

CHAPTER 13

Garbage and Refuse; Sewage

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ARTICLE I

Garbage and Refuse

Sec. 13-1. Definitions.

For the purpose of the provisions of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Garbage consists of dead animals of not more than ten (10) pounds weight each, kitchen and table refuse and offal, swill and every accumulation of animal, vegetable and other matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowl, birds, fruits, goods or vegetables. The term *garbage* does not include dishwater or wastewater or the offal of slaughterhouses.

Refuse shall mean and include any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish, containers, boxes, glass, cans, bottles, waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material, and all rubbish of any kind or nature whatsoever and any other materials commonly known as rubbish or refuse of any kind or character or by any means known. For the purpose of the provisions of this Chapter, the term *refuse* shall also include presently unused and inoperable automobiles and machinery, parts, stoves, scrap metal, furniture, wool, hides, junkyard refuse and all other matter or materials of like kind. The definition of *refuse* shall not include that material theretofore defined as *garbage*. (Ord. 456, §1; Ord. 1048, §1)

Sec. 13-2. Accumulation and deposit of garbage.

No person shall deposit or place any garbage in such a manner that the same is or tends to become a nuisance or in such manner as to endanger or tend to endanger the public health. No person having the occupancy, control or management of any premises shall cause or permit any garbage to be accumulated thereon in such a manner that the same tends to become a nuisance or in such a manner as to endanger the public health. No person shall in any manner throw, place, scatter, deposit or bury any garbage, in or upon his or her own premises, or the premises of another or any public place, or upon any street or alley except properly within authorized containers as provided in this Article. (Ord. 606, §1; Ord. 1048, §1)

Sec. 13-3. Accumulation of refuse.

Any accumulation of refuse as that term is hereinabove defined on any premises in the City, improved or unimproved, is prohibited and unlawful and is hereby declared to be a nuisance and a municipal misdemeanor. Each day any violation of this Section continues shall be deemed a separate offense. (Ord. 606, §1; Ord. 1048, §1)

Sec. 13-4. Unlawful deposit of refuse.

It shall be unlawful for any person having refuse in the City to throw or deposit the same, or cause the same to be thrown or deposited upon any street, alley, gutter, park or other public or private place

in the City except in a City waste or refuse container, unless such person shall first notify the City Manager or his or her duly authorized deputy and arrange for its disposal upon terms agreeable to the City Manager or his or her deputy. Each day any violation of this Section continues shall be a separate offense. (Ord. 606, §1; Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-5. Use of containers by nonresident persons.

(a) For the purpose of facilitating the removal and disposal of refuse and garbage, securing proper sanitary conditions and regulating the disposal of garbage and refuse and the loading and transportation of the same over the public streets and alleys of the City, every owner or occupant of any house, hotel, restaurant, building, apartment, tenement or store within the City having garbage or refuse for disposal shall place all garbage and refuse for pickup and disposal in automatic loading and dumping containers or "dumpsters" provided by and placed or located by the City in the streets and alleys, and in no other containers or types of containers. Tree limbs and branches and sticks of trees and shrubs shall be completely trimmed and cut to such length as to fit completely within such containers.

(b) Any person violating the provisions of Subsection (a) above shall be punished as for any other violation of this Article as provided in Section 13-16 of this Article.

(c) It shall be unlawful and an offense for any resident of the County or the City to bring into the City and place for disposal, in any public or private dumpster or container, or in any other place, any garbage or refuse which has been collected or accumulated outside the City or produced from any activity carried on or occurring beyond the territorial limits of the City.

(d) Any person violating the provisions of Subsection (c) above shall be punished by the assessment of a penalty of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). In any case in which a violation of Subsection (c) above is alleged, all questions of fact and law and the penalty to be assessed in accordance herewith shall be heard and decided by the Police Magistrate or Municipal Judge and there shall be no trial by jury. (Ord. 740, §1; Ord. 1048, §1)

Sec. 13-6. Placement for collection.

(a) The City shall place the refuse and garbage containers provided by the City at such locations in the streets, alleys and places in the City as it shall determine, and it shall be unlawful and a municipal misdemeanor for any person to remove a container or "Dumpster," to change its location from that established by the City or to use the same in any manner or for any purpose except for the deposit of garbage and refuse as provided in this Article.

(b) Provisions for service of rollout containers.

(1) Service of rollout containers shall normally occur two (2) times per week.

(2) Rollout containers shall be placed for service as follows:

a. For those customers serviced from the street and receiving curbside service, refuse containers are to be placed at the curb after 4:00 p.m. the night before the day of the collection and no later than 7:00 a.m. on the day of collection.

b. Rollout containers must be removed from the collection point not later than 8:00 p.m. the day of collection.

c. Rollout containers must be placed directly to the right or left of the driveway at the curb line.

d. Rollout containers must be placed on a level surface, with a minimum of two (2) feet from each other. Where a residence does not have a driveway, the rollout container shall be placed at least four (4) feet from the curb.

e. Rollout containers must be placed with the rollout wheels set to the curb.

f. Refuse shall not be placed in the street or on the sidewalk, or in any manner that it will interfere with vehicular or pedestrian traffic.

g. All contents shall fit securely in the container so as to not cause the opening between the rim and the lid of the container to be greater than a forty-five-degree angle. All materials above the rim of the container must be bagged to prevent spillage. The occupant may be required to obtain an additional container at the discretion of the City Manager when excess waste is generated frequently.

h. The combined weight of each container and its contents shall not exceed three hundred thirty-five (335) pounds.

(c) Violations. It shall be unlawful for any customer to place a container at the curb prior to 4:00 p.m. the night prior to the day of the collection or to fail to remove a container from the public right-of-way by 8:00 p.m. on the day of collection.

(d) Continuing violations. Each and every day any violation of this Code or any other ordinance, rule or regulation of the City continues shall, unless otherwise provided, constitute a distinct and separately punishable offense. (Ord. 606, §1; Ord. 1048, §1; Ord. 1054; Ord. 1058, §2)

Sec. 13-7. Removal of refuse.

Unused and inoperable motor vehicles and machinery, parts of such motor vehicles and machinery, stoves, furniture, wool, hides, junkyard refuse and all such refuse as shall be too large for the containers hereinabove provided in Section 13-5 shall be removed by the owner or occupant from such respective properties so that the premises are clean and orderly at all times. The accumulation of any such refuse on any premises in the City, improved or unimproved, is prohibited and is hereby declared to be unlawful and to be a nuisance. (Ord. 456, §1; Ord. 1048, §1)

Sec. 13-8. Construction site building materials.

It shall be the sole responsibility of the owner of the premises to see to the removal of all refuse created in the process of constructing, reconstructing or wrecking any building or part of building, fence or sidewalk or other improvement upon the premises. (Ord. 456, §1; Ord. 1048, §1)

Sec. 13-9. Abatement of nuisances.

Whenever the deposit, keeping or accumulating of garbage, refuse or both shall constitute a nuisance as hereinabove provided, the City, by its City Manager, its Health Officer or its Chief of Police, shall immediately notify the owner of such property, his or her agent or any person having charge of such property, in writing, ordering the removal of any such refuse or garbage from the property or premises. Thereafter, if such garbage or refuse shall not be removed in accordance with the requirements of such order, the City Council may order that the same may be removed by the City, or its designated agent, and assess the cost thereof against the property or premises. The amount assessed shall constitute a lien upon such property until the same is paid; provided that in case of failure to pay such assessment within thirty (30) days after the same shall be made, the City Clerk shall cause the notice of such assessment to be given to the owner of such property by publishing in a newspaper in the City for two (2) successive weeks; which publication shall contain a notice to such property owner of the amount assessed against his or her property and shall designate a time and place when the City Council will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, the City Clerk shall certify such amount to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by law. (Ord. 456, §1; Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-10. Burning.

(a) Except as permitted pursuant to the laws and regulations of the State, it is unlawful to set on fire or burn any combustible waste or material of any kind by incinerator burning or by open burning.

