service by determining the facts and applying the provisions of this title 13 to such facts. The burden of showing that reasonable grounds exist to support the action shall be upon city personnel.

(5) The city manager or his or her designee shall make written findings and an order disposing of the matter and shall provide the property owner or occupant with a copy of such decision by certified mail within fifteen calendar days of the date of the hearing.

(6) The decision of the city manager or his or her designee shall be final, subject only to judicial review.

(F) *Payment arrangements.* The city manager or his or her designee is authorized to make such payment arrangements with delinquent customers in accordance with policies promulgated by the city manager.

(G) *Reconnect charge.* Utility services suspended pursuant to this chapter shall not be reconnected until the delinquent bill and a reconnect charge of \$25.00 have been paid. (Ord. 466 §2, 1981; Ord. 825 §2, 1989; Ord. 1678 §1, 2002)

### **13-12-045 Unpaid water and sewer charges; lien on property.**

(A) *Lien.* All charges prescribed by this code relating to the provision of water and sewer service, together with the cost of collecting them, including court costs and attorneys' fees, are a lien that is prior and superior to all other liens, claims titles, and encumbrances, whether prior in time or not, except liens for general taxes, and remain a lien upon the real property served by the water and sewer connection from the date such charges and the cost of collecting them, if any, become due, until they are paid. The amount due shall be collected as though it was part of the real estate taxes.

(B) *Enforcement of lien.* The city may enforce the lien against the property or the liability against the property owner in any action at law or an action to enforce the lien. If any person in possession of any premises, building, lot, house, or other dwelling unit pays the entire charges due and owing, the payment relieves the property owner from such liability and the premises from the lien. However, the city is not required to look to any person other than the owner of the premises, building, lot, house, or other dwelling unit for the payment of the charges.

(C) *Condominiums.* For condominiums or other properties to which water is furnished by means other than by metering the consumption of each unit, the lien for the unpaid water and sewer service charges, and costs of collection, if any, imposed by subsection (A) above attaches upon each unit in an amount computed by dividing the total amount of the lien by the number of units.

(D) *Change of ownership.* No change of ownership of occupancy shall be deemed to affect the applicability of this section. The failure of any property owner to learn that he or she purchased property against which a lien for water or sewer services exists does not affect the property owner's liability for payment in full and is not a basis for a claim against the city for refusing to turn the water on. (Ord. 825 §3, 1989)

### **13-12-046 Failure to pay; forfeiture of licenses and taps.**

(A) *Forfeiture.* If any charges made pursuant to this title 13 remain unpaid for a period of one year from the date upon which the charges were due, the right to receive water and sewer service from the city shall be forfeited, and any water license, water tap, sewer license, and sewer tap which has been issued shall be void and of no further effect. The city shall not be required to refund any license or tap fees upon forfeiture.

(B) *Notification of forfeiture.* Water licenses, water taps, sewer licenses, and sewer taps may not be forfeited unless the property owner, as shown on county records, occupant, if different from the property owner, and other persons who have record interests in the property have been given at least thirty days' written notice. The notice shall include:

- (1) The cause for forfeiture;
- (2) The effective date of the forfeiture; and

(3) A provision advising that the property owner, occupant, and other persons who have a record interest in the property are entitled to an administrative hearing and indicating the hearing procedures.

(C) *Hearing procedures.* The hearing procedures shall be the same as the hearing procedures for suspension of water service as described in subsection 13-12-040(D) above. (Ord. 825 §4, 1989)

## Chapter 13-16

### Temporary Water Permits

#### 13-16-010 Required.

A temporary permit is required whenever a temporary service connection is made to the city's water system. Special purposes for which temporary permits may be issued include:

- (A) Temporary sales office;
- (B) Construction water;
- (C) Temporary irrigation; and
- (D) Special events which require the use of water for a limited period of time. (Ord. 892 §1, 1991)

#### 13-16-020 Application.

Applications for temporary permits may be made to the city and shall be accompanied by the deposit and permit fee. Applications must contain the following information:

- (A) Proposed dates of water usage.
- (B) The size of the water meter to be used.
- (C) A description of the purposes for which the water is to be used.
- (D) The legal description and address of the property on which the connection will be located, if applicable.
- (E) The number and location of the fire hydrant to be used, if applicable.
- (F) The name, address, and telephone number of the applicant.
- (G) Other information required by the city to assist in administering this chapter. (Ord. 892 §1, 1991)

#### 13-16-030 Sizes of meters allowed.

Only three-fourths-inch and two-inch meters are available under a temporary permit. The permittee shall be allowed to furnish his or her own meter only if a meter is not available from the city. The meter must have a current annual inspection report and an approved backflow device. (Ord. 892 §1, 1991; Ord. 1567 §1, 2001)

#### 13-16-040 Deposit and fees.

- (A) The following deposit and permit fee shall be paid:

| <i>Meter Size</i>           | <i>Deposit</i> | <i>Permit Fee</i> |
|-----------------------------|----------------|-------------------|
| ¾" (furnished by city)      | \$ 200.00      | \$50.00           |
| 2" (furnished by city)      | 1,000.00       | 50.00             |
| 2" (furnished by permittee) | 500.00         | 50.00             |

(B) The deposit shall guarantee payment of water use charges and payment for damage to city equipment.

(C) All permittees shall pay the monthly water service charges as provided by section 13-12-010, B.M.C.

(D) If a water tap is required, the customer shall pay water tap or inspection fees. (Ord. 892 §1, 1991; Ord. 919 §5, 1991; Ord. 950 §5, 1993; Ord. 1379 §4, 1999; Ord. 1567 §2, 2001)

### **13-16-050 Requirements.**

(A) A temporary permit shall be issued by the city manager or his or her designee if the following conditions exist:

(1) The applicant demonstrates compliance with all applicable zoning and building codes, city standards and specifications, this chapter, and other applicable laws.

(2) An approved backflow device is required for all temporary permit applications. The term *approved backflow device assembly* means a device that has been manufactured in full conformance with AWWA C511-97 and has met all laboratory and field conformance specifications outlined in the University of Southern California, Foundation of Cross Connection Control and Hydraulic Research (FCCC & HR) 69-2 or most current issue.

(3) All fees and deposits have been paid.

(4) The applicant has demonstrated a need for temporary water service.

(B) Permittees shall follow all city instructions regarding operation of the temporary connection.

(C) When not in use, equipment provided by the city shall be safely and securely stored.

(D) The meter shall be available for reading on the 28th day of each month and upon request by the city.

(E) The temporary permit shall be available for inspection on the property by the city.

(F) The permittee shall be responsible for, and shall pay the costs for, all line extensions and other construction which is required for temporary water service. (Ord. 892 §1, 1991; Ord. 1567 §3, 2001)

### **13-16-060 Expiration.**

A temporary permit for a temporary sales office shall expire one year after it has been issued. All other temporary permits shall expire ninety calendar days after they have been issued. The permittee shall return all equipment provided by the city upon expiration of the temporary permit. The permittee may reapply for an additional temporary permit by following the same procedures as required to apply for a new temporary permit. (Ord. 892 §1, 1991)

### **13-16-070 Revocation.**

The city may revoke a temporary permit for any one or more of the following reasons:

(A) Failure to comply with the provisions of this code;

(B) Failure to pay applicable fees or charges;

(C) Misuse of city equipment; and

(D) Use of the permit for other than the purposes stated in the application. (Ord. 892 §1, 1991)

### **13-16-080 Failure to obtain.**

In addition to any other penalties provided by this Code, failure to obtain the temporary permit required by section 13-16-010 will result in charges being assessed to the violator for the permit and the approximate amount of water used. The user shall be subject to the following fees for failing to obtain the temporary permit: The fee for the first violation shall be \$250.00; the fee for the second violation shall be \$500.00; and the fee for the third violation shall be \$750.00. Any user who has more than three violations shall be prohibited from obtaining a temporary water service connection under this chapter 13-16. (Ord. 892 §1, 1991; Ord. 1196 §18, 1996; Ord. 1567 §4, 2001; Ord. 1568 §17, 2001; Ord. 1821 §1, 2005)

## Chapter 13-18

### Temporary Sewer Permits

#### 13-18-010 Required.

A temporary permit is required whenever a temporary service connection is made to the city's sewer system. Temporary permits may be issued for the purpose of temporary sales office and for special events requiring temporary sewer service. (Ord. 894 §1, 1991)

#### 13-18-020 Application.

Applications for temporary sewer permits may be made to the city and shall be accompanied by the deposit and permit fee. Applications must contain the following information:

- (A) Proposed dates of sewer service usage;
- (B) The size of the sewer tap requested;
- (C) A description of the purpose for which the sewer service is to be used;
- (D) The legal description and address of the property on which the connection will be located, if applicable;
- (E) The name, address, and telephone number of the applicant; and
- (F) Other information required by the city to assist in administering this chapter. (Ord. 894 §1, 1991)

#### 13-18-030 Deposit.

- (A) A permit fee of \$25.00 and a deposit of \$100.00 shall be paid prior to the connection to the city's sewer system.
- (B) The deposit shall guarantee payment of sewer use charges and payment for damage to city property.
- (C) All permittees shall pay for sewer use in the amount set forth in subparagraph 13-12-020(A)(2).
- (D) All permittees shall pay sewer tap inspection fees. (Ord. 894 §1, 1991)

#### 13-18-040 Requirements.

- (A) A temporary permit shall be issued by the city manager or his or her designee if the following conditions exist:
  - (1) The applicant demonstrates compliance with all applicable zoning and building codes, city standards and specifications, this chapter, and other applicable laws;
  - (2) All fees and deposits have been paid; and
  - (3) The applicant has demonstrated a need for temporary sewer service.
- (B) Permittees shall follow all city instructions regarding operation of the temporary connection.
- (C) The temporary permit shall be available for inspection on the property by the city.
- (D) The permittee shall be responsible for, and shall pay the costs for, line extensions and other construction which is required for temporary sewer service.
- (E) At the expiration of the temporary permit, the permittee shall, at his or her expense, remove the service line and seal the tap at the sewer main in the event the property served with temporary service is not a platted lot. (Ord. 894 §1, 1991)

#### 13-18-050 Expiration.

A temporary permit for a temporary sales office shall expire one year after it has been issued. All other temporary permits shall expire ninety calendar days after they have been issued. The permittee may reapply for an additional temporary permit by following the same procedures as required to apply for a new temporary permit. (Ord. 894 §1, 1991)

### **13-18-060 Revocation.**

The city may revoke a temporary permit for any one or more of the following reasons:

- (A) Failure to comply with the provisions of this code;
- (B) Failure to pay applicable fees or charges;
- (C) Misuse of city equipment; and
- (D) Use of the permit for other than the purposes stated in the application. (Ord. 894 §1, 1991)

### **13-18-070 Failure to obtain.**

In addition to any other penalties provided by this code, failure to obtain the temporary permit required by section 13-18-010 will result in charges being assessed to the violator for the permit and approximate amount of sewer service used. The user shall also be subject to a fee of \$50.00 to defray city costs for detection and collection of associated charges. (Ord. 894 §1, 1991; Ord. 1196 §18, 1996; Ord. 1568 §17, 2001)

## **Chapter 13-20**

### **Water Rights Acquisition; City Manager**

#### **13-20-010 Authority.**

The city manager is hereby authorized to purchase, lease, or otherwise acquire or take steps to acquire water rights, water, or the use of water for the use of the city and its residents in accordance with the provisions of this chapter. (Ord. 455 §1, 1981)

#### **13-20-020 Authority; restrictions.**

The city manager may:

- (A) Purchase, lease, or otherwise acquire or take steps to acquire water rights, water, or the use of water.
- (B) Purchase, lease, or otherwise acquire only that amount of water rights, water, or the use of water which can be paid for from the appropriations specified therefor in the annual budget of the city, including any adjustments to the budget made pursuant to the provisions of chapter XII of the Charter.
- (C) Purchase or lease only enough water rights, water, or the use of water to fulfill the projected needs of the city for a five-year period. The city manager shall annually submit a report to the city council setting forth such projected needs.
- (D) Request an ownership and encumbrance report as he or she deems advisable in connection with water transactions.
- (E) Request an appropriate study from hydrological engineers as he or she deems advisable in connection with water transactions.
- (F) Pay commissioner's or broker's fees in connection with water rights purchases or other water transactions.
- (G) Employ such other professionals as he or she deems advisable in connection with water transactions. (Ord. 455 §2, 1981)

#### **13-20-030 City manager; duties.**

The city manager shall:

- (A) Report all purchases, leases, other acquisitions or steps taken to acquire water rights, water, or the use of water to the city council at its next regularly scheduled meeting.
- (B) Negotiate all water or water rights acquisitions in the manner he or she deems most beneficial to the city. (Ord. 455 §3, 1981)

## Chapter 13-22

### Groundwater

#### 13-22-010 Appropriation of nontributary groundwater.

Pursuant to the authority granted to the city under section 37-90-137(8), C.R.S., the city hereby asserts the exclusive right to withdraw for beneficial use all groundwater from the Dawson, Denver, Arapahoe, Laramie-Fox Hills, and Dakota aquifers which underlies any and all land within the corporate limits of the city as they existed on January 1, 1985, and declares that all affected landowners do hereby consent to any and all such future withdrawals. (Ord. 698 §2, 1986)