(b) It is unlawful to set on fire or burn in any fireplace, stove, boiler, furnace or machine, equipment or device of any kind:

- (1) Any garbage, rubbish or waste material, or any hay or grass clippings;
- (2) Any rubber materials and compounds and plastics and plastic materials and compounds;
- (3) Any wood treated with creosote or a creosote compound or similar wood preservative;
- (4) Any other combustible material, the burning of which produces noxious or malodorous gases. (Ord. 727, §1; Ord. 1048, §1)

Sec. 13-11. City disposal site; ownership of contents; entering, etc.

All garbage and refuse in and upon the disposal site owned or under the control of the City, together with all matter whatsoever deposited or existing thereon, shall be the property of the City and

no person shall enter upon such sites or carry off, dispose of, burn or in any manner disturb or molest any matter or thing deposited or existing upon such sites, except under direction or authority of the City Manager. (Ord. 456, §1; Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-12. Caretaker.

The City Manager may hire, with the approval of the City Council, a caretaker of City dumps and dump grounds, who will care for and keep the same. He or she shall destroy animal and vegetable matter, rats, paper, manure and other refuse as shall be directed by the City Manager. (Ord. 456, §1; Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-13. Collection, transportation.

(a) The City Council may enter into a contract or agreement with any person for the collection and removal of garbage or refuse properly sorted, prepared and placed for collection throughout the City or any part thereof, or it may, at its discretion, make provisions for the collection and removal of garbage and refuse throughout the City, or a part thereof, by its own employees or agents.

(b) All garbage shall be collected and removed by employees of the City or persons under contract with the City for that purpose. No person except the employees of the City or persons under contract with the City for that purpose shall collect any garbage within the City or shall convey any garbage through any street, lane, road, alley or public highway of the City.

(c) It shall be unlawful for any person to transport or carry, or cause to be removed, transported or carried, through, on or along the streets and alleys of the City, any garbage, dead animals or carcasses or other matter offensive to sight or smell except in watertight cans or vehicles, trucks or trailers having iron beds or boxes with proper covers, so that the garbage or other matter shall not be offensive. Such garbage or other matter or materials shall be loaded so that none of it shall fall, drip or spill on the ground. (Ord. 456, §1; Ord. 1048, §1)

Sec. 13-14. Charges established.

Charges for the collection and removal of garbage and rubbish shall be as from time to time established by resolution of the City Council. (Ord. 456, §1; Ord. 1048, §1)

Sec. 13-15. Collection.

Each charge levied pursuant to the provisions of this Article shall be charged against the property owner, or with the consent of the owner, any tenant in possession of the premises. All charges so levied shall be a lien upon the property served from the date the same became due until paid. In addition to the right to discontinue such service, upon the failure or refusal of any owner or tenant of property to pay when due the charges or penalties levied pursuant to this Article, the City Clerk may, after ten (10) days' written notice to the owner of the property, certify such unpaid charges to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) of the amount thereof and penalties due thereon in addition thereto to defray the cost of collection. The lien of such delinquent charges and penalties when so certified by the City Clerk as aforesaid shall be on a parity with the lien of the general taxes on the property. (Ord. 456, §1; Ord. 869, §1; Ord. 1048, §1)

Sec. 13-16. Penalties for violation.

Except for a violation of the provisions of Subsection 13-5(c) for which a specific penalty is provided, any person who violates the provisions of Sections 13-1 through 13-13 of this Article, who does an act therein declared to be unlawful or who fails, neglects, omits, resists or refuses to comply with the provisions thereof or with a lawful order given pursuant thereto, or any of the regulations or requirements thereof, shall be punished by the assessment of a penalty of not more than three hundred dollars (\$300.00). In any case in which a violation of the provisions of this Article is alleged, all questions of fact and law and the penalty to be assessed in accordance herewith shall be heard and decided by the Police Magistrate or Municipal Judge, and there shall be no trial by jury. (Ord. 740, §2; Ord. 1048, §1)

ARTICLE II

Sewage

Sec. 13-21. Wastewater System, Treatment Plant and Works Enterprise.

(a) Purpose and policy.

(1) This Chapter sets forth uniform requirements for all users of the publicly owned treatment works (POTW) for the City and enables the City to comply with all applicable state and federal regulations, including the Clean Water Act (33 U.S.C. § 1252, et seq.) and the General Pretreatment Regulations (40 C.F.R. Part 403). The objectives of this Article are as follows:

- a. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- b. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise incompatible with the POTW;
- c. To enable the City to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and all other state and federal laws to which the POTW is subject;
- d. To promote reuse and recycling of industrial wastewater and sludge from the POTW;
- e. To protect POTW personnel who may be affected by wastewater and sludge in the course of employment.
- f. Charges for the supply of wastewater treatment service shall be, from time to time, established by resolution of the City Council.

(2) This Chapter authorizes the issuance of a wastewater discharge permit and other control mechanisms; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user monitoring and reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(b) Administration.

(1) The City Council shall serve as the Board of the Wastewater System, Treatment Plant and Works Enterprise, and the officers of the Council and of the City shall serve as officers of the Board and the Enterprise.

(2) The Enterprise shall have and may exercise the following powers: to hold meetings concurrently with regular or special meetings of the Council, to adopt ordinances in the manner in which City ordinances may be adopted, to issue revenue bonds in the manner in which City revenue bonds may be issued without voter approval in advance, to pledge any revenues of the wastewater system, treatment plant and works (the "System") to the payment of such revenue bonds and to pay such revenue bonds therefrom, to enter into contracts relating to the System in the manner in which City contracts may be entered into, to make representations, warranties and covenants on behalf of the City, and to bind the City to perform any obligation relating to the System other than any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever without adequate present cash reserves pledged irrevocably and held for payments in all future years.

(3) Any inconsistency between the ordinance codified herein and the statutes of the State is intended by the Council. The ordinance codified herein is enacted pursuant to Article XX, Section 6 of the Colorado Constitution and, to the extent of any such inconsistency, the ordinance codified herein shall supersede such statutes.

(4) All action not inconsistent with the provisions of this Article heretofore taken by the City or its officers and otherwise directed toward the authorization of the Enterprise to have and exercise certain powers is hereby ratified, approved and confirmed.

(5) All ordinances, resolutions, bylaws, orders and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw, order or other instrument, or part thereof, heretofore repealed. (Ord. 797; Ord. 1048, §1; Ord. 1069)

Sec. 13-22. Definitions.

The following words, terms and phrases are hereby defined and shall be interpreted as such throughout this Chapter. Terms not herein defined shall have the meaning customarily assigned to them:

Approval authority means the director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

Authorized representative of the user.

- a. If the user is a corporation:

1. The president, secretary, treasurer or a 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 (1) or more manufacturing, production or operating facilities, provided that the manager is authorized to make management decisions which 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 control mechanism 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.

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20) degrees Celsius expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.

Building sewer (also house connection or service sewer) means the extension from the building drain to the public sewer or other place of disposal.

Categorical standards is any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 C.F.R. Chapter 1, Subchapter N, Parts 405-471.

City means the City of Fort Morgan, a municipal corporation of the State of Colorado.

Clean Water Act, Act or the Act means the Federal Water Pollution Control Act, Public Law 92-500, as amended, also known as the *Clean Water Act*.

Cooling water means water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

Commercial or institutional users means all nonresidential users which introduce only sanitary sewage or primarily segregated domestic wastes into a building sewer.

Direct discharge means the discharge of treated or untreated water directly to the waters of the State of Colorado.

Environmental Protection Agency or *EPA* means 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.

Grab sample means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b), (c) or (d) of the Act, (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

Industrial user means a source of indirect discharge.

Industrial waste means the water-carried wastes from industrial manufacturing or industrial processing as distinct from sanitary sewage. It shall include the trade wastes produced by, but not limited to, food processing and bottling plants, food manufacturing plants, slaughtering plants, tallow works, plating works, disposal services, industrial cleaning plants, fertilizer plants, car and truck washing operations, laundries, cleaning establishments, cooling plants, industrial plants, factories and chemical treatment installations.

Interference means a discharge which, alone or in conjunction with a discharge from other sources, both:

a. Inhibits or disrupts the POTW, its treatment process or operations or its sludge processes, use or disposal; and

b. Therefore is a cause of a violation of any requirement of the POTW's permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Federal Clean Water Act, the Solid Waste Disposal Act (SWDA) which includes Title II known as the Resource Conservation and Recovery Act, the Division's Domestic Sewage Sludge Regulations, the Federal Clean Air Act or the Toxic Substance Control Act.

Natural outlet means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

National Pretreatment Standard, Pretreatment Standard or *Standards* means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with Section 307(b) and (c) of the Clean Water Act, including prohibitive discharge limits established pursuant to 40 C.F.R. § 403.5 and which apply to industrial users.

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

National Prohibitive Discharge Standard or *Prohibitive Discharge Standard* means any regulation developed under the authority of Section 307(b) of the Act and the General Pretreatment Regulations (40 C.F.R. § 403.5).

New source means 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 Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility or installation is constructed at a site at which no other wastewater source is located;
- b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- c. The production of wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing wastewater 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.

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 paragraphs a and b above but otherwise alters, replaces or adds to existing process or production equipment. Construction of a new source, as defined under this Paragraph, has commenced if the owner or operator has:

- a. Begun or caused to begin as a part of a continuous on-site construction program:
 1. Any placement, assembly or installation of facilities or equipment; or
 2. 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
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this Paragraph.

Pass through means a direct discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with an indirect discharge or indirect discharges from other sources, is a cause of a violation of any requirement of the POTW's permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollution means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants in a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes, or by other means, except as prohibited by 40 C.F.R. § 403.6(d).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Publicly owned treatment works (POTW) means 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. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Article, *POTW* shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Sewage treatment plant (also wastewater facilities) means all facilities for collecting, pumping, transporting, treating and disposing of sewage.

Significant industrial user means any industrial user subject to pretreatment standards; or (a) any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); (b) contributes a process waste stream, which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (c) is designed as such by the City, the Colorado Department of Public Health and Environment, the U.S. Environmental Protection Agency (EPA) or other jurisdictional authority, on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Significant noncompliance means that an industrial user is in *significant noncompliance* if its violation meets one (1) or more of the following criteria:

a. *Chronic violations of wastewater discharge limits*, defined as those in which sixty-six percent (66%) or more of all measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

b. *Technical review criteria (TRC) violations*, defined as those in which thirty-three percent (33%) or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit 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 effluent limit (daily maximum or longer-term average) that the City 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 or welfare or to the environment, or has resulted in the POTW's exercise of its emergency authority under the provisions of Section 13-85 to halt or prevent such a discharge;

e. Failure to meet, within ninety (90) 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, ninety-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 the City determines will adversely affect the operation or implementation of the municipal pretreatment program.

Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm water means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by laboratory filtering.

Superintendent means the City Manager or his or her designee or duly authorized representative.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of the Clean Water Act, 33 U.S.C. § 307(a) or other Acts.

User means any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water or storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW. (Ord. 655, §1(part); Ord. 759, §1; Ord. 790, §1; Ord. 795, §§1, 2; Ord. 818, §1; Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-23. Abbreviations.

The following abbreviations shall have the designated meanings:

- (1) BOD—Biochemical Oxygen Demand.
- (2) CFR—Code of Federal Regulations.
- (3) COD—Chemical Oxygen Demand.
- (4) EPA—Environmental Protection Agency.
- (5) l—liter.
- (6) mg—milligrams.
- (7) mg/l—milligrams per liter.
- (8) NPDES—National Pollutant Discharge Elimination System.
- (9) POTW—Publicly Owned Treatment Works.
- (10) SIC—Standard Industrial Classification.
- (11) SWDA—Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
- (12) U.S.C.—United States Code.
- (13) TSS—Total Suspended Solids. (Ord. 655, §1(part); Ord. 1048, §1)

ARTICLE III

Sewage Works

Division 1

Use of Public Sewers Required

Sec. 13-30. Connection required.

(a) Except as provided in Subsection (b) of this Section, no person shall maintain within the City any privy, privy vault, septic tank, cesspool or other facility intended for use for the disposal of sewage.

(b) Where a public sanitary sewer is not available within the City or in any area under the jurisdiction of the City, the building sewer shall be connected to a private sewage disposal system complying with the provisions and recommendation of the Colorado Department of Public Health and Environment. Such private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner.

(c) At such time as a public sanitary sewer becomes available to property served by a private sewage disposal system, a direct connection shall be made to the public sanitary sewer in accordance with the provisions of this Chapter, and any septic tank, cesspool or similar sewage disposal facilities shall be abandoned and filled with suitable material. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-31. Prohibited treatment and disposal of waste.

(a) It shall be unlawful for any person to dispose of or place, deposit or permit the placing or depositing on public or private property within the City any human or animal excrement or garbage, sewage or any industrial waste or other polluted waste.

(b) The provisions of this Section shall not be applicable to the reasonable and customary use of human or animal excrement and customarily accepted natural and chemical substances in connection with lawn care, gardening and agricultural endeavors. (Ord. 796, §1; Ord. 1048, §1)

Sec. 13-32. Discharge into storm sewers prohibited.

It shall be unlawful to discharge to any natural outlet within the City any sewage, industrial waste or other polluted waters or waste except where suitable treatment has been provided in accordance with the provisions of this Article. Further, it shall be unlawful to discharge to the POTW any wastewater except as authorized by the provisions of this Article or by the City Manager. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058 §2)

Division 2
Building Sewers and Connections

Sec. 13-35. Manhole opening, connections or use.

No person except employees of the City or contractors employed by the City who are authorized to do so, shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the City Manager. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-36. Permit for sewer connection required.

(a) A building sewer permit or a wastewater discharge permit shall be obtained before installing building sewer or connecting one to the public sewer. Application for such permit shall be made on such form as prescribed by the City.

(b) There shall be two (2) classes of building sewer permits. One (1) class, which may be referred to as *major contributors* shall be for those users which meet the definition of *significant industrial user* specified in Section 13-22. The permit for such users shall be called a *major discharge permit*. The other class of users shall consist of all other users, which may be referred to as *minor contributors*, and the permit for this class shall be called a *minor discharge permit*.

(c) Minor contributors which are connected to the POTW on the effective date of this Article shall be considered to have a permit to do so by the provisions of this Section. Major contributors which are connected as of the effective date of the ordinance codified herein shall nevertheless be required to obtain a major discharge permit in accordance with the applicable provisions of this Article. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-37. Application forms.

(a) The owner or his or her agent, shall make application for a building sewer permit or a wastewater discharge permit on a form furnished by the City. This form may be combined with forms for other permits required by the City. The permit application shall be supplemented by the plans, specifications or other information considered pertinent in the judgment of the City Manager. Approval of the application shall be contingent upon payment of connection permit fees to the City.

(b) All major contributors proposing to connect to or to contribute to the POTW shall obtain a major discharge permit before connecting to or contributing to the POTW. All major contributors connected to or contributing to the POTW on the effective date of the ordinance codified herein shall obtain a major discharge permit within one hundred eighty (180) days after said effective date.