#### 13-22-020 Consent to groundwater appropriation.

Upon the effective date hereof, the owners of all land which overlies such groundwater hereby appropriated shall be deemed to have consented to the withdrawal by the city of all such groundwater, except that no such consent shall be deemed to be given with respect to any such portion of land if:

(A) Water service to such portion of the land is not reasonably available from the city and no plan has been established by the city allowing the landowner to obtain an alternative water supply;

(B) Said groundwater has been conveyed or reserved or consent to use such groundwater has been given or reserved in writing to anyone other than the city and such conveyance, reservation, or consent is properly recorded before the effective date hereof;

(C) Consent to use of such groundwater has been given to anyone other than the city by the lawful effect of an ordinance or resolution adopted prior to January 1, 1985;

(D) Such groundwater has been decreed or permitted to anyone other than the city prior to the effective date hereof; or

(E) Such portion of the land is not being served by the city as of the effective date hereof and such groundwater is the subject of an application for determination of a right to use groundwater filed in the water court prior to July 1, 1985. (Ord. 698 §2, 1986)

#### 13-22-030 Drilling and extraction prohibited.

The drilling of any water well and the installation of any water well casing or pump by any person within the corporate limits of the city is hereby expressly prohibited without the written consent of city council. For any water well not in existence on the effective date of this provision of this code, the extraction or diversion of water from any such water well within the corporate limits of the city by any person is hereby expressly prohibited without the written consent of city council. The provisions of this section shall not apply to water wells constructed by or under the direction of the city. (Ord. 698 §2, 1986)

## Chapter 13-24

### Misuse of Treated Water

#### 13-24-010 Misuse prohibited.

It shall be unlawful for any person to flagrantly or wantonly misuse or waste, or cause to be misused or wasted, treated water supplied by the city, or through the city's water transmission facilities. For the purposes of this section, the following are specifically determined to constitute flagrant misuse and waste:

(A) Any irrigation of lawns or plants which, due to excess application of treated water alone or in conjunction with rain or snow, results in a flow of water running off the property being irrigated which, in aggregate, exceeds five gallons a minute.

(B) Use of any plumbing system, connection, or fixture used for treated water from the city's water system which by reason of damage, disrepair, inadequate maintenance, or dilapidation wastes water in a volume calculated to exceed five gallons a minute. (Ord. 450 §1, 1981)

### 13-24-020 Penalties.

The penalties for violation of the provisions of this chapter shall be as prescribed in chapter 1-12, B.M.C. (Ord. 450 §1, 1981)

## Chapter 13-28

### Wastewater

#### 13-28-010 General provisions.

(A) *Purpose and policy.* It is necessary for the health, safety, and welfare of the residents of the city to regulate the collection of wastewater and treatment thereof to provide for maximum public benefit. This chapter sets forth the uniform requirements for users of the publicly owned treatment works (POTW) of the City and County of Broomfield and enables the city to comply with applicable state and federal laws, including the Clean Water Act (33 U.S.C. § 1251, et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the POTW which would interfere with the operation of the system or contaminate the resulting sludge;
- (2) To prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving water or the atmosphere or otherwise be incompatible with the system;
- (3) To protect both POTW personnel who may be affected by wastewater or sludge in the course of their employment and the general public;
- (4) To promote reuse and recycling of reclaimed wastewater and sludge from the POTW;
- (5) To provide for the equitable distribution among users of the cost of the POTW;
- (6) To provide for and promote general health, safety, and welfare of the citizens residing within the City and County of Broomfield; and
- (7) To enable the City and County of Broomfield to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.

This chapter shall apply to all users of the POTW and authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. This chapter shall apply to persons in the city, and to persons outside the city who are, by contract or agreement with the city, users of the city POTW.

(B) *Administration.* Except as otherwise provided herein, the director of Public Works shall administer, implement, and enforce the provisions of this chapter.

(C) *Definitions.* Words and phrases used in this chapter shall be as defined in this section, unless the context clearly indicates otherwise.

- (1) *Act or the Act* shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq.
- (2) *Approval Authority* shall mean the Regional Administrator of EPA Region 8. At such time as the state receives authorization, the Approval Authority shall be the director of the Colorado Department of Public Health and Environment.
- (3) *Authorized representative of industrial user* shall mean:
  - a. If the user is a corporation:
    1. The president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that 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 wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

c. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

d. The individuals described in subparagraphs a. through c. above may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a 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.

(4) *Best Management Practices* or *BMPs* shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in subsection 13-28-020(B) and 40 C.F.R. § 403.5(a)(1) and (b). BMPs are Pretreatment Standards. BMPs 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.

(5) *Biochemical oxygen demand (BOD)* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures (five days at twenty degrees centigrade) expressed in terms of weight and concentration (mg/l).

(6) *Building sewer* shall mean a sewer conveying wastewater from the premises of a user to the POTW.

(7) *Categorical industrial user* shall mean an industrial user subject to a Categorical Pretreatment Standard or Categorical Standard.

(8) *Categorical Pretreatment Standard* or *Categorical Standard* shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) or the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 C.F.R. chapter I, subchapter N, Parts 405—471.

(9) *Chemical oxygen demand* shall mean a measure of the oxygen required to oxidize all compounds, both organic and inorganic in water, expressed in terms of weight and concentration (mg/l).

(10) *City* shall mean the City and County of Broomfield.

(11) *Code* shall mean the Broomfield Municipal Code.

(12) *Composite sample* shall mean a representative flow-proportioned or time-proportioned sample collected within a twenty-four-hour period composed of a minimum of four individual samples collected at equally spaced intervals and combined according to flow or time.

(13) *Control authority* shall mean the City and County of Broomfield.

(14) *Cooling water* shall mean water to which the only pollutant added is heat.

(15) *Daily maximum limit* shall mean the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that calendar day.

(16) *Director of public works* or *director* shall mean the director of public works of the city or his or her designee.

(17) *Direct discharge* shall mean the discharge of treated or untreated wastewater directly into the waters of the state.

(18) *Domestic or sanitary wastes* shall mean liquid wastes 1) from the noncommercial preparation, cooking, and handling of food, or 2) containing only human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

(19) *Environmental Protection Agency or EPA* shall mean the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

(20) *Existing source* shall mean an industrial user which 1) is in operation at the time of promulgation of Categorical Pretreatment Standards, or 2) any source of discharge that is not a "New Source."

(21) *Fats, oil, or grease (FOG)* shall mean any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other material that is extracted by hexane solvent, as specified in 40 C.F.R. Part 136.

(22) *Garbage* shall mean solid wastes from domestic and commercial preparation, cooking and dispensing of food, and handling, storage, and sale of produce. *Properly ground garbage* shall mean the wastes from the preparation, cooking, and dispensing of foods that have been ground to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch in any dimension.

(23) *Grab sample* shall mean an individual sample that is collected from a wastestream without regard to the flow and over a period of time not to exceed fifteen minutes.

(24) *Harmful wastes* shall mean any solid, liquid, or gaseous substances which would violate the prohibited discharges contained in subsection 13-28-020(B).

(25) *Hazardous waste* shall mean any waste containing substances or characteristics listed as such pursuant to 40 C.F.R. Part 261.

(26) *Indirect discharge or discharge* shall mean the discharge or the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

(27) *Industrial* shall mean of or pertaining to industry, manufacturing, commerce, trade, or business, as distinguished from domestic or residential.

(28) *Industrial user or user* shall mean a source of indirect discharge.

(29) *Industrial wastes* shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from domestic or sanitary wastes.

(30) *Instantaneous limit* shall mean the maximum concentration of a pollutant allowed to be discharged at any time.

(31) *Interference* shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

a. Inhibits or disrupts the POTW treatment processes, operation, or sludge processes, use, or disposal; and

b. Therefore is a cause of violation of any requirement of the POTW's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

(32) *Local limit* shall mean specific discharge limits developed and enforced by the City and County of Broomfield upon industrial users to implement the general and specific discharge prohibitions listed in 40 C.F.R. § 403.5(a)(1) and (b). Local limits are Pretreatment Standards.

(33) *Medical waste* shall mean 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.

(34) *National Pollutant Discharge Elimination System (NPDES)* shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters of the contiguous zone and the oceans pursuant to Section 402 of the Act (33 U.S.C. § 1342).

(35) *National Pollutant Discharge Elimination System permit or NPDES permit* shall mean a permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342).

(36) *New source* shall mean:

a. 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 pretreatment standards under section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

3. 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.

b. 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 meeting the criteria of subparagraph a.1. or a.2. above, but otherwise alters, replaces, or adds to existing process or production equipment.

c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

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

a) Any placement, assembly, or installation of facilities or equipment; or

b) 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

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(37) *Noncontact cooling water* shall mean water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(38) *Nonsignificant industrial user* shall mean any user which does not meet the definition of a significant industrial user, but is otherwise required by the city through permit, order or notice to comply with specific provisions of this chapter.

(39) *Pass through* shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the City and County of Broomfield's NPDES permit, including an increase in the magnitude or duration of the violation.

(40) *Person* shall mean any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, government entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local government entities.

(41) *pH* shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units (SU).

(42) *Pollutant* shall mean any dredged spoil, solids, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance,

biological material, biological nutrient, toxic substance, radioactive material, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or agricultural wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor) discharged into or with water.

(43) *Pretreatment or treatment* shall mean 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. The reduction or alteration can be obtained by physical, chemical, or biological processes, or other means, except that dilution shall not constitute treatment or pretreatment unless allowed by an applicable pretreatment standard.

(44) *Pretreatment requirements* shall mean any substantive or procedural requirement related to pretreatment, other than a pretreatment standard imposed on an industrial user, and shall include conditions of a wastewater discharge permit.

(45) *Pretreatment standards or standards* shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. § 403.5. In cases of differing standards or regulations, the more stringent shall apply.

(46) *Private sewage disposal system* shall mean any sewage disposal system other than public facilities, such as privies, privy vaults, septic tanks, soil absorption system, cesspools, chemical toilets, package treatment plants, or similar facilities which receive or are intended to receive wastewater and which are not connected to the POTW; but this term shall not include any treatment plant which has a valid NPDES permit.

(47) *Prohibitive discharge standard* shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in subsection 13-28-020(B).

(48) *Process wastewater* shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

(49) *Publicly Owned Treatment Works (POTW)* shall mean a treatment works as defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned, in this instance, by the City and County of Broomfield. 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. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such treatment works. For the purposes of this chapter, *POTW* shall also include any sewers that convey wastewaters to the treatment plant from indirect dischargers located within or outside the city who are users of the city's POTW.

(50) *Receiving waters* shall mean lakes, rivers, streams, or other surface or subsurface water courses which receive treated or untreated wastewater.

(51) *Receiving water quality requirements* shall mean requirements for the POTW's treatment plant effluent established by applicable state or federal statutes or regulations for the protection of receiving water quality. Such requirements shall include effluent limitations and waste discharge standards, requirements, limitations, or prohibitions which may be established or adopted, from time to time.

(52) *Recreational vehicle waste* shall mean any sewage from gray and sewer holding tanks such as recreational vehicles, fifth wheel and travel trailer campers, and slide-in pickup campers.

(53) *Sanitary sewer* shall mean a sewer which carries domestic or nondomestic wastewater or sewage and to which storm, surface, and ground waters are not intentionally admitted, including the pipe or conduit system and appurtenances, for the collection, transportation, pumping, and treatment of sewage. This definition shall also include the terms *public sewer*, *sewer system*, *POTW sewer*, and *sewer*.

(54) *Service connection* shall mean a sewer line intended for discharging wastewater into the City and County of Broomfield's POTW and commencing at a structure or facility and terminating at a sewer main.

(55) *Sewage* shall mean human excrement and gray water (household showers, dishwashing operations, etc.).

(56) *Sewer main* shall mean that portion of the city's POTW used for the collection and transportation of wastewater to treatment facilities and which has been installed for the express purpose of allowing service connections to be made thereto.

(57) *Shall* and *will* are mandatory.

(58) *Significant industrial user* shall mean:

- a. An industry subject to categorical pretreatment standards, or
- b. An industrial user that:
  1. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  2. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  3. Is designated by the director on the basis that the industry has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(59) *Significant noncompliance (SNC)* shall mean any industrial user is in significant noncompliance if his or her violation meets one or more of the following criteria:

- a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 C.F.R. § 403.3(l);
- b. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 C.F.R. § 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- c. Any other violation of a pretreatment Standard or Requirement as defined by 40 C.F.R. § 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- e. Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- f. Failure to provide, within thirty (30) days after the due date, required reports, such as baseline monitoring reports, thirty-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- g. Failure to accurately report noncompliance; or
- h. Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

(60) *Slug load or slug discharge* shall mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in subsection 13-28-020(B). A slug discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions.

(61) *Standard industrial classification (SIC)* shall mean a classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President - Office of Management and Budget, as it may be revised from time to time.

(62) *Storm sewer* shall mean publicly owned facilities by which stormwater is collected or conveyed, including but not limited to any roads, with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(63) *Stormwater* shall mean any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation, including snowmelt.

(64) *Total suspended solids* shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and that is removable by laboratory filtering.