(c) Users required to obtain a major discharge permit shall complete and file with the City an application in the form prescribed by the City and accompanied by any fee that the City Council shall, from time to time, set or specify by resolution approved and adopted by the City Council for such purpose. Existing major contributors shall apply for a major discharge permit within sixty (60) days after the effective date of the ordinance codified herein, and proposed new major contributors shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the

application, the major contributors shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address and location (if different from the address);
- (2) SIC number according to the Standard Industrial Classification Manual, Office of Management and Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics, including but not limited to those mentioned in Section 13-54 of this Article as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 C.F.R., Part 136, as amended;
- (4) Time and duration of contribution;
- (5) Average daily and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the major contributors to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the major contributors will provide such additional pretreatment. The following conditions shall apply to this schedule:
 - a. The schedule shall contain increments of progress 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 major contributors to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.).
 - b. No increment referred to in Subparagraph (9)a. above shall exceed nine (9) months.
 - c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the major contributor shall submit a progress report to the City Manager, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the major contributors to return the

construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the City Manager;

(10) Each product produced by type, amount, process or processes and rate of production;

(11) The type and amount of raw materials processed (average and maximum per day);

(12) The number and type of employees and hours of operation of the plant and proposed or actual hours of operation of the pretreatment system; and

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

(d) The City will evaluate the data furnished by the major contributor and may require additional information. After evaluation and acceptance of the data furnished, the City Council may issue a major discharge permit subject to terms and conditions contained in this Article. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-38. Permit conditions.

Both minor discharge permits and major discharge permits shall be expressly subject to all provisions of this Article and all other applicable regulations, user charges and fees established by the City. Without limiting the matters that may be expressly covered in the permits, the permits may address any or all of the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(2) Limits on the average and maximum wastewater constituents and characteristics;

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(4) Requirements for installation and maintenance of inspection and sampling facilities;

(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(6) Compliance schedules;

(7) Requirements for submission of technical reports or discharge reports by permittee;

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City and affording City access thereto;

(9) Requirements for notification of the City on any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(10) Requirements for immediate notification of slug discharges; and

(11) Other conditions as deemed appropriate by the City to ensure compliance with this Article. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-39. Permit modifications.

The City Manager may modify a wastewater discharge permit for good cause, including but not limited to the following reasons:

(1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) To make a change to the POTW's NPDES permit; or

(4) To correct typographical or other errors in the wastewater discharge permit. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-40. Signatures and certifications.

When required applications, surveys, questionnaires and reports must be signed by an authorized representative of the user as defined in Section 13-22 and contain the following certification statement:

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.

(Ord. 1048, §1)

Sec. 13-41. Permit duration.

Major discharge permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specified date. A major contributor shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as federal, state and local limitations or requirements are modified or other just cause exists. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. (Ord. 655, §1(part); Ord. 818, §2; Ord. 1048, §1)

Sec. 13-42. Permit transfer.

Major discharge permits shall be issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned or transferred or sold to a new owner, new user or applied to different permits or to a new or changed operation without the approval of the City. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-43. Building sewer required for each lot.

A separate and independent building sewer shall be provided for every lot except that joint use of building sewers may be permitted at the discretion of the City Manager (such as condominiums) where provisions have been made for joint maintenance by all owners served. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-44. Existing building sewers.

Old building sewers may be used in connection with new buildings only when they are found on examination and testing by the City Manager to meet all requirements of this Article. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-45. Building sewer elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is less than thirty (30) inches higher than the invert of the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer, or the building drain shall include a check valve maintained by the owner. (Ord. 655, §1; Ord. 1048, §1)

Sec. 13-46. Surface runoff prohibited.

No person shall make connection of roof downspouts, foundation drains, areaway drains, storm drainage or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to the public sanitary sewer or industrial waste sewer. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-47. Inspection of building sewer connection.

The applicant for the building sewer permit shall notify the City Manager when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made in the presence and under the inspection of the City Manager. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-48. Protective devices required.

All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. The permittee shall agree to assume responsibility for any public liability or property damage which may result from the work, and the City Manager may require appropriate certificates of insurance for such purpose. Streets, sidewalks, parkways or other

public property disturbed in the course of the work shall be restored in accordance with the design standards and standard specifications currently in effect. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-49. Tap size.

No tap larger than four (4) inches shall be made on an eight-inch sewer line. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-50. Manhole connections.

Any sewer connection larger than six (6) inches must be made by means of a manhole. If a six-inch connection is needed on an eight-inch sewer line, such connection must be made by means of a manhole. All manholes must be constructed to City specifications as required on a new sewer lateral construction. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-51. Abandonment of connection.

No person shall abandon any building connection without first obtaining a written permit therefor. Such building connection shall be effectively sealed as directed by the City Manager. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058, §2)

*Division 3
Use of Public Sewers*

Sec. 13-54. General discharge prohibitions.

(a) General prohibition. No user shall discharge to the POTW or contribute or cause to be contributed, directly or indirectly, to the waste stream entering the POTW, from any source, any pollutant or wastewater which will cause pass-through or interference. These general prohibitions apply to all users of the POTW whether or not the user is subject to National Pretreatment Standards or any other national, state or local pretreatment standards or requirements, and/or a pretreatment permit pursuant thereto.

(b) Specific prohibitions. Without limiting the general prohibition hereinabove stated, no user shall contribute any of the following substances to the POTW:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including but not limited to waste streams with a closed cup flash point of less than sixty (60) degrees centigrade (140° Fahrenheit) using test methods specified in 40 C.F.R. § 261.21;

(2) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0;

(3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW or other interference with the operation of the POTW;

(4) Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;

(5) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case shall any user discharge or introduce to the waste stream entering the POTW heat in such quantities that the temperature at the POTW treatment plant is caused to exceed forty (40) degrees centigrade (104° Fahrenheit);

(6) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference with or pass through;

(7) 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;

(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW;

(9) Any wastewater with color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(10) Any malodorous liquids or gases which, either singly or in combination with other wastes, cause or create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

(11) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards;

(12) Waters or pollutants which are not amenable to treatment process employed by the POTW, or are amenable to treatment only to such degree that the POTW effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; or

(13) Any wastewater which causes a hazard to human life or creates a public nuisance.

(c) When the City Manager, at any time, determines that a user is contributing to the POTW any of the above-enumerated substances in such amounts as to cause interference or pass-through, such user shall be immediately classified as a major contributor as defined in this Chapter and the City Manager shall:

(1) Advise the user of the impact of the contribution on the POTW;

(2) Prohibit discharge or establish controls of the user's discharge;

(3) Notify the user to immediately halt discharge; and

(4) Take enforcement as allowed under Division 5 of this Article. (Ord. 655, §1(part); Ord. 790, §2; Ord. 818, §3; Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-55. National Pretreatment Standards.

Upon the promulgation of the National Pretreatment Standards for a particular industrial subcategory, the Standard, if more stringent than limitations imposed under the provisions of this Article for sources in that subcategory, shall immediately supersede the limitations imposed by this Article. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-56. Modifications of Standards.

Where the City's wastewater treatment system achieves consistent removal of pollutants limited by National Pretreatment Standards, the City may apply to the approval authority for modification of Categorical Standard in accordance with 40 C.F.R. § 403.7. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-57. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this Article. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-58. Amendment.

The City reserves the right to amend this Article to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 C.F.R., Part 403). (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-59. Excessive discharge.

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 the limitations contained in the National Pretreatment Standards or any other pollutant-specific limitation developed by the City or State. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-60. Accidental discharges by major contributors.

(a) Each user under a major discharge or pretreatment permit shall provide protection from slug discharges or accidental discharge of pollutants, materials or other substances prohibited by this Article. The POTW shall evaluate, at least once every two (2) years, whether or not each significant industrial user needs a plan to control slug discharges. For purposes of this Article, a *slug discharge* is any nonroutine discharge, episodic in nature, including but not limited to an accidental spill or noncustomary batch discharge. If the POTW shall determine that a slug discharge control plan is needed, the plan shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 C.F.R. § 403.5(b) or any of the prohibitions of this Article, with procedures for follow-up written notification within five (5) days; and

(4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run off, worker training, building containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

(b) Review and approval of such plans and operating procedures shall not relieve such user from the responsibility to operate and modify, if necessary, the user's facilities as may be required to meet all of the discharge requirements of this Article.

(c) In case of an accidental spill or slug discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective action taken.

(d) Written notice of accidental or slug discharge. Within five (5) days following any accidental spill or slug discharge, the user shall submit to the POTW a detailed written report describing the cause of the discharge and the measures taken by the user to prevent similar future occurrences. Such notification shall not relieve such user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, by stream kills or any other damage to person or property or to the environment; nor shall such notification relieve such user of any fines, penalties or other liability which may be imposed by this Article or other applicable law.

(e) Notice to employees. Employers shall establish all necessary procedures to ensure that all employees who may cause or allow to occur, or have knowledge of an accidental or slug discharge are fully advised of all immediate action to be taken. A notice shall be permanently posted in appropriate prominent places on such user's premises, readily accessible to the user's employees, advising employees of the telephone call to be made in the event of an accidental or slug discharge to the POTW. (Ord. 655, §1(part); Ord. 790, §3; Ord. 1048, §1)

Sec. 13-61. Monitoring facilities.

(a) The City may require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems of any major contributor or any industrial user. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or would result in undue hardship to the user, allow the facility to be constructed in a readily accessible part of the public street or alleyway.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-62. Inspection and sampling.

The City may inspect the facilities of any user to ascertain whether or not this Article and all its requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, recording or for examination or in the performance of any of their duties. The City, State and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, State and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-63. Nonmunicipal treatment, pretreatment facilities.

(a) All users of the POTW shall provide necessary wastewater treatment as required to comply with the provisions of this Chapter and to achieve compliance with all pretreatment standards. Any facilities required by the City to pretreat wastewater to a level acceptable to the City shall be provided, operated and maintained at the user's expense.

(b) Notwithstanding the provisions of Subsection (a) of this Section, no user of the POTW shall hereafter construct, wherever its location within or without the corporate limits of the City, any facility or works for the pretreatment of any wastewater, sewage or industrial discharge or waste stream which is ultimately introduced into the sanitary sewage treatment collection system and works of the City without written permission and approval of the City Manager to do so. Further, no user of the POTW, without written permit and approval of the City Manager to do so (after a consideration and review in accordance with the following provisions of this Section), shall hereafter construct or use, wherever its location within or without the corporate limits of the City, any structure, plant or facility for partial or complete and final treatment of any human or animal excrement, garbage, sewage and industrial waste and waste streams so as to bypass or avoid the municipal POTW or its capacity to treat the same.

(c) Detailed plans and specifications showing any treatment or pretreatment facilities and operating procedures shall be submitted to the City for review, and the same shall be acceptable to the City before construction of the facility. Prior to beginning any site preparation activities, the owner or operator of the proposed facility shall notify the City Manager of any plan to construct a facility by submitting:

- (1) A sketch plan delineating the location, alignment and footprint of the facility;
- (2) A description of the treatment or pretreatment process to be installed;
- (3) The estimated timetable for construction of the facility; and

(4) Any additional information deemed necessary to demonstrate to the City that the facility will comply with City standards.

Within ten (10) days of the notification, the City Manager will schedule a consultation meeting with the owner or operator. The City Manager will review the proposed project, and after the consultation meeting, may request the owner or operator to prepare a mitigation plan that modifies the facility operation or design to ensure compliance with the City standards. Within twenty (20) days of the consultation meeting, the City Manager may, by written memorandum: (1) approve the facility plan, incorporating any alterations, modifications or conditions he or she deems necessary to ensure that the facility will comply with City standards; (2) deny the facility plan if the constructed facility will not comply with City standards; or (3) refer the proposal to the City Council for consideration at the next regularly scheduled meeting of the City Council.

(d) The City shall apply the following standards to determine whether the proposed treatment or pretreatment facilities will not adversely impact the sewage treatment business enterprise or works or threaten the public health, safety, welfare or the environment:

(1) The facility will comply with all applicable City land use regulations and criteria.

(2) The facility will not result in increased costs to City rate payers for wastewater treatment services.

(3) The facility will not duplicate wastewater treatment services available from the City unless the City wastewater treatment works is at or above eighty percent (80%) operational capacity and the City does not intend to upgrade or expand the City wastewater treatment works to accommodate loadings for which the facility is intended.

(4) The facility proponent has the technical and financial ability to develop and operate the proposed facility in compliance with all applicable federal, state and local regulations.

(5) The facility will not be located in an area prone to subsidence, floods, expansive soils or rocks, earthquake or other natural hazards.

(6) All outdoor storage areas for fuel, chemicals or other hazardous materials shall be and remain enclosed by a fence or wall and stored in compliance with applicable federal, state and local laws and regulations.

(7) The facility shall be located and constructed so that under normal operating conditions and normal circumstances, no foul, nauseating or unpleasant odor will be detectable at the nearest property line of the owner or at any point within one hundred (100) feet of any office building or structure or any dwelling unit.

(e) The review and approval of such plans and operating procedures by the City will in no way relieve the user from the responsibility of modifying a pretreatment facility as may be necessary to produce an effluent acceptable to the City under the provisions of this Chapter. Any subsequent modifications or changes in the pretreatment facilities or method of operation shall be submitted to the City in accordance with the applicable approval procedures set forth in this Section, and the same shall be acceptable to the City prior to the user's initiation of any changes.

(f) All records relating to compliance with pretreatment standards shall be made available, immediately upon request, to officials of the City, the Colorado Department of Public Health and Environment and the EPA. (Ord. 796, §2; Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-64. Baseline monitoring reports.

(a) Within one hundred eighty (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 categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the City Manager a report which contains the information listed at 40 C.F.R. § 403.12(b)(1)-(7). Sampling types shall be as specified at 40 C.F.R. § 403.12(g)(3) and (4).

(b) At least ninety (90) days prior to commencement of discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the City Manager a report which contains the information listed at 40 C.F.R. § 403.12(b)(1)-(5). Sampling types shall be as specified at 40 C.F.R. § 403.12(g)(3) and (4). A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-65. Compliance schedule.

If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the industrial user shall submit to the City Manager the shortest schedule by which the user will provide such additional pretreatment and/or O&M to meet the pretreatment standards and requirements. 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 contained at 40 C.F.R. § 403. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-66. Reports on compliance.

Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the City Manager a report containing the information described in 40 C.F.R. 403.12(b)(4)-(6) using the sampling types specified at 40 C.F.R. 403.12(g)(3) and (4). All compliance reports must be signed and certified in accordance with Section 13-64 of this Article. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-67. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by Section 13-65 of this Article.

(1) The schedule shall consist of progress increments in the form of dates for commencement and completion of major events principal to the construction and operation of additional pretreatment as required of the user to meet the applicable Pretreatment Standards (such events may include, but are not limited to, the hiring of an engineer, the completion of preliminary and

final plans, the execution of contracts for major components, the commencement and completion of construction, and the beginning and conduction of routine operations). No increment referred to in this Paragraph shall exceed nine (9) months;

(2) The user shall submit a progress report to the City Manager not later than fourteen (14) days following each final date of compliance, including but not limited to the status of compliance, the reason for delay, if any, and an outline of necessary steps to be taken to return the user to the previously established schedule; and

(3) In no event shall more than nine (9) months elapse between such progress reports to the City Manager. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-68. Reports of changed conditions.

All industrial users shall promptly notify the City Manager in advance of any planned substantial changes in the volume or character of pollutants of its discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under Section 13-72 of this Article. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-69. Reports of potential problems.

(a) In the case of any discharge, including but not limited to a noncustomary batch discharge, or a slug discharge, that may cause potential problems for the POTW, the user shall immediately telephone and notify the City Manager of the incident. This notification shall include, at a minimum, the location of the discharge, type of waste, concentration and volume, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the Superintendent, submit a detailed written report describing the cause of the discharge and the measure 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 may be incurred as a result of damage to the POTW or 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. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-70. Reports and information.