(65) *Toxic pollutant* shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of Section 307(a) of the Act (33 U.S.C. § 1317(a)) or as otherwise listed at 40 C.F.R. Part 122, Appendix D.

(66) *Wastewater* or *sewage* shall mean liquid and water-carried industrial wastes or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(67) *Wastewater discharge permit* shall mean the permit provided for in section 13-28-040.

(68) *Wastewater treatment plant* or *treatment plant* shall mean that portion of the POTW which is designed to provide treatment of municipal sewage.

(D) *Abbreviations.* The following abbreviations shall have the designated meanings:

- (1) *BOD* shall mean biochemical oxygen demand.
- (2) *BMC* shall mean City and County of Broomfield Municipal Code.
- (3) *BMPP* shall mean Best Management Practice Plan.
- (4) *BMR* shall mean Baseline Monitoring Report.
- (5) *C* shall mean Centigrade.
- (6) *C.F.R.* shall mean Code of Federal Regulations.
- (7) *CIU* shall mean Categorical Industrial User.
- (8) *COD* shall mean chemical oxygen demand.
- (9) *EPA* shall mean the Environmental Protection Agency.
- (10) *FOG* shall mean fats, oils, and grease.
- (11) *gpd* shall mean gallons per day.
- (12) *IU* shall mean Industrial User.
- (13) *mg/l* shall mean milligrams per liter.
- (14) *NH<sub>3</sub>-N* shall mean ammonia as nitrogen.
- (15) *NPDES* shall mean the National Pollutant Discharge Elimination System or as delegated Colorado Discharge Permit System.
- (16) *O&M* shall mean wastewater treatment operations and maintenance.
- (17) *POTW* shall mean publicly owned treatment works.
- (18) *RCRA* shall mean Resource Conservation and Recovery Act.
- (19) *SIU* shall mean significant industrial user.
- (20) *SNC* shall mean significant noncompliance.
- (21) *TSS* shall mean total suspended solids.
- (22) *U.S.C.* shall mean United States Code. (Ord. 1886 §1, 2008)

### 13-28-020 General sewer use requirements.

#### (A) Sewer use.

(1) *Connection required.* The owner of every house, building, or structure used for human occupancy, employment, or recreation, situated within the city is hereby required, at his or her expense, to install suitable toilet facilities in accordance with the International Plumbing Code, as adopted in Title 15 of this Code, and to connect such facilities with the POTW or a treatment plant with a valid NPDES permit in accordance with the provisions herein within thirty days after the date of official notice to do so, provided that a sanitary sewer main is within one hundred feet of the owner's property line. Any septic tank, cesspool, privy, or similar private disposal facilities shall, upon such notice, be immediately emptied and filled with suitable material as determined by the director. No persons shall discharge, or allow to be discharged, any wastewater except as follows:

- a. By a direct service connection to a city sewer main, which connection has been authorized by the director; or
- b. By transporting in a safe and sanitary manner to a landfill or other disposal site approved by public health officials and capable of accepting the type of harmful wastes involved; or
- c. By a service connection to a treatment plant with a valid NPDES permit where such connection is approved by the director of Public Works.

(2) *Service connection permit required.* No person other than city personnel or other persons authorized by the city shall undertake maintenance and repair work on, uncover, open into, make service connections with, use, alter, or disturb any portion of the city's POTW or manhole covers without first obtaining a city service connection permit. All service connections shall be at the permittee's expense, shall comply with all applicable provisions of this chapter, all applicable city standards and specifications and provisions of this Code, as may be adopted from time to time, and shall be subject to all applicable fees and charges as may be established by the city.

(3) *Outhouses prohibited.* No person shall erect or maintain any outhouse or privy within the city; except that chemical toilets shall be permitted at construction sites and other authorized public functions.

(4) *Discharge of sewage.* All sewage shall be discharged into sanitary sewers through authorized connections. No person shall discharge any sewage from any premises within the city into or upon any stream, watercourse, or public property, or into any drain, cesspool, or storm sewer.

(5) *Stormwater.* No person shall make a connection which would allow any stormwater, surface water, ground water, roof runoff, subsurface drainage, or cooling water to discharge into any sanitary sewer, except as hereinafter provided. The city manager or a designee thereof may issue a permit to allow a sump pump in a structure or building to discharge into the sanitary sewer if the installation of a sump pump meets the following criteria:

- a. Such installation will not significantly reduce the capacity of the sanitary system as a result of the volume and rate of discharge from the sump pump;
- b. The quality of the water discharged from the sump pump will not impair the operating functions of the sanitary sewer system or otherwise cause or contribute to a violation of discharge limits in the city's NPDES permit; and
- c. Sump pump and discharge piping are properly installed in accordance with the requirements of chapter 15-24, B.M.C.

Upon ten days' written notice to a permittee, the city manager or a designee thereof may revoke a sump pump permit should the discharge from a sump pump violate subparagraphs a., b., or c. above.

(6) *Hazardous waste.* Any industry which discharges into the POTW a substance, which, if otherwise disposed of, would be a hazardous waste, shall comply with the requirements in subsection 13-28-060(I), and 40 C.F.R. § 403.12(p).

#### (B) Prohibited discharge standards.

(1) *General prohibitions.* No user shall introduce or cause to be introduced, directly or indirectly, into the POTW any pollutant or wastewater which will cause pass through or interference. These general prohibitions and the specific prohibitions in paragraph (2) of this subsection apply to all users of the

POTW, whether or not the user is subject to any national, state, or local pretreatment standards or requirements.

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

a. Pollutants which create a fire or explosion hazard in the POTW, including but not limited to wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (sixty degrees centigrade) using the test methods specified in 40 C.F.R. § 261.21.

b. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

c. Wastewater having a pH of less than 5.0 or more than 12.5, or otherwise capable of causing corrosive structural damage to the POTW or equipment or a hazard to city personnel.

d. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference or may cause obstruction to the flow in a sanitary sewer or other interference with the operation of the POTW or service connection, but in no case solids greater than one-half inch in any dimension.

e. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

f. 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 twenty-eight degrees centigrade (eighty-two degrees Fahrenheit).

g. Petroleum oil, nonbiodegradable cutting oil, or products of mineral origin in amounts that will cause interference or pass through.

h. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

i. Any trucked or hauled pollutants, except at discharge points designated by the POTW and with prior approval of the director; provided, however, that recreational vehicles with a holding tank capacity of less than fifty gallons may discharge into the POTW through designated discharge points.

j. Noxious or malodorous liquids, gases, solids, or other wastewater which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or to prevent entry into the sewers for maintenance and repair or for sampling or monitoring.

k. Any wastewater with color exceeding 150 units, as measured by the Platinum-Cobalt Standard Method.

l. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.

m. Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, and unpolluted water unless specifically authorized.

n. Medical wastes that exceed any local limit specified in subsection (E) or cause or contribute to interference or pass through.

o. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

p. Detergents, surface active agents, or other substances which might cause excessive foaming in the POTW or otherwise cause pass through or interference.

q. Fats, oils, or greases or animal or vegetable origin in concentrations greater than 270 mg/l.

r. Untreatable substances, which shall include any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in

noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under section 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to federal or state statutes applicable to the sludge management method being used.

s. Any discharge through a connection made in violation of subsection 13-28-030(F).

t. Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality requirements.

u. Pollutants, substances, or wastewater prohibited by this section shall not be stored, held or retained in such a manner that they could be discharged to the POTW prior to receiving treatment or sent off site for final disposal.

(C) *National Categorical Pretreatment Standards.* Users must comply with the applicable Categorical Pretreatment Standards found in 40 C.F.R. chapter I, subchapter N, Parts 405—471. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with 40 C.F.R. § 403.6(e) or require the user to take other steps as necessary to allow the user and the city to determine compliance with the applicable standards.

(D) *State pretreatment standards and requirements.* State requirements and limitations on discharges found in the Colorado Department of Public Health and Environment, Water Quality Control Commission regulation 5CCR 1002-63, shall apply in any case where they are more stringent than federal requirements and limitations or those contained herein. The city's limitations or requirements on discharges shall apply in any case where they are more stringent than state or federal requirements or limitations.

(E) *Local limits.*

(1) The director is authorized to establish local limits pursuant to 40 C.F.R. § 403.5(c).

(2) The following pollutant limits are established to protect against pass through and interference and to implement provisions of this chapter. No significant industrial user shall discharge wastewater that exceeds the following limits at any time for any length of time:

| <i>Pollutant<sup>(1)</sup></i> | <i>Concentration (mg/l)</i> |
|--------------------------------|-----------------------------|
| Arsenic                        | 0.161                       |
| Cadmium                        | 0.091                       |
| Chromium                       | 2.90                        |
| Chromium (VI)                  | 0.266                       |
| Lead                           | 0.494                       |
| Mercury                        | 0.0027                      |
| Molybdenum                     | 0.24                        |
| Nickel                         | 1.54                        |
| Oil and grease                 | 270                         |
| Silver                         | 0.52                        |
| Zinc                           | 4.0                         |
| Benzene                        | 0.05                        |
| BTEX <sup>(2)</sup>            | 0.75                        |

<sup>(1)</sup> All pollutants are to be analyzed as total.

<sup>(2)</sup> This is the sum of measured concentrations for Benzene, Toluene, Ethylbenzene, and Xylene.

(3) The following pollutant limits are established to protect against pass through and interference and to implement provisions of this chapter. The following local limits represent the total mass that the city may receive from all permitted significant industrial users. The city shall determine the allocation of

each pollutant for each user. The total mass of pollutants allocated to these users or discharged by these users shall not exceed the following limits at any time for any length of time:

| <i>Pollutant<sup>(1)</sup></i> | <i>Mass in lbs/day</i> |
|--------------------------------|------------------------|
| Copper                         | 1.068                  |
| Selenium                       | 0.083                  |

<sup>(1)</sup> All pollutants are to be analyzed as total.

(4) The director may develop best management practices (BMPs) for users as needed to implement this chapter. BMPs may be implemented through a permit, order, or notice.

(F) *City right of revision.* The City and County of Broomfield reserves the right to establish, by ordinance or in a wastewater discharge permit, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

(G) *Dilution.* No user shall ever 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 any discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate. (Ord. 1886 §1, 2008)

### **13-28-030 Pretreatment of wastewater.**

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all pretreatment standards and requirements set out in this chapter within the time limitations specified by the EPA, the state, or the director, whichever is more stringent. Any facilities determined by the director to be necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the director for review and shall be approved before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City and County of Broomfield under the provisions of this chapter.

(B) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specified sewers, relocate or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and demonstrate the user's compliance with the requirements of this chapter.

(2) The director may require any user discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

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

(C) *Accidental discharge/slug discharge control plans.*

(1) Each user shall provide protection from accidental discharge or slug loads of pollutants regulated under this chapter. Facilities to prevent accidental discharge or slug loads of pollutants shall be provided and maintained at the user's cost and expense.

(2) The director shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges as defined at subsection 13-28-010(C). The director may require a user to develop, submit for approval, and implement a slug control plan or take such other action that may be necessary to control slug discharges. Alternatively, the director may establish specific requirements and conditions to prevent accidental or slug discharges for any user.

(3) An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- a. Detailed plans (schematics) showing facility layout and plumbing representative of operating procedures and conditions;
- b. A description of contents and volumes of any process tanks;
- c. A description of discharge practices, including nonroutine batch discharges;
- d. A listing of stored chemicals, including location, volumes and spill prevention measures employed;
- e. Procedures for immediately notifying the director of any accidental or slug discharge, as required by subsection 13-28-060(F). In the case of an accidental or slug discharge, it is the responsibility of the user to comply with the reporting requirements in subsection 13-28-060(F).

(4) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who work in any area where an accidental or slug discharge may occur or originate are advised as to the emergency notification procedures.

(5) *Procedures to prevent adverse impact from any accidental or slug discharge.* Such 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, or measures and equipment for emergency response.

(D) *Fats, oils, and grease.*

(1) Facilities generating fats, oils, or greases as a result of food manufacturing, processing, or preparation or food service shall install, use, and maintain grease traps or interceptors in accordance with this section, as well as the City and County of Broomfield's standards and specifications. These facilities include, but are not limited to, restaurants, food manufacturers, food processors, hospitals, hotels and motels, nursing homes, prisons, schools, and any other facility preparing, servicing, or otherwise making any foodstuff available for consumption.

(2) It shall be the responsibility of the user and owner of the property, business or industry or an authorized representative of the user to contact the director for the purpose of obtaining a general permit application and a plan review. The permit application and plan review shall determine the need, method, and size of the interceptor required to control grease loading into the POTW. Written approval from the director must be obtained prior to installation of the interceptor.

(3) Detailed plans describing such facilities and operating procedures shall be submitted to the director for review and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City and County of Broomfield under the provisions of this chapter.

(4) Users shall:

- a. Ensure grease interceptors and traps are easily accessible for inspection, cleaning, and removal of grease.
- b. Maintain interceptors and traps at their expense and keep in efficient operating condition at all times by the regular removal of oil, grease and solids.
- c. Document each pump out with a waste manifest which must be kept on-site for at least three years.
- d. Take reasonable steps to assure that all grease interceptor waste shall be properly disposed of at a facility in accordance with federal, state and local regulations (i.e. through a certification by the hauler included on the waste manifest for each load).

(E) *Oil/sand separator.*

(1) Facilities generating oily, greasy and flammable liquid waste shall install, use and maintain oil/sand separators in accordance with this section as well the City and County of Broomfield's standards and specifications. These facilities include but are not limited to auto service or repair garages, car washing facilities, and parking garages.

(2) It shall be the responsibility of the user and owner of the property, business or industry or an authorized representative of the user to contact the director for the purpose of obtaining a general permit application and a plan review. The permit application and plan review shall determine the need, method, and size of the separator required to control loadings into the POTW. Written approval from the director must be obtained prior to installation of the separator.

(3) Detailed plans describing such facilities and operating procedures shall be submitted to the director for review and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City and County of Broomfield under the provisions of this chapter.

(F) *Special user agreement.* Nothing contained in this chapter shall be construed as prohibiting special written agreements between the city and any other person allowing industrial waste of unusual strength or character to be admitted into the POTW, provided that said person compensates the city for any additional costs of treatment. No such agreement may permit any discharge prohibited or otherwise limited by federal or state regulations or this chapter. (Ord. 1886 §1, 2008)

### **13-28-040 Wastewater discharge permits.**

#### *(A) Wastewater discharge permits.*

(1) No significant industrial user shall discharge wastewater into the POTW without first applying for and obtaining a wastewater discharge permit from the director. The user is responsible for obtaining a permit application and to notify the city of its classification as a significant industrial user pursuant to paragraph 13-28-010(C)(62). An industrial user with an existing permit that has filed a timely application, pursuant to subsection 13-28-040(B) may continue to discharge as approved by the director through an administrative extension of the existing permit.

(2) The director may require other users to obtain wastewater discharge permits necessary to carry out the purposes of this chapter. The director may issue a zero discharge permit to prohibit the discharge of some or all nondomestic process wastewater from a user.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in sections 13-28-100 through 13-28-120. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(B) *Applying for a new or reissued wastewater discharge permit.* A significant industrial user that intends to begin or recommence a discharge into the POTW must file a permit application with the city at least ninety days prior to the date upon which any discharge will begin or recommence containing the information in subsection 13-28-040(C). A user with an expiring wastewater discharge permit shall apply for a new wastewater discharge permit by submitting a complete permit application a minimum of 180 days prior to the expiration of the user's existing wastewater discharge permit.

(C) *Wastewater discharge permit application contents.* All users required to obtain a wastewater discharge permit shall complete and file with the city an application in the form prescribed by the director. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

#### *(1) Identifying information:*

- a. The name of the industry and address of the facility, and the mailing address if different;
- b. The name of the operator and owner;
- c. The location of the discharge, if different from the location address;
- d. Contact information; and
- e. A description of activities, facilities, and plant production processes on the premises.

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

(3) *Description of operations.*

- a. A brief description of the nature and average rate of production (including each product produced by type, amount, processes, and rate of production);
- b. The standard industrial classification of the operation carried out by such user;
- c. A schematic process diagram, which indicates points of discharge into the POTW from the regulated process;
- d. Types of wastes generated;
- e. A list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged into the POTW;
- f. Number and type of employees;
- g. Hours of operation and proposed or actual hours of operation;
- h. Type and amount of raw materials processed (average and maximum per day); and
- i. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- j. Time and duration of discharges.
- k. The location for monitoring all wastes covered by this permit.

(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 C.F.R. § 403.6(e).

(5) *Measurement of pollutants.*

- a. The pretreatment standards applicable to each regulated process.
- b. The results of sampling and analysis identifying the nature and concentration or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process.
- c. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported.
- d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 13-28-060(J). Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation, as required by the director or the applicable standards, to determine compliance with the standard.
- e. Sampling must be performed in accordance with procedures set out in subsection 13-28-060(K).

(6) Any request for a monitoring waiver or a renewal of an approved monitoring waiver for a pollutant neither present nor expected to be present in the discharge based on paragraph 13-28-060(D)(2).

(7) Any other information as may be deemed necessary by the director to evaluate the permit application.

(D) *Application signatories and certifications.*

(1) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the applicable certification statements in subsection 13-28-060(N).

(2) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports to be signed by an authorized representative.

(E) *Wastewater discharge appeals.* The permittee may petition the director to reconsider the terms of a wastewater discharge permit within thirty days of its issuance.

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

(2) In his or her petition, the permittee must indicate the wastewater discharge permit provisions objected to, the reasons for the objection, and the alternative condition, if any, he or she seeks to place in the wastewater discharge permit.

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

(4) If the director fails to act within thirty days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the District Court within thirty days. (Ord. 1886 §1, 2008)

### **13-28-050 Wastewater discharge permit conditions and contents.**

#### *(A) Wastewater discharge permit duration.*

(1) After evaluation of data furnished by the user, the director will determine whether or not to issue a wastewater discharge permit and may deny any application for a wastewater discharge permit. A wastewater discharge permit may be issued for any specified period of time, but in no case longer than five years from the effective date of the permit. Permit duration shall be established at the discretion of the director.

(2) Each wastewater discharge permit will indicate a specific date upon which it will expire.

#### *(B) Wastewater discharge permit contents.*

(1) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the director to prevent pass through or interference, protect the quality of the body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. All wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the city.

(2) Wastewater discharge permits shall contain, as appropriate:

a. A statement that indicates the wastewater discharge permit's issuance date, expiration date and effective date;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the City and County of Broomfield in accordance with subsection 13-28-050(D) and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits, including best management practices, based on applicable pretreatment standards;

d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

e. Requirements pertaining to granting of a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with paragraph 13-28-060(D)(2);

f. A statement of applicable administrative, civil and criminal penalties for violation of pretreatment standards and requirements, the wastewater discharge permit, this chapter and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law;

g. Requirements to notify the POTW immediately of any changes at its facility affecting potential for a slug discharge or in the event of a slug or accidental discharge;

h. Requirements for separate systems to handle sanitary and industrial wastewater, such that in the event that the user's industrial wastewater causes interference or pass through, or has the potential to cause interference or pass through, the industrial wastewater flow could be halted, preventing discharge into the POTW while still allowing the user's sanitary wastewater to discharge into the POTW;

i. Compliance schedules;

- j. Requirements to reapply for a new permit within 180 days prior to expiration of the existing permit;
- k. The general and specific prohibitions (13-28-020(B)); and
- l. Additional monitoring to be reported (13-28-060(D)(5)).
- (3) Wastewater discharge permits may contain, but need not be limited to, the following conditions:
  - a. Limits on the average or maximum rate of discharge, time of discharge or requirements for flow regulation and equalization;
  - b. 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;
  - c. Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
  - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged into the POTW;
  - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharge into the POTW;
  - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
  - g. 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 and requirements, including those which become effective during the term of the wastewater discharge permit; and
  - h. Other conditions as deemed appropriate by the director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(C) *Permit modification.*

- (1) The director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - 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 the wastewater discharge permit issuance;
  - c. A change in the POTW 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 POTW, the City and County of Broomfield personnel, or the receiving waters;
  - e. Violation of any terms or conditions of the wastewater discharge permit;
  - f. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - g. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. § 403.13;
  - h. To correct typographical or other errors in the wastewater discharge permit; or
  - i. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection (D) below.

(D) *Wastewater discharge permit transfer.*

- (1) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty days' advance notice to the director and the director approves the wastewater

discharge permit transfer. The notice to the director must include a written certification by the new owner or operator which:

- a. States that the new owner or operator has no immediate intent to change the facility's operations and processes;
- b. Identifies the specific date on which the transfer is to occur; and
- c. Acknowledges full responsibility for complying with the existing wastewater discharge permit, including complying with all change in operation notification requirements specified at subsection 13-28-060(E).

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

(E) *Wastewater discharge permit revocation.*

(1) The director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- a. Failure to notify the director of significant changes to the wastewater prior to the change in discharge;
- b. Failure to provide prior notification to the director of changed conditions pursuant to subsection 13-28-060(E);
- c. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- d. Falsifying any required reports, including self-monitoring reports and certification statements;
- e. Tampering with monitoring equipment;
- f. Refusing to allow the director timely access to the facility premises and records;
- g. Violations of any pretreatment standards or requirements or any terms of the wastewater discharge permit;
- h. Failure to pay fines;
- i. Failure to pay sewer charges;
- j. Failure to pay permit and sampling fees;
- k. Failure to meet compliance schedules;
- l. Failure to complete a wastewater survey or the wastewater discharge permit application; or
- m. Failure to provide notification of change in ownership required under subsection (D) above.

(2) Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a user are void upon the issuance of a new wastewater discharge permit to that user.

(F) *Mass-based limitations.* The director may impose mass limitations on industrial users, through their industrial wastewater discharge permit where not prohibited by categorical pretreatment standards, which are using flow equalization to meet applicable federal, state, or city pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (B) will contain the mass allocation for each pollutant, any concentration-based categorical standards, maximum flow allowed, and the appropriate monitoring and reporting requirements. Where mass limits have been established, the report required by subsection (B) shall also indicate the mass of limited pollutants in the wastewater of the user. These reports shall also contain the results of sampling and analysis of the discharge, including production and mass of pollutants contained therein which are limited by the applicable pretreatment standards and requirements. (Ord. 1886 §1, 2008)

### **13-28-060 Reporting requirements.**

(A) *Baseline monitoring reports.*

(1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. § 403.6(a)(4), whichever is later, existing industrial users currently discharging into or scheduled to discharge into the POTW shall submit to the director a report which contains the information listed in paragraph (2) below. At least ninety days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in paragraph (2) below. A new source shall report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged from regulated process streams and other nonprocess streams.

(2) Users described above shall submit the information set forth below:

a. All information required in section 13-28-040 paragraphs (C)(1)a., (C)(2), (C)(3)a., and (C)(6).

b. Measurement of pollutants.

1. The user shall provide the information required in subparagraphs 13-28-040(C)(7)a. through d.

2. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph.

3. Samples should be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 C.F.R. § 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. § 403.6(e), this adjusted limit along with supporting data shall be submitted to the director.

4. Sampling and analysis shall be performed in accordance with subsection (J);

5. The director may allow the submission of a baseline monitoring report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

6. The baseline monitoring report shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges into the POTW.

(3) *Compliance certification.* A statement, reviewed by the user's authorized representative as defined in subsection 13-28-010(C) 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) or additional pretreatment is required to meet the pretreatment standards and requirements.

(4) *Compliance schedule.* If additional pretreatment or O&M will be required to meet the pretreatment standards, the industrial user shall submit the shortest schedule by which the user will provide such additional pretreatment or O&M. 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 set out in subsection (B) below.

(5) *Signature and report certification.* All baseline monitoring reports must be certified in accordance with paragraph (N)(1) below and signed by an authorized representative as defined in subsection 13-28-010(C).

(B) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by paragraph (A)(4) above:

(1) The schedule shall contain progress increments 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 (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine months;

(3) The user shall submit a progress report to the director no later than fourteen days following each date in the schedule and the final date of compliance including, as a minimum, whether or not he or she complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the director.

(C) *Reports on compliance with categorical pretreatment standard deadline.* Within ninety days following the date for final compliance with applicable categorical pretreatment standards, or in case of new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in section 13-28-040 paragraphs (F)(6) and (F)(7) and subparagraph (A)(2)b above. For users subject to equivalent mass or concentration limits established in accordance with the procedures in subsection 13-28-020(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. All compliance reports must be signed and certified in accordance with paragraph (N)(1) below. All sampling and analysis will be done in conformance with subsections (J) and (K) below.

(D) *Periodic compliance reports.*

(1) Any industrial user subject to a federal, state, or city pretreatment standard or requirement must, at a frequency determined by the director, submit no less than once per six months, unless required more frequently in the permit or by the director, reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the user.

(2) The director may authorize an industrial user subject to a categorical pretreatment standard to forego 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 water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

b. The monitoring waiver is valid only for the duration of the effective period of the wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent wastewater discharge permit. See paragraph 13-28-040(F)(8).

c. In making a demonstration that a pollutant is not present, the industrial user must provide data from at least four samplings of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

d. The request for a monitoring waiver must be signed by an authorized representative of the industrial user as specified in subsection 13-28-010(C) and include the certification statement in paragraph (N)(1) below.

e. Nondetectable sample results may be used only as a demonstration that a pollutant is not present if the EPA-approved method from 40 C.F.R. Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

f. Any grant of the monitoring waiver by the director must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in his or her request for the waiver must be maintained by the director for three years after expiration of the waiver.

g. Upon approval of the monitoring waiver and revision of the user's permit by the director, the industrial user must certify on each report with the statement in paragraph (N)(2) below that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.

h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements specified in the user's permit, or other more frequent monitoring requirements imposed by the director, and notify the director of any changes.

i. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(3) All periodic compliance reports must be signed and certified in accordance with subsection (N) below.

(4) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that the sample results are unrepresentative of its discharge.

(5) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director, using the methods and procedures prescribed in subsections (J) and (K) below, the results of this monitoring shall be included in the report.

(E) *Reports of changed conditions.* Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty days before the change. This includes the discharge of listed or characteristic hazardous wastes for which the industrial user has submitted notification under subsection (I) below. A significant change shall be a change equal to or greater than twenty percent in the mass of a pollutant or volume of flow discharged into the POTW.

(1) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 13-28-050(B).