All users connected to, or proposing to connect to, the POTW shall provide appropriate reports or information to the City Manager as the City Manager may require in order to achieve the requirements of this Chapter. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-71. Notification; repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the City Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City Manager within thirty (30) days after becoming aware of the violation. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-72. Notification of discharge of hazardous waste.

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Superintendent and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification must include the information specified in 40 C.F.R § 403.12(b), (d) and (e).

(b) Dischargers are exempt from the requirements of Subsection (a), above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW, the EPA Regional Waste Management Waste Division Superintendent and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In any case of notification made under this Section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes to the degree that it has been determined to be economically practical. (Ord. 1048, §1)

Sec. 13-73. Analytical requirement.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136, 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, sampling and analyses must be performed in accordance with procedures approved by the EPA. (Ord. 1048, §1)

Sec. 13-74. Sample collections.

(a) Except as indicated in Subsection (b), below, a user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the City Manager may authorize the use of time proportional sampling or a minimum of four (4) grab samples, where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(b) Grab samples must be used for oil and grease, temperature, pH, cyanide, total phenols, and volatile organic compounds; temperature and pH must be an instantaneous measurement.

(c) Samples shall be collected using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136, approved EPA methodologies and appropriate EPA guidance. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-75. Record keeping.

(a) Users subject to the reporting requirements of this Article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements.

(b) Records shall include, at a minimum, the date, exact place, method and time of sampling, and the name of the person taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

(c) These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the City Manager. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-76. Right of entry; inspection and sampling.

(a) The City Manager 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 City Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, noncompliance investigation and the performance of any additional duties.

(b) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the City Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

(c) Unreasonable delays in allowing the City Manager access to the user's premises shall be considered a violation of this Chapter. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-77. Periodic compliance reports.

(a) Any major contributor which is subject to a pretreatment standard, after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the City Manager during the months of June and December, unless required more frequently in the pretreatment standard or by the City Manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report may include a record of all daily flows which, during the reporting period, exceeded the average daily flow and such other information and data as the City Manager shall consider appropriate. At the discretion of the City Manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the City Manager may agree to alter the months during which the above reports are to be submitted.

(b) The City Manager may impose mass limitations on any user which is using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report specified in the preceding Subsection shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass of pollutants contained therein. The frequency of monitoring shall be prescribed in the user's discharge permit. All analysis shall be performed in accordance with the procedures established by the administrator of the EPA pursuant to Section 304(h) of the Clean Water Act and contained in 40 CFR, Part 136 and amendments thereto or with any other sampling and test procedures approved by the administrator of the EPA.

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

(d) If a user subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the City Manager, using the procedures prescribed in Section 13-74 the results of this monitoring shall be included in the report. (Ord. 655, §1(part); Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-78. Confidential information.

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public without restriction subject to the provisions of the Colorado Open Records Law. In the event the EPA must obtain information and data on a user from reports, surveys, questionnaires, permit applications, permits and monitoring programs and from inspections, its access to this information shall be in accordance with federal regulations. Information and data which is effluent data will not be recognized as confidential information and will be available to the public without restriction. (Ord. 655, §1(part); Ord. 1048, §1)

*Division 4
Establishment and Collection of Charges*

Sec. 13-81. Charges established.

Charges for the collection of sewage from the various properties of the City and for the carrying away and treating thereof and for sewage disposal facilities shall be as from time to time established by resolution of the City Council and shall be payable, billed and collected in such manner and upon such terms as in such resolution shall be provided. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-82. Collection.

Each sewer charge levied pursuant to the provisions of this Article shall be charged against the property owner or, with the consent of the owner, any tenant in possession of the premises. All charges so levied shall be a lien upon the property served from the date the same became due until paid. Upon the failure or refusal of any owner or tenant of property to pay when due the sewer

charges or penalties levied pursuant to this Article, the City Clerk may, after ten (10) days' written notice to the owner of the property, certify such unpaid charges to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) of the amount thereof and penalties due thereon in addition thereto to defray the cost of collection. The lien of such delinquent charges and penalties when so certified by the City Clerk as aforesaid shall be on a parity with the lien of the general taxes on the property. (Ord. 655, §1(part); Ord. 869, §2; Ord. 1048, §1)

*Division 5
Enforcement*

Sec. 13-85. Suspension of discharge for noncompliance.

(a) The City may suspend the wastewater treatment service and any discharge permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference to the POTW or causes the City to violate any condition of its NPDES permit.

(b) Any person notified of a suspension of the wastewater treatment service and/or a discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall summarily take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the wastewater permit or privilege and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within ten (10) days of the date of occurrence. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-86. Suspension or revocation of discharge permit.

In addition to any other penalty or remedy provided by law or by the specific provisions of this Article, the City Council, after hearing, may suspend or revoke the permit or wastewater discharge privilege and the wastewater treatment service of any user violating or failing to comply with the applicable provisions of this Article. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-87. Notice of violation and show cause hearing.

(a) Whenever the City finds that any user has violated or is violating the provisions of this Article or a discharge permit, or any prohibition, limitation or requirements contained herein, the City, in addition to any other action it may lawfully take for such violation, may serve upon such person a written notice stating the nature of the violation. If a written notice is served within five (5) days of the date of the notice, a plan for the satisfactory correction or remedy thereof shall be submitted to the City by the user. Within twenty (20) days of the date of the notice, the user shall provide written notice to the City that such measures have been implemented or the reason why the user has not implemented such measures. Submission of such plan in no way waives the liability of the user for any violations occurring on or before the receipt of the notice of violation.

(b) If the violation is corrected or remedied to the satisfaction of the City Council, the matter may be dismissed by the City Council without proceeding further.

(c) If the violation is not corrected or remedied after the notification in accordance with the preceding Subsections of this Section, the City may order any user to show cause before the City Council why proposed enforcement action to suspend or revoke the permit should not be taken. In such instance, a notice shall be served on the user, specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken and the proposed action and directing the user to show cause before the City Council why the stated proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail at least ten (10) days before the hearing. Such notice may be served on any authorized representative of the user as defined in Section 13-22. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(d) The City Council, or any one (1) or more of its designees, will conduct any such hearing, take the evidence and:

(1) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take evidence and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

(e) At any hearing held pursuant to this Section, testimony must be given under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the prevailing charges therefor.

(f) After the City Council has reviewed the evidence, it may issue an order to the user that the sewer service be discontinued unless the violation upon which the proceeding was brought has been corrected or remedied or unless adequate treatment facilities, devices or other related appurtenances have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are considered by the City Council to be necessary and appropriate may be issued from time to time following the initial order.

(g) Nothing in Sections 13-86 and 13-87 shall be construed, in any manner, to limit or qualify the authority of the City to summarily suspend a discharge permit or eliminate a discharge pursuant to the provisions of Section 13-85 or to cause to be filed a summons and complaint in the Municipal Court to invoke the penalties specified in Section 13-92. (Ord. 655, §1(part); Ord. 818, §4; Ord. 1048, §1)

Sec. 13-88. Consent order.

The City Manager may enter into a consent order, assurance of compliance or similar documents establishing an agreement with any user responsible for noncompliance. The person responsible for the violation shall describe the violation, the specific action to be taken to correct the noncompliance and the time period for completion of the corrective action. This document shall serve as evidence of

intent and it shall be signed and dated by the authorized representative of the user and shall have the same force and effect as the administrative orders issued pursuant to Sections 13-89 and 13-90 and shall be judicially enforceable. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-89. Compliance orders.

The City Manager may issue a compliance order to the responsible person to remedy a violation of the provisions of this Chapter, conditions of a wastewater discharge permit or other order issued hereunder or any other pretreatment standard or requirement. The order may direct the person responsible for the violation to comply within a specified time and manner.

(1) The City Manager may issue an order to the user responsible for the discharge directing that the person correct the noncompliance within the time period and in the manner provided in the compliance order.