(2) The director may issue a wastewater discharge permit under subsection 13-28-040(A) or modify an existing wastewater discharge permit under subsection 13-28-050(C) in response to changed conditions or anticipated changed conditions.

(F) *Reports of potential problems.*

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the director of the incident. This notification shall include the:

- a. Name of the facility;
- b. Location of the facility;
- c. Name of the caller;
- d. Date and time of discharge;
- e. Date and time discharge was halted;
- f. Location of the discharge;
- g. Estimated volume of discharge;
- h. Estimated concentration of discharge;
- i. Pollutants that may be present;
- j. Corrective actions taken to halt the discharge; and
- k. Method of disposal if applicable.

(2) Within five working days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(3) Significant industrial users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

(G) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require. These reports include, but are not limited to, industrial wastewater questionnaires, permit applications, and reports demonstrating compliance with best management practices. These reports shall include the signatory certification statement specified in paragraph (N)(1) below.

(H) *Notice of violation/repeat sampling reporting.*

(1) If sampling performed by a user indicates a violation, the user must:

a. Notify the director within twenty-four hours of becoming aware of the violation (e.g., receipt of analytical results from the laboratory).

b. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty days after becoming aware of the violation.

(2) Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(I) *Notification of the discharge of hazardous waste.*

(1) Any user shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 C.F.R. Part 261. Such notification to the POTW shall be made within the time frames specified in section 13-28-030 paragraphs (F) and (H) and subsection (E) above as required. Notification to the state and the EPA is the responsibility of the user and shall be made as required under 40 C.F.R. § 403.12(p). The user shall copy the director on all notifications made to the State and the EPA. Such notification must include:

a. The name of the hazardous waste as set forth 40 C.F.R. Part 261;

b. The EPA hazardous waste number;

c. The type of discharge (continuous, batch, or other);

d. An identification of the hazardous constituents contained in the wastes;

e. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;

f. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months;

g. Certification that the user 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; and

h. Signatory certification as required by paragraph (N)(1) below.

(2) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety days of the effective date of such regulations.

(3) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued hereunder, or any applicable federal or state law.

(J) *Analytical requirements.* All pollutant analysis to be submitted as part of a wastewater discharge permit application, report, permit or other analysis or report required under this chapter shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 analytical techniques are inappropriate for the pollutant in question, analyses shall be performed by using validated analytical methods, including procedures suggested by the director or other parties approved by the EPA.

(K) *Sample collection.* Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analyses performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(1) Except as indicated in paragraphs (2) and (3) below, the user must collect representative wastewater samples using twenty-four-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the director, the samples must be representative of the permitted discharge.

(2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four-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. Composited samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the director, as appropriate. In addition, grab samples may be required to show compliance with instantaneous local limits, including pH.

(3) For sampling required in support of baseline monitoring and ninety-day compliance reports required in paragraphs (A) and (C) above, and 40 C.F.R. § 403.12(b) and (d), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical representative sampling data do not exist. Where historical data are available, the director may authorize a lower minimum. For the reports required by subsection (D) above and 40 C.F.R. § 403.12(e) and (h), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(L) *Date of receipt of reports.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of the receipt of the report shall govern.

(M) *Recordkeeping.* Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements and documentation associated with best management practices established under paragraph 13-28-020(E)(3). Records shall include the date, exact place, method, and time of sampling and the name of the person taking the sample; the dates analyses were performed; who performed the analyses; analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of three years. This period shall be automatically extended for the duration of any litigation concerning the user or the City and County of Broomfield, or where the user has been specifically notified of a longer retention period by the director.

(N) *Certification statements.*

(1) *Signatory certification for required reports.* The following certification statement is required to be signed and submitted by users submitting reports to the director required under this chapter and the wastewater discharge permit:

"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."

(2) *Certification of pollutants not present.* Users that have an approved monitoring waiver based on paragraph (D)(2) above must certify on each report with the following statement that there has been no increase of the pollutant in its wastestream due to activities of the user.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 C.F.R. \_\_\_\_ (specify applicable National Pretreatment Standard part), I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_ (list pollutant) in the wastewaters due to the activities at the facility since filing of the last periodic report under paragraph 13-28-060(D)(2) B.M.C."

(Ord. 1886 §1, 2008)

### **13-28-070 Compliance monitoring.**

(A) *Right of entry; inspection and sampling.* The director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the director ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require identification and clearance before entry into its premises, the user shall make prior necessary arrangements with its security guards so that, upon presentation of identification, the director shall be permitted to enter without delay for the purpose of performing specific responsibilities authorized under this chapter.

(2) The director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling or metering of the user's operation. The director may take samples, announced and unannounced, at times and locations as the director deems appropriate.

(3) The director may require the user to install monitoring equipment and structures, as necessary. The facility's sampling monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated according to the manufacturer's recommendation to ensure accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the director access to the user's premises shall be a violation and may cause the city to exercise its authority under subsection 13-28-050(E).

(B) *Search warrants.* If the director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that a violation of this chapter has or may have occurred, or that there is a need to inspect or sample as part of a routine inspection and sampling program of the City and County of Broomfield designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from the municipal court of the City and County of Broomfield. This action does not preclude the city from exercising its authority in subsection 13-28-050(E) to revoke the wastewater discharge permit. (Ord. 1886 §1, 2008)

### **13-28-080 Confidential information.**

Information and data on a user from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the director's 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 director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report 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, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the

report or pursuant to a court order. Wastewater constituents and characteristics and other effluent data, as defined in 40 C.F.R. § 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. (Ord. 1886 §1, 2008)

### **13-28-090 Publication of users in significant noncompliance.**

(A) The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment standards and requirements. The term *significant noncompliance* shall be applicable to all significant industrial users (or any other user that violates paragraphs (3), (4) or (8) of this subsection) and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those as in which sixty-six percent or more of all measurements taken for the same pollutant parameter taken during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in section 13-28-010;

(2) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equal or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by section 13-28-010 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by section 13-28-010 (daily maximum, long term average, instantaneous limit, or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

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

(5) Failure to meet, within ninety 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;

(6) Failure to provide, within thirty days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations, which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. 1886 §1, 2008)

### **13-28-100 Administrative enforcement remedies.**

(A) *Notification of violation.* When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon the user a written notice of violation. Within five working days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction or prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(B) *Consent orders.* The director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (E) and (F) below and shall be judicially enforceable.

(C) *Show cause hearing.* The director may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying 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 certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in subsection 13-28-010(C). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(D) *Compliance orders.* When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specific time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged into the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(E) *Cease and desist orders.* When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations 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.

(F) *Administrative fines.*

(1) When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not to exceed \$1,000.00 per day. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(2) Unpaid charges, fines, and penalties shall, after thirty calendar days, be assessed an additional penalty of twenty-five percent of the unpaid balance, and interest shall accrue thereafter at a rate of five percent per month. A lien against the user's property shall be sought for unpaid charges, fines, and penalties.

(3) Users desiring to appeal such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within fifteen days of being notified of the fine. Such notice of appeal shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and request for a hearing. The notice of appeal shall not waive or cause a delay to the requirement that a user pay the administrative penalty within thirty days as specified above.

(4) *Date of hearing.* On receipt of a notice of appeal, the director shall set it for hearing within fifteen days. Notice of the time, date, and place for the hearing shall be served or mailed by certified mail to the party filing the notice of appeal at least ten days prior to the hearing. The director may continue the hearing, from time to time, thereafter, as the director deems necessary, without further notice. Whether or not a duly notified user appears or is represented at the hearing, the director may immediately pursue any other enforcement action authorized under this chapter. In the event the user's appeal is successful and the entire or a portion of the payment is ordered returned to the user, the payment, together with any interest accruing thereto, shall be returned to the user. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

(G) *Emergency suspensions.*

(1) The director may immediately suspend a user's discharge, after notice to the user, whenever such suspension is necessary to stop a discharge which: (a) reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons; (b) interferes or threatens to interfere with the operation of the POTW; or (c) which presents, or may present, an endangerment to the environment. Notice may include: hand delivery of the emergency notice during working hours, posting of such notice at the business, telephone or email notice to the authorized representative, and any other methods as determined to be appropriate by the director under the emergency suspension action.

(2) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure or inability to immediately comply with the suspension notice, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The user shall submit a detailed written statement, describing the causes of the discharge and the measures taken to prevent any future occurrence. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed.

(3) Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user, including initiating termination proceedings as set forth in subsection (H).

(H) *Termination of discharge.*

(1) The city may revoke a wastewater discharge permit and terminate any discharge as described in subsection 13-28-050(E).

(2) Such user will be notified of the proposed revocation and termination of its discharge and be offered an opportunity to show cause under subsection (C) above why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

(I) *Notification.* Any notice or order issued under this section shall be served personally or by registered mail, return receipt requested, to the billing or street address of the user.

(J) *Appeal.*

(1) Notice. Any user desiring to appeal any order or determination of the director shall file a written notice of appeal with the director of Public Works within fifteen days of such order or determination. Such notice of appeal shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and a request for a hearing.

(2) *Date of hearing.* On receipt of a notice of appeal, the director of public works shall set it for hearing within fifteen days. Notice of the time, date, and place for the hearing shall be served personally or mailed by certified mail to the party filing the notice of appeal at least ten days prior to the hearing. The director may continue the hearing, from time to time, thereafter, as the director deems necessary, without further notice. Whether or not a duly notified user appears or is represented at the hearing, the director may immediately pursue any other enforcement action authorized under this chapter. (Ord. 1886 §1, 2008)

**13-28-110 Judicial enforcement remedies.**

(A) *Injunctive relief.* When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the municipal court through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The director may also seek such other action as is appropriate for legal 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.

(B) *Civil penalties.*

(1) A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City and County of Broomfield for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.

(2) The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City and County of Broomfield.

(3) In determining the amount of civil liability, 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 of the violation, 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.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(C) *Criminal prosecution.*

(1) A user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than ninety days, or both.

(2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000.00, or be subject to imprisonment for not more than ninety days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than ninety days, or both.

(4) In the event of a second conviction, a user shall be punished by a fine of not more than \$1,000.00 per violation, per day or imprisonment for not more than ninety days, or both.

(D) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City and County of Broomfield's Enforcement Response Plan. However, the director may take other action against any user when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user. (Ord. 1886 §1, 2008)

**13-28-120 Supplemental enforcement actions.**

(A) *Performance bonds.* The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the City and County of Broomfield, in a sum not to exceed a value determined by the director, to be necessary to assure consistent compliance.

(B) *Liability insurance.* The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of a permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(C) *Payment of outstanding fees and penalties.* The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder.

(D) *Water supply severance.* Whenever a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, an order issued hereunder, or any pretreatment standard or requirement, the director may order water service to the user severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.

(E) *Public nuisances.* A violation of any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person creating a public nuisance shall be subject to the provisions of this code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

(F) *Contractor listing.* Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the City and County of Broomfield. Existing contracts for the sale of goods or services to the City and County of Broomfield held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the director. (Ord. 1886 §1, 2008)

### **13-28-130 Affirmative defenses to discharge violations.**

(A) *Upset.*

(1) For the purposes of this section, *upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical 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 preventative maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) below are met.

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

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

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

(5) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) Users shall control (decrease) production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its 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.

(B) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in paragraph 13-28-020(B)(1) or the specific prohibitions in subparagraphs 13-28-020(B)(2) d., e., f., g., and h. if it can prove 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:

(1) 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

(2) No local limit exists, but the discharge did not change substantially in nature or constitutes from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) *Bypass.*

(1) For the purpose of this section:

a. *Bypass* means the intentional diversion of wastestreams from any portion of a user's treatment facility.

b. *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.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) below.

(3) *Bypass notification.*

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

b. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four 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 also 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 director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(4) *Bypass.*

a. Bypass is prohibited, and the director may take an enforcement action against the user for a bypass, unless:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. 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 preventative maintenance; and

3. The user submitted notices as required under paragraph (3) above.

b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in subparagraph (4)a. of this subsection. (Ord. 1886 §1, 2008)

### **13-28-140 Wastewater treatment rates.**

(A) *Sewer services.* The City and County of Broomfield's sewer services charges are listed in chapter 13-12 of this code.

(B) *Industrial pretreatment program fees.* In addition to the sewer use fees and charges provided for in chapter 13-12, the city may adopt reasonable fees for reimbursement of costs of setting up and operating the industrial pretreatment program, which may include:

(1) Fees for a wastewater discharge permit, including the cost of processing such applications; users shall be subject to wastewater discharge permit fees as set forth in section 13-28-145 below, which is incorporated herein by this reference.

(2) Classification of industrial users. Industrial users may be divided into various classifications, including but not limited to significant industrial users and nonsignificant industrial users, and the fees within such classifications reflect the differing costs to the city.

(3) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users; users shall be subject to wastewater analysis fees as set forth in section 13-28-145 below, which is incorporated herein by this reference.

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

(5) Fees for filing appeals;

(6) Fees to recover administrative and legal costs (not included in subsection (A) above) associated with the enforcement activity taken by the director to address industrial user noncompliance;

(7) Sump pump permit fee. A permit fee of \$75.00 shall be charged by the city for each permit issued to an applicant for a sump pump permit as provided in subparagraph 13-28-020(A)(5)c.

(8) Recreation vehicle-camper permit fee. A permit fee of \$25.00 shall be charged by the city for each nonresidential permit issued to an applicant for a recreation vehicle-camper permit.

(9) Damage to facilities. When a user's wastewater causes obstruction or damage or, because of the nature of the wastewater, increases the costs for managing the effluent of the sludge of the POTW, the user shall pay for such increased cost.

(10) Other fees as the City and County of Broomfield may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

(C) *Severability.* If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. (Ord. 1886 §1, 2008)

**13-28-145 Permit fees, monitoring schedule, and analysis fees.**

(A) *Permit fees.*

| <i>Class</i>                   | <i>Permit Fees (per year)</i> |
|--------------------------------|-------------------------------|
| Significant industrial user    | \$1,700.00                    |
| Nonsignificant industrial user | 750.00                        |

(B) *Monitoring schedule for significant industries.* All parameters specifically limited will be monitored by the industrial user at least twice per year. Pollutants most likely to be present in the wastewater discharge shall be monitored more frequently, as determined by the director.

(C) *Annual analysis.* Once per year a complete analysis shall be made by the city. Subsequent samplings during the year may be for specific pollutants, as determined by the director.

(D) *Wastewater analysis fees.*

|                                 |          |
|---------------------------------|----------|
| Sample pick-up and preparation: | \$120.00 |
| Analysis:                       |          |
| COD                             | 22.00    |
| TSS                             | 18.00    |
| BOD                             | 36.00    |
| pH                              | 6.00     |

|                       |       |
|-----------------------|-------|
| Ammonia-nitrogen      | 18.00 |
| Cyanide, total        | 36.00 |
| Metals, any 4         | 70.00 |
| Oil and grease        | 58.00 |
| Chromium (hexavalent) | 32.00 |
| Mercury               | 32.00 |

For pollutants other than those listed above, fees will be charged at a rate of \$30.00 per man-hour involved in analysis. (Ord. 1886 §1, 2008)

**13-28-150 Enforcement response plan.**

The director may promulgate policies and procedures as set forth in the city's enforcement response plan for carrying out the provisions of this chapter, provided that such policies and procedures are not in conflict with this chapter or any applicable state or federal law or regulation. (Ord. 1886 §1, 2008)

**13-28-160 Regulation of users from outside jurisdictions.**

(A) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the director shall enter into an intermunicipal agreement with the contributing municipality.

(B) Prior to entering into an agreement required by subsection (A) above, the director shall request the following information from the contributing municipality:

- (1) A description of the quality and volume of wastewater discharged into the POTW by the contributing municipality;
- (2) An inventory of all users located within the contributing municipality that are discharging into the POTW; and
- (3) Such other information as the director may deem necessary.

(C) The intermunicipal agreement, as required by subsection (A), above shall contain the following conditions:

- (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits which are at least as stringent as those set forth in subsection 13-28-020(E). The requirement shall specify that such ordinance and limits must be revised as necessary to reflect any amendment to this chapter;
- (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the director; and which of these activities will be conducted jointly by the contributing municipality and the director;
- (4) A requirement for the contributing municipality to provide the director with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges into the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the director access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. (Ord. 1886 §1, 2008)

## Chapter 13-32

### Reclaimed Wastewater

#### 13-32-010 Purpose.

It is necessary for the health, safety, and welfare of the residents of the city to regulate the treatment and application of reclaimed wastewater to provide for maximum public benefit. This chapter sets forth uniform requirements for applicators of the city's reclaimed wastewater, and enables applicators and the city to comply with all applicable state regulations. (Ord. 1549 §1, 2001)

#### 13-32-020 Applicability.

This chapter applies to the direct reuse of reclaimed wastewater for *landscape irrigation*. It also applies to use of reclaimed wastewater for *landscape irrigation* which is blended with or contains nonpotable surface or ground water. *Landscape irrigation* means irrigation of areas, grass, trees, and other vegetation that are accessible to the public including, but not limited to, parks, greenbelts, golf courses, and common areas at apartment, townhouse, commercial/business parks, and other similar complexes. (Ord. 1549 §1, 2001)

#### 13-32-030 Regulatory compliance.

It is the policy of the city and the water reclamation enterprise to comply with the "Reclaimed Domestic Wastewater Control Regulation," Regulation #84 (5 CCR1002-84) as promulgated by the Colorado Water Quality Commission. Such regulations apply to the city as provider and user of reclaimed wastewater for landscape irrigation. The city determines that all requirements and provisions of Regulation #84 shall apply to any applicator of the city's reclaimed wastewater, whether applicator's contract was prior to the adoption of Regulation #84 or such contract is entered into following adoption of this chapter. (Ord. 1549 §1, 2001)

#### 13-32-040 Allocation.

It is the policy of the city and the water reclamation enterprise to make reclaimed wastewater available for property within the city, subject to Regulation #84 and subject to the capacity of the facilities to produce reclaimed wastewater. The use of reclaimed wastewater will require separate contracts between the city and each entity desiring reclaimed wastewater, including a contract between the city and the water reclamation enterprise. Since the availability of reclaimed wastewater is limited, contractual allocations which are available shall be governed by the availability of reclaimed wastewater and the relative costs associated with such deliveries. Regulation #84 does not allow a reclaimed wastewater allocation to be available for individual homeowners' lots. (Ord. 1549 §1, 2001)

#### 13-32-050 Contract required.

It shall be unlawful to make a service connection to the city's reclaimed wastewater system without a specific contract for reclaimed wastewater with the city. In addition to having a specific contract for reclaimed wastewater with the city, applicators of the city's reclaimed wastewater shall comply with all requirements contained in Regulation #84 and cooperate with the city in its efforts to comply with Regulation #84. (Ord. 1549 §1, 2001)

#### 13-32-060 Connection fee.

For all reclaimed wastewater contracts following adoption of this chapter, the connection fee for reclaimed wastewater service shall be at the rate of fifty percent of the then-current potable license fee as prescribed in section 13-02-020 of the Broomfield Municipal Code. (Ord. 1549 §1, 2001)

#### 13-32-070 Monthly service charges.

(A) For all reclaimed wastewater contracts following adoption of this chapter, the flat monthly and consumption charges for reclaimed wastewater service shall be at the rate of fifty percent of the monthly water service charges and the flat monthly charge as prescribed in subsection 13-12-010 (B) (1) and (2) of the Broomfield Municipal Code. Bills for the monthly reclaimed wastewater charges shall be submitted by the city and shall be paid by the reclaimed wastewater applicators monthly.

(B) In any calendar year, the applicator shall not be entitled to receive more reclaimed wastewater than provided in the applicator's specific contract for reclaimed wastewater. Should an applicator receive more

than the amount of reclaimed wastewater that is set forth in the specific contract, that applicator shall pay a surcharge based on ten times the normal reclaimed wastewater charge per 1,000.00 gallons for the excess water in each calendar year. (Ord. 1549 §1, 2001)

**13-32-080 Supply.**

The city will use every reasonable means to furnish a continuous supply of reclaimed wastewater from its system. However, the city is not a guarantor of reclaimed wastewater supply or availability. In order to protect the health, safety, and general welfare of the public, the city may limit the use of reclaimed wastewater in times of reclaimed wastewater shortage or drought. (Ord. 1549 §1, 2001)

**13-32-090 Service termination.**

If a reclaimed wastewater applicator fails to comply with all of the provisions of this chapter, its contract for reclaimed wastewater, or the Reclaimed Domestic Wastewater regulations referenced in section 13-32-030, the city may, among other remedies, terminate reclaimed wastewater service to the violating applicator. Pursuant to Regulation #84.5 (A)(4), the city must have authority to terminate service if an applicator fails to comply with the requirements of Regulation #84. If reclaimed wastewater service is terminated under this section, the city shall not be liable for any reimbursements to the violating applicator for prior payments to the city of any kind, including reclaimed wastewater connection fees paid to the city under contract. (Ord. 1549 §1, 2001)

**13-32-100 Reporting of violations.**

(A) Any violation of Regulation #84 shall be reported to the city and the Colorado Water Quality Control Division not later than thirty days after becoming aware of the violation.

(B) All violations by an applicator shall be summarized in the Annual Report required under Regulation #84.

(C) The following violations shall be reported orally to the city and the Colorado Water Quality Control Division within twenty-four hours of becoming aware of the violation and shall be followed up with a written report to the city and the Colorado Water Quality Control Division within five days:

- (1) Any discharge to surface waters;
- (2) A cross connection without a backflow prevention device; and
- (3) Irrigation outside of the area approved in the Notice of Authorization. (Ord. 1549 §1, 2001)

**Chapter 13-36**

**Drought Watering Restrictions**

**13-36-010 Purpose.**

Whenever the city council declares a drought emergency and the necessity for mandatory water conservation measures, the provisions of this chapter shall implement such mandatory water conservation measures for the preservation of public property, health, peace, and safety of the public. (Ord. 1683 §1, 2002; Ord. 1693, §1, 2002; Ord. 1713 §1, 2003; Ord. 1732 §1, 2003)

**13-36-020 Declaration of drought.**

(A) The city council finds, determines, and declares a condition of severe drought, and said condition of drought has, and will continue to have, a deleterious effect upon the quantity and availability of potable water the city provides to its citizens and to others served by the city.

(B) The necessity of mandatory water conservation measures applicable to city water delivery systems is deemed warranted and is duly declared.

(C) The city council determines that it is necessary to implement mandatory water conservation measures for the preservation of public property, health, peace, and safety of the public. (Ord. 1693, §1, 2002; Ord. 1713 §1, 2003; Ord. 1732 §1, 2003)

**13-36-030 Drought Condition I; mandatory drought watering restrictions.**

Upon the declaration of a Drought Condition I drought emergency by resolution of the city council, all customers, owners, or occupants of any licensed premises, including all out-of-city water customers and members served by the Mile High Water Company, shall comply with the following water restrictions:

(A) *Watering days.* Irrigation of turf grasses of any kind shall be limited to two days each week of the month as follows:

- (1) Single-family dwellings and duplex dwellings with an address ending in an odd number may irrigate only on Wednesdays and Saturdays of the week.
- (2) Single-family dwellings and duplex dwellings with an address ending in an even number may irrigate only on Sundays and Thursdays of the week.
- (3) Homeowners' associations; multiple-family dwellings of three or more families; mobile home communities, including residents therein; and business, commercial or industrial uses may irrigate only on Tuesdays and Fridays of the week.
- (4) There shall be no irrigation of turf grasses on Mondays except by permit.

(B) *Time limit per day.* The irrigation of turf grasses permitted by subsection (A) above shall be limited to two hours at any time before the hours of 10:00 a.m. or after 6:00 p.m. on the authorized watering day. Residential turf grass areas that are greater than 12,000 square feet may be irrigated for an additional one hour on the authorized watering day at any time before the hours of 10:00 a.m. or after 6:00 p.m.

(C) *Large irrigation areas.* Business, commercial, or industrial irrigation turf areas, in addition to the irrigation limitations prescribed in subsections (A) and (B) above, shall be subject to the following limitations:

- (1) Pop-up irrigation zones shall be limited to fifteen minutes.
- (2) Full-rotor irrigation zones shall be limited to forty-five minutes.
- (3) One-half rotor irrigation zones shall be limited to thirty minutes.

Employees or agents of the city are hereby authorized and permitted without a warrant to enter upon the property of any business, commercial, or industrial irrigation turf area for the limited purpose of examining irrigation clocks or timing devices.

(D) *Parks and athletic fields.* Public parks and athletic fields and school athletic fields are exempt from the turf irrigation water day and watering hour limitations prescribed above, provided that such irrigation occurs at any time before the hours of 10:00 a.m. or after 6:00 p.m., and further provided that a thirty-percent reduction in irrigation use is established.

(E) *Golf courses.* Golf courses are exempt from the turf irrigation water day and watering hour limitations prescribed above, provided that a thirty-percent reduction in irrigation use is established. Golf courses shall not water the roughs unless the golf course irrigation cannot separate fairway from rough watering.

(F) *New seed or sod.* Any newly sodded, seeded, or re-seeded turf areas in the city are exempt from the turf irrigation water day and watering hour limitations prescribed above, provided the newly sodded, seeded, or re-seeded turf area is registered with the department of public works. Once registered with the department of public works, newly sodded, seeded, or re-seeded turf areas are subject to the following limitations:

- (1) Newly sodded, seeded, or re-seeded turf areas may be irrigated twice each day for not more than two hours at any time before the hours of 10:00 a.m. or after 6:00 p.m. for a period of two weeks, provided that such newly sodded, seeded, or re-seeded turf areas are installed before June 16 or after September 1.
- (2) Any newly sodded, seeded, or re-seeded turf areas that cannot be irrigated within the two-hour period, may be watered in accordance with the provisions prescribed for large irrigation areas in subsection (C) above.

(G) *System maintenance.* An irrigation system may be operated at any time for the purpose of repair or regular maintenance, provided that misuse or waste of water does not occur in violation of section 13-24-010, B.M.C.

(H) *Trees, shrubs, gardens.* The irrigation of trees, shrubs, or gardens may occur at any time if watered by hand, a drip irrigation system, a bubbler system, or by a soaker hose. *Hand watering* means holding in the hand

a hose with an attached positive shutoff nozzle, and does not include operating a hose with a sprinkler or manually operating an irrigation controller.