(2) If the user does not comply within the time named in the compliance order, the City Manager may discontinue and disconnect water or wastewater service to the noncomplying premises unless adequate treatment facilities, devices or other related appurtenances sufficient to ensure compliance are installed and operated.

(3) The compliance order may contain other requirements the City Manager deems necessary to protect the POTW or sanitary sewer, including additional self-monitoring, reporting and waste management practices designed to minimize the amount of pollutants discharged to the POTW.

(4) A compliance order may not extend a deadline for compliance established for a federal pretreatment standard or requirement established by federal law or by EPA order, regulation or otherwise.

(5) A compliance order does not release the noncomplying person of liability for a violation, including continuing violation. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-90. Cease and desist orders.

The City Manager may issue a cease and desist order to the user responsible for a violation of this Chapter, conditions of a wastewater discharge permit or any other order issued hereunder, or that past violations committed by such user are likely to recur, to cease and desist immediately.

(1) If the City Manager determines that a user is violating this Chapter, the conditions of the person's wastewater discharge permit or other order issued, or that past violations committed by the user are likely to recur, the City Manager may issue an order directing the user to cease and desist the violations immediately and to:

a. Immediately comply with requirements; and

b. Take remedial or preventive action needed to address a present, continuing or threatened violation, including halting operations or terminating the wastewater discharge to the POTW through disconnection or otherwise.

(2) Issuance of a cease and desist order is not a prerequisite to taking subsequent enforcement action against a noncompliant user. (Ord. 1048, §1; Ord. 1058 §2)

Sec. 13-91. Legal action.

If any person discharges sewage, industrial wastes or other wastes into the City's wastewater disposal system contrary to the provisions of this Article, federal or state pretreatment requirements or any order of the City, then in addition to any other remedies and measures provided by law, the City Attorney may commence an action in the name of and on behalf of the City for appropriate legal and/or equitable relief. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-92. Falsifying information.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Article, or any wastewater contribution permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Article, shall, upon conviction, be punishable for such misdemeanor offense as provided in Section 13-93 of this Article. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-93. Penalties for violation.

(a) Civil penalties. In addition to being subject to an injunctive action under this Section, a person who violates any provision of this Article or of any rule, regulation, order or permit adopted or issued pursuant to the provisions of this Article or violates any cease and desist order or cleanup order shall be subject to a civil penalty not exceeding twenty-five thousand dollars (\$25,000.00) per violation for each day or part of a day in which the violation occurs. Any such civil penalty shall be determined by the City Manager and may be collected by the City by action instituted in a court of competent jurisdiction for collection of such penalty. The final decision of the City Manager may be appealed to the City Council. A stay of any order of the pending judicial review shall not relieve any person from any liability under this Section, but the reason for the request for judicial review shall be considered in the determination of the amount of the penalty. In the event that such an action is instituted for the collection of such penalty, the court may consider the appropriateness of the amount of the penalty, if such issue is raised by the party against whom the penalty was assessed.

(b) Criminal penalties. In addition to the remedies and penalties elsewhere provided in this Article, whenever in this Article any act is prohibited or made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required and not done or the failure to do any act is declared to be unlawful or an offense or misdemeanor, a person who shall be convicted of the violation of any such provision, rule, order or regulation shall be punishable by a fine not in excess of twenty-five thousand dollars (\$25,000.00) or by imprisonment for a term not exceeding ninety (90) days or by both such fine and imprisonment. Each day that any such violation occurs, exists or continues shall be deemed a separate offense which is separately punishable hereunder.

(c) Publication. In addition to any civil or criminal penalties provided in this Article, the City Manager, once each year, shall publish the names of any persons, firms or corporations violating any of the provisions of this Article during the preceding year. The names of violators shall be published one (1) time each year in the largest daily newspaper published in Morgan County, Colorado. If no

daily newspaper is then published in Morgan County, the publication shall be done in that daily newspaper with the largest circulation in Morgan County, as determined by the City Manager. (Ord. 759, §2; Ord. 1048, §1; Ord. 1058, §2)

Sec. 13-94. Effective date.

For the purposes of the forgoing provisions of this Article, the effective date of the Article is January 1, 1985. (Ord. 655, §1(part); Ord. 1048, §1)

Sec. 13-95. Severability.

If any provision, paragraph, word or section of the foregoing Articles II and III of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect. (Ord. 655, §1(part); Ord. 1048, §1)

*Division 6
Maximum Treatable Limits*

Sec. 13-98. Maximum limits for treatment works.

In order to protect the municipal sewage treatment plant equipment, works, facilities and system from the hazard of upset and pass-through of pollutants and to assure that the treated effluent discharged therefrom is consistent with standards and limits imposed by the City's NPDES permit and those promulgated pursuant to the Clean Water Act, the City Council is hereby authorized and empowered to provide, supplement and amend, by resolution adopted for such purpose, maximum daily limits for specific elements, minerals, compounds and other pollutants entering the City's publicly owned treatment works in the sewage plant waste stream. (Ord. 791, §1; Ord. 1048, §1)

Sec. 13-99. Limits on discharge of substances.

This Article establishes maximum concentrations for pollutants discharged to the City's sewage system by commercial and industrial customers or any other municipality. In order to protect the City's sewage treatment plant, equipment, works, facilities and systems from upset, pass-through or interference of pollutants and to assure that the City's treated effluent and residual material from the sewage treatment plant is consistent with requirements of the City's NPDES permit and state and federal water quality laws and regulations, the following table sets forth the maximum concentration limits and maximum allowable industrial loading for commercial, industrial and municipal users. Compliance with maximum concentration limits (milligrams per liter) is measured with a representative sample taken during the user's operating day, unless elsewhere specified in the user's industrial wastewater discharge permit. Allocation of maximum allowable industrial loading (pounds per day) among users shall be based on a consideration of discharge, flow rate, and equitable, but feasible, distribution of loading in each user's industrial wastewater discharge permit.

<i>Pollutant</i>	<i>Maximum Concentration (mg/L)</i>	<i>Maximum Allowable Industrial Loading (lbs/day)</i>
Ammonia	36.000	106.000
BOD ₅	450.000	1314.000
Arsenic	0.014	0.041
Cadmium	0.012	0.035
Chromium	0.340	0.993
Chromium, hexavalent	2.200	6.460
Copper	0.160	0.468
Lead	0.090	0.267
Mercury	0.0005	0.0015
Molybdenum	0.026	0.076
Nickel	0.203	0.592
Selenium	0.044	0.127
Silver	0.480	1.410
Zinc	0.890	2.610
Cyanide	0.570	1.670
Phenol	930.000	2714.000
Benzene	0.050	0.146
Bis-2-(ethylhexyl)phthalate	0.760	2.220
BTEX	0.750	2.189
Butylbenzylphthalate	330.000	964.500
1,4, Dichlorobenzene	11.000	31.800
Tetrachloroethane	0.140	0.420
1,1,1 Trichloroethane	48.000	141.400

(Ord. 810, §§1, 2; Ord. 924; Ord. 1048, §1)

ARTICLE IV

Sanitary Sewer Backups

Sec. 13-111. General policy.

This Article provides guidelines for the review of claims related to sanitary sewer backup damage to private property. This policy is not intended to be construed or interpreted as a waiver, express or implied, of any immunity, rights, benefits, protection or other provisions of the City's governmental immunity as provided under the Colorado Governmental Immunity Act (CGIA). For definition purposes, *sewer(s)* refers to sanitary sewers and not to storm drains. For purposes of this policy, a

city sewer line is defined as the full outside diameter of a main sanitary sewer, excluding external connections (e.g., "Y's" and "T's" and sewer laterals). (Ord. 1065)

Sec. 13-112. Investigation.

The Wastewater Collection and Distribution Department will promptly investigate any reported or suspected sewer backup damage to private property as a result of obstruction in a publicly owned sewer system and will submit a written report to the City Manager, together with all available information on the circumstances and extent of known damages involved in the incident(s). A videotape or photographs will also be made of the damage and be made a part of the report submitted to the City Manager. (Ord. 1065)

Sec. 13-113. Notice of claim.

Any claim for damages must be made with the City by filing a Notice of Claim form, available from the Human Resources and Risk Management Department for that purpose within fifteen (15) days after the date of the occurrence. The form shall include the claimant's name, address, date of occurrence, description and the amount of damages claimed. Photocopies of invoices and receipts associated with the claim must be attached. All claims will be forwarded to the City's insurance carrier for review. This provision does not alter notice requirements under the Colorado Governmental Immunity Act (CGIA). (Ord. 1065)

Sec. 13-114. Eligibility.

All claimants who provided notice to the City's Human Resources and Risk Management Department that they were damaged as the result of a sewer backup prior to January 1, 2008, shall be eligible for a good-faith payment under this Article for damages which occurred after September 1, 2007. (Ord. 1065)

Sec. 13-115. Limits, exclusions and conditions.

All claims will be subject to the limits set forth in Section 13-116 below and exclusions set forth in Section 13-117 and according to the conditions as set forth in Section 13-118. (Ord. 1065)

Sec. 13-116. Limits.

(a) All claims for property damage and/or physical injury that occur as a result of a sanitary sewer backup will be referred to the City's insurance carrier for review. The insurance carrier will not consider payment of a property damage and/or physical injury claim resulting from conditions outside the City's control (such as an Act of God). The City will provide its insurance carrier with the appropriate documentation related to the claimant's claim. After reviewing all available information, the City's insurance carrier, at its sole discretion, will determine whether the City is liable for the property damage and/or physical injury. If the insurance carrier determines the City is liable for the claimant's property damage and/or physical injury, the insurance carrier will pay the claim accordingly.

(b) If the City's insurance carrier determines that the City is not liable for the claimant's property damage and/or physical injury, the City Manager will have the discretion to authorize a good-faith

payment to be made to the claimant. Each individual claim will be evaluated on its own merits. The City Manager has the authority to authorize good-faith payments up to five hundred dollars (\$500.00). Should a claimant request a reimbursement greater than five hundred dollars (\$500.00), the City Manager may recommend an additional good-faith payment up to three thousand dollars (\$3,000.00). The additional good-faith payment includes the initial five-hundred-dollar payment. Any good-faith payment greater than five hundred dollars (\$500.00) must be approved by City Council.

(c) Good-faith payments shall not exceed three thousand dollars (\$3,000.00) for any single claim. The first five hundred dollars (\$500.00) does not require a dollar-for-dollar match by the claimant. This amount is intended to assist a claimant with any insurance deductible for cleanup of the property. A claimant is not required to have insurance coverage to receive this good-faith payment. The remaining two thousand five hundred dollars (\$2,500.00) available under this Code provision is subject to a dollar-for-dollar match by the claimant for cleanup costs.

(d) Claimants or agents will be required to submit all supporting documentation, including receipts and/or invoices indicating costs incurred for cleaning and/or sanitizing the affected property. The determination of whether the claimant's documentation is sufficient to support a claim will be subject to the discretion of the City Manager. The City will reimburse the claimant with matching funds for the costs, not to exceed three thousand dollars (\$3,000.00). These costs specifically do not include repair or reconstruction costs.

(e) The City will provide each claimant with a backflow prevention valve for installation at the cost of the claimant.

(f) The number of good-faith payments allowed to any claimant or his or her family shall be limited to one (1) payment every five (5) years.

(g) Payment of all claims of five hundred dollars (\$500.00) or less are subject to the discretion of the City Manager, and his or her decision shall be final. (Ord. 1065)

Sec. 13-117. Exclusions.

This policy shall not apply to:

(1) Losses caused by the failure of sewer lines owned by the claimant or agent, or other private persons.

(2) Sewage damages caused by negligence or failure to properly maintain the claimant's utility system.

(3) Sewage damages caused by the failure of the claimant or agent to take steps necessary to prevent further damage to the property once an incident has occurred or the claimant or agent has been put on notice of another problem unrelated to the initial incident. (Ord. 1065)

Sec. 13-118. Conditions.

(a) If any insurance is available to the claimant or agent covering a loss claimed hereunder, that coverage will be considered primary coverage. Any coverage provided under the terms and provisions of this policy shall be secondary and in excess of the claimant's or agent's primary coverage. Such secondary coverage will not contribute to any primary coverage. In the event that the claimant's insurance carrier does not cover such loss, a letter from the carrier denying the loss claimed hereunder is required to be eligible for any good-faith payment.

(b) A Notice of Claim must be filed with the City Manager within fifteen (15) days from the date of the discovery of the occurrence. These forms will be reviewed in accordance with Section 13-116 above. If the City's insurance carrier denies the claim, the carrier will notify the claimant or agent directly. If the City denies the claim, the claimant or agent will be contacted directly by the Human Resources and Risk Management Department.

(c) The claimant or agent will be notified of the insurance carrier's or City's position relative to their claim within ninety (90) days after receipt of the Notice of Claim, or as required by the Colorado Governmental Immunity Act.

(d) The claimant must allow the City's insurance carrier and/or City personnel to inspect and examine the alleged property damage before any claim will be processed or paid.

(e) All claimants must sign a release, either in the form as required by the City's insurance carrier or provided by the City, before any payment is made to the claimant. The release will absolve the City or its carrier from any and all liability arising from the claim and release the City and its carrier from any future claims related to the incident.

(f) The City or its insured shall have the right, at its sole discretion, to seek subrogation against any person or organization liable for the property damage described in a claim. The claimant shall assist and cooperate with the City or its insured in any action or proceeding to obtain subrogation.

(g) No payment shall be made to any claimant or agent until the City finds that the claimant or agent has cleared all obstructions, natural or constructed, that impede the City's access to its easements, whether recorded or by prescription. (Ord. 1065)

Sec. 13-119. Definitions.

Actual cash value (ACV) means replacement cost less depreciation.

City utility system means the full outside diameter of a main sanitary sewer, excluding external connections (e.g., "Y's" and "T's" and sewer laterals).

Claimant or agent: *Claimant* means the individual(s) filing a claim against the City seeking reimbursement for paid or obligated payment due to property damage caused by the operation of the City's utility system. *Agent* means a tenant or landlord of the claimant.

Claimant or agent utility system means the water and sanitary sewer system located in or on the property of the claimant or agent.

Obstruction means natural or artificial objects which impede or prohibit the City's ability to access its property interests or easements which are either recorded or by prescription.

Occurrence means an event which causes property damage to the property of the claimant or agent as the result of the operations of the City's sanitary system.

Property damage means the loss of or direct damage to, or cleanup costs related to, destruction of tangible property.

Ultimate net loss means the sum paid in settlement of a claim for which the City agrees to pay after making deductions for all other recoveries, salvages, deductibles and insurances. *Ultimate net loss* does not include:

- (1) Costs and expenses incurred by an insurer on behalf of the claimant or agent;
- (2) Office costs or salaries and expenses of employees of the claimant or agent; or
- (3) Retainer fees of counsel retained by the claimant or agent. (Ord. 1065)

Sec. 13-120. General claimant responsibilities.

(a) The claimant must provide reasonable proof of ownership and the value of the damaged personal and real property.

(b) The claimant must comply with all conditions contained within Section 13-118 of this policy that outlines notification and documentation responsibilities. (Ord. 1065)

Sec. 13-121. Payment of noneconomic damages; no admission of liability.

(a) The City will not pay noneconomic damages as compensation for an occurrence under this policy.

(b) Any payment made hereunder is a good-faith gesture and is not intended and shall not be construed as an admission of liability or waiver of any defense on immunity. (Ord. 1065)

Sec. 13-122. Acquisition of express easements.

The City Manager shall have the authority to negotiate the purchase of additional easements where the City requires additional access. All easement purchases as provided herein shall be approved by the City Council. (Ord. 1065)