(I) *Swimming pools.* The city shall not issue building permits for new swimming pools. Existing swimming pools may be filled once a year and the water level maintained in the swimming pool throughout the year.

(J) *Washing of vehicles.*

(1) Personal vehicles may be washed no more often than once each week using a hose with a positive shutoff mechanism.

(2) Vehicles in government or commercial operations or fleets may be washed no more often than once a week.

(3) Vehicles may be washed at a commercial car wash at any time.

(K) *Impervious areas.* Impervious surfaces, such as sidewalks, driveways, or patios, may not be washed by hoses, except when necessary for public health or safety reasons.

(L) *Building maintenance.* Buildings may be washed by a pressure washer to clean the surface in preparation for maintenance, provided that misuse or waster of water does not occur in violation of section 13-24-010, B.M.C.

(M) *Permits.* For good cause shown, the director or deputy director of public works may issue water variance permits in instances of personal hardship. (Ord. 1713 §1, 2003; Ord. 1732 §1, 2003)

### **13-36-040 Drought Condition II; mandatory drought watering restrictions.**

Upon the declaration of a Drought Condition II drought emergency by resolution of the city council, all customers, owners, or occupants of any licensed premises, including all out-of-city water customers and members served by the Mile High Water Company, shall comply with the following water restrictions:

(A) *Watering days.* Irrigation of turf grasses of any kind shall be limited to two days each week of the month as follows:

(1) Single-family dwellings and duplex dwellings with an address ending in an odd number may irrigate only on Wednesdays and Saturdays of the week.

(2) Single-family dwellings and duplex dwellings with an address ending in an even number may irrigate only on Sundays and Thursdays of the week.

(3) Homeowners' associations; multiple-family dwellings of three or more families; mobile home communities, including residents therein; and business, commercial or industrial uses may irrigate only on Tuesdays and Fridays of the week.

(4) There shall be no irrigation of turf grasses on Mondays except by permit.

(B) *Time limit per day.* The irrigation of turf grasses permitted by subsection (A) above shall be limited to one hour at any time before the hours of 10:00 a.m. or after 6:00 p.m. on the authorized watering day. Residential turf grass areas that are greater than 12,000 square feet may be irrigated for an additional one-half hour on the authorized watering day at any time before the hours of 10:00 a.m. or after 6:00 p.m.

(C) *Large irrigation areas.* Business, commercial, or industrial irrigation turf areas, in addition to the irrigation limitations prescribed in subsections (A) and (B) above, shall be subject to the following limitations:

(1) Pop-up irrigation zones shall be limited to eight minutes.

(2) Full-rotor irrigation zones shall be limited to twenty-three minutes.

(3) One-half rotor irrigation zones shall be limited to fifteen minutes.

Employees or agents of the city are hereby authorized and permitted without a warrant to enter upon the property of any business, commercial, or industrial irrigation turf area for the limited purpose of examining irrigation clocks or timing devices.

(D) *Parks and athletic fields.* Public parks and athletic fields and school athletic fields are exempt from the turf irrigation water day and watering hour limitations prescribed above, provided that such irrigation occurs

at any time before the hours of 10:00 a.m. or after 6:00 p.m., and further provided that a forty-percent reduction in irrigation use is established.

(E) *Golf courses.* Golf courses are exempt from the turf irrigation water day and watering hour limitations prescribed above, provided that a forty-percent reduction in irrigation use is established. Golf courses shall not water the roughs unless the golf course irrigation cannot separate fairway from rough watering.

(F) *New seed or sod.* Any newly sodded, seeded, or re-seeded turf areas in the city are subject to turf irrigation provisions set forth in subsections (A) through (C) above.

(G) *System maintenance.* An irrigation system may be operated at any time for the purpose of repair or regular maintenance, provided that misuse or waste of water does not occur in violation of section 13-24-010, B.M.C.

(H) *Trees, shrubs, gardens.* The irrigation of trees, shrubs, or gardens may occur at any time if watered by hand, a drip irrigation system, a bubbler system, or by a soaker hose. *Hand watering* means holding in the hand a hose with an attached positive shutoff nozzle, and does not include operating a hose with a sprinkler or manually operating an irrigation controller.

(I) *Swimming pools.* The city shall not issue building permits for new swimming pools. Existing swimming pools may be filled once a year and the water level maintained in the swimming pool throughout the year.

(J) *Washing of vehicles.*

(1) Personal vehicles may be washed no more often than once each week using a hose with a positive shutoff mechanism.

(2) Vehicles in government or commercial operations or fleets may be washed no more often than once a week.

(3) Vehicles may be washed at a commercial car wash at any time.

(K) *Impervious areas.* Impervious surfaces, such as sidewalks, driveways, or patios, may not be washed by hoses, except when necessary for public health or safety reasons.

(L) *Building maintenance.* Buildings may be washed by a pressure washer to clean the surface in preparation for maintenance, provided that misuse or waste of water does not occur in violation of section 13-24-010, B.M.C.

(M) *Water features.* Operation of outside water features, such as fountains or outdoor misting systems, is prohibited, except if such features or systems are used to sustain aquatic life or maintain water quality.

(N) *Permits.* For good cause shown, the director or deputy director of public works may issue water variance permits in instances of personal hardship. (Ord. 1713 §1, 2003; Ord. 1732 §1, 2003)

### **13-36-050 Drought Condition III; mandatory drought watering restrictions.**

Upon the declaration of a Drought Condition III drought emergency by resolution of the city council, all customers, owners, or occupants of any licensed premises, including all out-of-city water customers and members served by the Mile High Water Company, shall comply with the following water restrictions:

(A) *Watering days.* The irrigation of turf grasses of any kind is prohibited.

(B) *Time limit per day.* The irrigation of turf grasses of any kind is prohibited.

(C) *Large irrigation areas.* The irrigation of turf grasses of any kind is prohibited.

(D) *Parks and athletic fields.* Public parks and athletic fields and school athletic fields are exempt from the turf irrigation water day and watering hour limitations prescribed above, provided that such irrigation occurs at any time before the hours of 10:00 a.m. or after 6:00 p.m., and further provided that a fifty-percent reduction in irrigation use is established.

(E) *Golf courses.* Only the tees and greens on golf courses may be irrigated.

(F) *New seed or sod.* The irrigation of turf grasses of any kind is prohibited.

(G) *System maintenance.* An irrigation system may be operated at any time for the purpose of repair or regular maintenance, provided that misuse or waste of water does not occur in violation of section 13-24-010, B.M.C.

(H) *Trees, shrubs, gardens.* The irrigation of trees, shrubs, or gardens may occur at any time if watered by hand, a drip irrigation system, a bubbler system, or by a soaker hose. *Hand watering* means holding in the hand a hose with an attached positive shutoff nozzle, and does not include operating a hose with a sprinkler or manually operating an irrigation controller.

(I) *Swimming pools.* The city shall not issue building permits for new swimming pools. Private swimming pools may not be filled. Public swimming pools, private club swimming pools, and homeowner's association swimming pools may be filled.

(J) *Washing of vehicles.*

(1) Personal vehicles may be washed no more often than once each week using a hose with a positive shutoff mechanism.

(2) Vehicles in government or commercial operations or fleets may be washed no more often than once a week.

(3) Commercial car washes shall have recycling capabilities in order to operate and are required to obtain a permit from the director or deputy director of public works as a condition of operation.

(K) *Impervious areas.* Impervious surfaces, such as sidewalks, driveways, or patios, may not be washed by hoses, except when necessary for public health or safety reasons.

(L) *Building maintenance.* Buildings may be washed by a pressure washer to clean the surface in preparation for maintenance, provided that misuse or waster of water does not occur in violation of section 13-24-010, B.M.C.

(M) *Water features.* Operation of outside water features, such as fountains or outdoor misting systems, is prohibited, except if such features or systems are used to sustain aquatic life or maintain water quality.

(N) *Permits.* Except as provided for commercial car washes, no permits shall be issued. (Ord. 1713 §1, 2003; Ord. 1732 §1, 2003)

### **13-36-060 Enforcement of drought watering restrictions.**

The customer, owner, or occupant of the licensed premises shall be responsible for complying with the drought watering restrictions imposed by this chapter. In addition to the penalties imposed by chapter 1-12 B.M.C., for any violation of this chapter, the following charges shall be added to the monthly water service charges of the customer, owner, or occupant of the licensed premises:

(A) For the first violation of any drought watering restriction, the customer, owner, or occupant will be notified in writing served personally or by certified mail.

(B) For the second violation of any drought watering restriction at the same premises, \$100.00 shall be added to the monthly water service charges of the customer, owner, or occupant of single-family dwellings and duplex dwellings and \$200.00 shall be added to the monthly water service charges of all other customers, owners, or occupants.

(C) For the third violation of any drought watering restriction at the same premises, \$300.00 shall be added to the monthly service charges of the customer, owner, or occupant of single-family dwellings and duplex dwellings and \$600.00 shall be added to the monthly water service charges of all other customers, owners, or occupants.

(D) For the fourth violation of any drought watering restriction at the same premises, \$500.00 shall be added to the monthly service charges of the customer, owner, or occupant of single-family dwellings and duplex dwellings and \$1,000.00 shall be added to the monthly water service charges of all other customers, owners, or occupants.

(E) For the fifth and any subsequent violation of any drought watering restriction at the same premises, \$1,000.00 shall be added to the monthly service charges of the customer, owner, or occupant of single-family dwellings and duplex dwellings and \$2,000.00 shall be added to the monthly water service charges of all other customers, owners, or occupants. (Ord. 1713 §1, 2003; Ord. 1732 §1, 2003)

## Chapter 13-40

### Stormwater Regulations

#### 13-40-010 Purpose.

The city council finds, declares, and determines it necessary for the health, safety, and welfare of the residents of the city to protect and enhance water quality by reducing pollutants in stormwater runoff to the maximum extent practicable and by prohibiting nonstormwater discharges into the storm sewer system in a manner pursuant to and consistent with the Federal Clean Water Act, 33 U.S.C. § 1251 et seq. This chapter sets forth uniform requirements for users of the city's municipal separate storm sewer system and enables the city to comply with all applicable state and federal laws and regulations. The objectives of this chapter are:

(A) To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user;

(B) To prohibit illicit connections and discharges to the municipal separate storm sewer system;

(C) To minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and streambank erosion, and maintain the integrity of stream channels; and

(D) To minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality. (Ord. 1779 §1, 2004)

#### 13-40-020 Definitions and abbreviations.

Words and phrases used in this chapter shall be as defined in this section unless the context clearly indicates otherwise.

(A) *Act* or *the Act* shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq.

(B) *Approval authority* shall mean the director of the Colorado Department of Public Health and Environment or designee.

(C) *Best management practices* or *BMPs* shall mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. *BMPs* also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(D) *City* shall mean the City and County of Broomfield.

(E) *Code* shall mean the Broomfield Municipal Code.

(F) *Colorado Discharge Permit System* or *CDPS* shall mean the State's version of the NPDES program. Stormwater discharge permits are issued by the Colorado Department of Public Health and Environment.

(G) *Construction activity* shall mean activities subject to CDPS/NPDES Construction Stormwater Permits. These include construction projects resulting in a land disturbance greater than or equal to one acre. Construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(H) *Director of public works* or *director* shall mean the director of public works of the city or a designee thereof.

(I) *Environmental Protection Agency* or *EPA* shall mean the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

(J) *Hazardous materials* shall mean any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(K) *Illicit discharge* shall mean any direct or indirect discharge to a municipal separate storm sewer system that is not composed entirely of stormwater, except discharges specifically exempted in section 13-40-040 of this chapter.

(L) *Illicit connection* shall mean:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm sewer system including, but not limited to, any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm sewer system and any connections to the storm sewer system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(M) *Industrial activity* shall mean any activities subject to CDPS/NPDES Industrial Stormwater Permits.

(N) *Maximum extent practicable* shall mean a standard for implementation of stormwater management programs to reduce pollutants in stormwater. It is the maximum extent possible taking into account equitable consideration and competing facts, including, but not limited to: the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost, and technical feasibility.

(O) *MS4 or municipal separate sewer system* shall mean the city's storm sewer system.

(P) *National Pollutant Discharge Elimination System (NPDES) Stormwater discharge permit* shall mean a permit issued pursuant to section 402 of the Act [33 U.S.C. § 1342(b)] that authorizes the discharge of pollutants to water of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(Q) *Nonstormwater discharge* shall mean any discharge to the storm sewer system that is not composed entirely of stormwater.

(R) *Person or user* shall mean an individual, partnership, organization, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

(S) *Pollutant* shall mean any liquid, solid or semi-solid substances, or combination thereof, including, but not limited to:

(1) Artificial materials, chips, pieces of natural or man-made materials, including but not limited to floatable plastics, wood, or metal shavings.

(2) Household waste, including but not limited to trash, paper, plastics, lawn clippings, and yard wastes; animal fecal materials; pesticides, herbicides, and fertilizers; used oil and fluids from vehicles, lawn mowers, and other common household equipment.

(3) Metals, including but not limited to cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, silver, and zinc and nonmetals, including but not limited to phosphorus and arsenic.

(4) Petroleum hydrocarbons, including but not limited to fuels, lubricants, hydraulic fluids, surfactants, waste oils, solvents, coolants, and grease.

(5) Soil, sediment, and particulate materials.

(6) Animal waste, including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, stables, show facilities, and polo fields.

(7) Substances having characteristics such as a pH less than 6.5 or greater than 8.5 or unusual coloration or turbidity, or containing fecal coliform, fecal streptococcus, enterococcus, or other pathogens.

(8) Waste materials and wastewater generated, including but not limited to painting or staining; use of sealants, glues, limes; excessive pesticides, fertilizers, or herbicides; use of wood preservatives and solvents; disturbance of asbestos fibers, paint flakes, or stucco fragments; application of oils, lubricants, hydraulic, radiator, or battery fluids; construction equipment washing, concrete pouring, and cutting slurry wastes, and cleanup wash water or use of concrete detergents; steam cleaning, or sand blasting residues;

use of chemical degreasing or diluting agents; and super-chlorinated water generated by potable water line flushing.

(9) Wastewater from outdoor mobile power washing activities, including but not limited to building exteriors, cleaning of gas stations, vehicle service facilities, vehicle engines, car lots, restaurants, drive-throughs, dumpster areas, and graffiti removal.

(10) Materials causing an increase in biochemical oxygen demand, chemical oxygen demand, total suspended solids, or total organic carbon.

(11) Materials which contain base/neutral or acid-extractable organic compounds.

(12) Pollutants as defined in § 502(6) of the Clean Water Act, 33 U.S.C. § 1362(6).

(T) *Pollution* shall mean the human-made or human-induced alteration of the quality of waters by pollutants to a degree which unreasonably affects or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

(U) *Premises* shall mean any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(V) *Public health officer* shall mean the public health officer for the city or his or her designee.

(W) *Receiving waters* shall mean lakes, rivers, streams, or other surface or subsurface water courses which receive treated or untreated wastewater.

(X) *Standards and specifications* shall mean the city's Standards and Specifications for Design and Construction of Public Improvements.

(Y) *Storm sewer system* shall mean publicly-owned facilities by which stormwater is collected or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(Z) *Stormwater* shall mean any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

(AA) *Stormwater management plan* or *stormwater pollution prevention plan* shall mean a document which describes the best management practices and activities to be implemented by a user or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, or receiving waters to the maximum extent practicable.

(BB) *Wastewater* shall mean any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(CC) *Waters of the United States* shall mean surface watercourses and water bodies as defined at 40 C.F.R. § 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons. (Ord. 1779 §1, 2004)

### **13-40-030 Applicability (Storm Sewer use).**

This chapter shall apply to all water entering the storm sewer system generated on any developed and undeveloped lands, unless expressly exempted by the director of public works. (Ord. 1779 §1, 2004)

### **13-40-040 Discharge prohibitions.**

No person shall contribute or cause to be contributed, directly or indirectly, a discharge of any substance other than naturally occurring stormwater runoff into the city's storm sewer system except the following exemptions:

(A) Nonstormwater discharges, including the following:

- (1) Fire-fighting activities;
- (2) Water line brakes and releases from potable water systems;
- (3) Dechlorinated hydrant flushing;

- (4) Foundation/footing drains;
- (5) Uncontaminated groundwater;
- (6) Basement or crawl space sump pump;
- (7) Landscape irrigation;
- (8) Dechlorinated swimming pool discharges;
- (9) Air conditioning condensation;
- (10) Noncommercial residential car washing;
- (11) Diverted stream flows;
- (12) Flows from riparian habitats and wetlands; and
- (13) Natural springs.

(B) Discharges expressly authorized in writing by the director as being necessary to protect public health and safety.

(C) Dye testing, provided that a prior approval is given by the director.

(D) Any nonstormwater discharge permitted under a CDPS/NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Colorado Department of Public Health and Environment or the EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations and approved by the director. The city reserves the right to deny any discharge even though the user has a CDPS/NPDES permit. (Ord. 1779 §1, 2004)

**13-40-050 Prohibition of illicit connections.**

(A) The construction, use, maintenance, or continued existence of illicit connections to the storm sewer system is prohibited, including illicit connections made prior to the effective date of this chapter, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(B) A user is considered to be in violation of this chapter if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue. (Ord. 1779 §1, 2004)

**13-40-060 Suspension due to illicit discharges in emergency situations.**

(A) The director or the public health officer may, without prior notice, suspend storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the city's storm sewer system or the waters of the United States.

(B) If the violator fails to comply with a suspension order issued in an emergency, the director or the public health officer may take such steps as deemed necessary to prevent or minimize damage to the storm sewer system or the waters of the United States or to minimize danger to persons.

(C) Any person discharging to the storm sewer system in violation of this chapter may have his or her storm sewer system access terminated. Except in the case of an emergency, the director or the public health officer shall give prior written notification to a violator of the proposed termination of the violator's storm sewer system access. No later than three days after receipt of the notice of proposed termination, the violator may request a hearing. At the hearing, the violator shall be advised of the basis for the proposed termination and given the opportunity to present any evidence to refute the evidence for the proposed termination.

(D) A person commits an offense if the person reinstates storm sewer system access to premises after termination pursuant to this chapter, without the prior written approval of the director or the public health officer. (Ord. 1779 §1, 2004)

**13-40-070 Waste disposal prohibitions.**

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained in or upon any public or private property, driveway, parking area, street, alley, sidewalk,

component of the storm sewer system, or waters of the United States, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purpose of collection are exempted from this prohibition. (Ord. 1779 §1, 2004)

#### **13-40-080 Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity CDPS/NPDES stormwater discharge permit shall comply with all provisions of such permit, the city's Standards and Specifications, and this chapter. Proof of compliance with said permit may be required in a form acceptable to the director prior to the allowing of discharges to the storm sewer system. (Ord. 1779 §1, 2004)

#### **13-40-090 Evaluation of commercial, industrial, or construction activity discharge.**

(A) *Applicability.* This section applies to all facilities that have stormwater discharges associated with commercial and industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The director shall be permitted to enter and inspect facilities subject to regulation as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the city.

(2) Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination, and, if applicable, copying of records that must be kept under the conditions of a CDPS/NPDES permit to discharge stormwater and the performance of any additional duties as required by state and federal law.

(3) The city shall have the right to set up on any facility such devices as are necessary in the opinion of the director to conduct monitoring or sampling of the stormwater discharge of the facility.

(4) The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the operator at the request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) An unreasonable delay in allowing the city access to a facility is a violation of the stormwater discharge permit and of this chapter.

(7) A person who is the operator of a facility commits a violation of this chapter if the person denies the director reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

(8) If the city has been refused access to any part of the premises from which stormwater is discharged, then the director may seek issuance of a search warrant from any court of competent jurisdiction to gain access for the purpose of inspection or sampling as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued pursuant to this chapter. (Ord. 1779 §1, 2004)

#### **13-40-100 Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

(A) The owner or operator of a construction, commercial, or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm sewer system or watercourses through the use of structural and nonstructural BMPs.

(B) Any person responsible for a property or premises, which is or may be the source of an illicit discharge, may be required to implement, at such person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm sewer system.

(C) Compliance with all the terms and conditions of a valid CDPS/NPDES permit authorizing the discharge of stormwater associated with industrial/construction activity, to the maximum extent practicable, shall be deemed in compliance with the provisions of this chapter. These BMPs shall be part of the Stormwater Management Plan (SWMP) or Stormwater Pollution Prevention Plan (SWPP) necessary for compliance with the requirements of the CDPS/NPDES permit. (Ord. 1779 §1, 2004)

#### **13-40-110 Watercourse protection.**

Any person owning property through which a watercourse passes, and such person's lessee or licensee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner, lessee, or licensee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. (Ord. 1779 §1, 2004)

#### **13-40-120 Notification of spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the storm sewer system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(A) Notification of director. In the event of an accidental discharge, it is the responsibility of such person to immediately telephone and notify the director of the incident. The notification shall include location of discharge, type of waste, concentration, and volume, and corrective actions taken.

(B) Written notice. Within five days following an accidental discharge, it is the responsibility of such person to submit to the director a detailed written report describing the cause of the discharge and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the responsible party of any expense, loss, damage, or liability which may be incurred as a result of damage to the storm sewer system, fish kills, or any other damage to persons or property, nor shall such notification relieve the responsible party of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law. (Ord. 1779 §1, 2004)

#### **13-40-130 Enforcement.**

(A) *Administrative remedies.* If any person violates any of the provisions of this chapter, or any of the terms and conditions of any CDPS/NPDES discharge permit, the director or the public health officer is authorized to take one or more of the following actions, as the director or the public health officer deems necessary and appropriate in the circumstances:

(1) Notice of violation. The director or the public health officer may issue a written notice of violation, when a person has violated, or continues to violate, any provision of this chapter, a CDPS/NPDES discharge permit, or order issued herein. Within five working days of the receipt of this notice, the user shall submit to the city, in writing, the following information:

- a. A description and cause of the noncompliance;
- b. Exact times and dates of noncompliance; and
- c. Actions taken to prevent the recurrence of the noncompliance.

Submission of this response does not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the director or the public health officer to take any action, including emergency actions or any other enforcement action, without first issuing a letter of violation.

(2) Compliance/stop work order. When the director or the public health officer finds that a person has violated, or continues to violate, any provision of this chapter, a CDPS/NPDES discharge permit, or order issued herein, the director or the public health officer may issue an order to the person responsible for the discharge directing that the person come into compliance within a specified time. If the person does not come into compliance within the time provided, legal or other administrative action may be taken, unless adequate treatment facilities, devices, or other related appurtenances are installed and properly

operated. The order also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the storm sewer system. A compliance order may not relieve the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(3) Administrative fine. The director or the public health officer may assess a fine when a person has violated, or continues to violate, any provision of this chapter, a CDPS/NPDES discharge permit, or order issued herein. The director or the public health officer may fine such person not to exceed \$1,000.00. Such fines shall be assessed on a per violation, per day basis.

a. Unpaid charges, fines, and penalties shall, after thirty calendar days, be subject to a lien against the user's property for the unpaid charges, fines, and penalties.

b. Users desiring to dispute such fines must file a written request for the director or the public health officer to reconsider the fine along with full payment of the fine. Where a request has merit, the director or the public health officer may convene a hearing on the matter. In the event the user's appeal is successful, the payment shall be returned to the user. The director or the public health officer may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

c. Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action against the user.

(4) Suspension. The director or the public health officer may order storm sewer system service, and CDPS/NPDES discharge permits suspended if actual or proposed discharge endangers, or may reasonably endanger, individual health, safety, or welfare, or the environment; or may cause the city to violate any condition or terms of its CDPS/NPDES permit. Any such suspension order shall become effective the day after the next regularly scheduled meeting of the city council which is at least five days after the date the suspension order is mailed, unless the city council, on appeal by the affected person, shall reverse the suspension order or stay its effect.

(5) Emergency suspension. The director or the public health officer may, without prior notice or hearing, order storm sewer system service suspended, if actual or proposed discharge immediately and substantially endangers individual health, safety, or welfare, or the environment, or may cause the city to violate any condition of its CDPS/NPDES permit. Any such emergency suspension order shall become effective immediately, and any person notified of such suspension shall immediately stop or eliminate all discharge. The director or the public health officer is also authorized, in such circumstances, to take such steps as deemed necessary to prevent or minimize danger or property damage.

(6) Reinstatement. Any suspended service or permit shall be reinstated upon proof of elimination of the violation, payment of all costs, and expenses incurred by the city in connection with the suspension, and approval by the director or the public health officer of a satisfactory plan to prevent future such violations.

(7) Revocation. The director or the public health officer may order storm sewer system service permanently terminated if he or she has found it necessary to take administrative actions more than three times in any twelve-month period. Any such revocation order shall become effective the day after the next regularly scheduled meeting of the city council which is at least five days after the date the revocation order is mailed, unless the city council, on appeal by the affected person, shall reverse the revocation order or stay its effect.

(8) Other. If deemed necessary to prevent danger or property damage, the director or the public health officer may order a user to provide treatment; flow rate control; suitable access to facilities, such as a manhole or vault; and periodic sampling, testing, and reporting of the quality and quantity of process wastewater being discharged. Any such order shall become effective at the time specified therein, unless the city council, on appeal by the affected user, shall reverse the order or stay its effect.

(B) *Notification.* Any notice or order issued under this section shall be served personally, or by registered or certified mail, return receipt requested, to the billing or street address of the user.

(C) *Appeal.*

(1) Notice. Any user desiring to appeal any order or determination of the director or the public health officer shall file a written notice of appeal with the director or the public health officer within fifteen

days of such order or determination. Such notice of appeal shall set forth the nature of the order or determination, the reason for the appeal, and request a hearing.

(2) Date of hearing. On receipt of a notice of appeal, the director or the public health officer shall set it for hearing within fifteen days. Notice of the time, date, and place for the hearing shall be served or mailed by certified mail to the party filing the notice of appeal at least ten days prior to the hearing. The director or the public health officer may continue the hearing, from time to time, thereafter, as deemed necessary, without further notice. Whether or not a duly notified user appears or is represented at the hearing, the director or the public health officer may immediately pursue any other enforcement action authorized under this chapter. (Ord. 1779 §1, 2004)