

## CHAPTER 17

### Sewer and Wastewater

#### Article 1 Sewage

- Sec. 17-1-10 Wastewater System, Treatment Plant and Works Enterprise
- Sec. 17-1-20 Definitions
- Sec. 17-1-30 Abbreviations

#### Article 2 Use of Public Sewers Required

- Sec. 17-2-10 Connection required
- Sec. 17-2-20 Prohibited treatment and disposal of waste
- Sec. 17-2-30 Discharge into storm sewers prohibited

#### Article 3 Building Sewers and Connections

- Sec. 17-3-10 Manhole opening, connections or use
- Sec. 17-3-20 Permit for sewer connection required
- Sec. 17-3-30 Permit application forms and contents
- Sec. 17-3-40 Permit conditions
- Sec. 17-3-50 Permit modifications
- Sec. 17-3-60 Signatures and certifications
- Sec. 17-3-70 Permit duration
- Sec. 17-3-80 Permit transfer
- Sec. 17-3-90 Building sewer required for each lot
- Sec. 17-3-100 Existing building sewers
- Sec. 17-3-110 Building sewer elevation
- Sec. 17-3-120 Surface runoff prohibited
- Sec. 17-3-130 Inspection of building sewer connection
- Sec. 17-3-140 Protective devices required
- Sec. 17-3-150 Tap size
- Sec. 17-3-160 Manhole connections
- Sec. 17-3-170 Abandonment of connection
- Sec. 17-3-180 Wastewater discharge permit revocation
- Sec. 17-3-190 Wastewater discharge permit reissuance

#### Article 4 Use of Public Sewers

- Sec. 17-4-10 General discharge prohibitions
- Sec. 17-4-20 National Pretreatment Standards
- Sec. 17-4-30 Modifications of Standards
- Sec. 17-4-40 State requirements
- Sec. 17-4-50 Amendment
- Sec. 17-4-60 Excessive discharge
- Sec. 17-4-70 Accidental discharges by major contributors/slug discharge control plans
- Sec. 17-4-80 Hauled waste
- Sec. 17-4-90 Monitoring facilities
- Sec. 17-4-100 Inspection and sampling
- Sec. 17-4-110 Nonmunicipal treatment, pretreatment facilities
- Sec. 17-4-120 Baseline monitoring reports
- Sec. 17-4-130 Compliance schedule
- Sec. 17-4-140 Reports on compliance
- Sec. 17-4-150 Compliance schedule progress reports
- Sec. 17-4-160 Reports of changed conditions
- Sec. 17-4-170 Reports of potential problems

- Sec. 17-4-180 Reports and information
- Sec. 17-4-190 Notification; repeat sampling and reporting
- Sec. 17-4-200 Notification of discharge of hazardous waste
- Sec. 17-4-210 Analytical requirement
- Sec. 17-4-220 Sample collections
- Sec. 17-4-230 Record keeping
- Sec. 17-4-240 Right of entry; inspection and sampling
- Sec. 17-4-250 Periodic compliance reports
- Sec. 17-4-260 Confidential information
- Sec. 17-4-270 Certification statements

**Article 5 Establishment and Collection of Charges**

- Sec. 17-5-10 Charges established
- Sec. 17-5-20 Collection

**Article 6 Enforcement**

- Sec. 17-6-10 Suspension of discharge for noncompliance
- Sec. 17-6-20 Suspension or revocation of discharge permit
- Sec. 17-6-30 Notice of violation and show cause hearing
- Sec. 17-6-40 Consent order
- Sec. 17-6-50 Compliance orders
- Sec. 17-6-60 Cease and desist orders
- Sec. 17-6-70 Administrative fines
- Sec. 17-6-80 Emergency suspensions
- Sec. 17-6-90 Termination of discharge
- Sec. 17-6-100 Injunctive relief
- Sec. 17-6-110 Civil penalties
- Sec. 17-6-120 Criminal prosecution
- Sec. 17-6-130 Remedies nonexclusive
- Sec. 17-6-140 Affirmative defenses to discharge violations

## ARTICLE 1

### Sewage

#### **Sec. 17-1-10. Wastewater System, Treatment Plant and Works Enterprise.**

(a) Purpose and policy.

(1) This Section establishes responsibilities of local government, industry and the public to implement national pretreatment standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works (POTWs) or which may contaminate sewage sludge.

(2) This regulation applies:

a. To pollutants from non-domestic sources covered by pretreatment standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined in Section 17-1-20 below;

b. To any new or existing source subject to pretreatment standards.

(3) This Chapter shall apply to all users of the publicly owned treatment works 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. 1110 §1, 2010)

#### **Sec. 17-1-20. 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 "Appropriate Regional" Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

*Authorized representative of the industrial 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.

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

d. The individuals described in Subparagraphs a. through c. above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the over all operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

*Best management practices (bmp)* best management practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 17-4-10 (40 C.F.R. 403.5(a)(1) and (b)). BMPs include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw materials storage.

*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 can be found in parts 405-471, 40 C.F.R. Chapter 1, Subchapter N.

*Categorical industrial user* is an industrial user subject to a categorical pretreatment standard or categorical standard.

*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, 33 U.S.C. § 1251, et seq., 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.

*Composite sample* means a representative flow-proportioned sample collected within a twenty-four-hour period composed of a minimum of four (4) individual samples collected at two-hour intervals and combined according to flow.

*Control authority* is the City.

*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 Sections 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 Subparagraphs 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 discharge or 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, co-partnership, 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 Chapter, 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. This term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

*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 for each pollutant parameter taken during a six-month period exceed (by any magnitude) the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 C.F.R. § 403.3(L);

b. Technical review criteria (TRC) violations, defined 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 numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 C.F.R. § 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

c. Any other violation of a pretreatment 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 17-6-10 of this Chapter 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 may include a violation of best management practices, 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. 1110 §1, 2010)

**Sec. 17-1-30. Abbreviations.**

The following abbreviations shall have the designated meanings:

- (1) BOD – Biochemical Oxygen Demand.
- (2) C.F.R. – 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. 1110 §1, 2010)

**ARTICLE 2**

**Use of Public Sewers Required**

**Sec. 17-2-10. 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. 1110 §1, 2010)

**Sec. 17-2-20. 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. 1110 §1, 2010)

**Sec. 17-2-30. 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. 1110 §1, 2010)

**ARTICLE 3**

**Building Sewers and Connections**

**Sec. 17-3-10. 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. 1110 §1, 2010)

**Sec. 17-3-20. Permit for sewer connection required.**

A building sewer permit or a wastewater discharge permit shall be obtained before installing building sewer or connecting one (1) to the public sewer. Application for such permit shall be made on such form as prescribed by the City. As part of the permit requirement the City Manager is authorized to assess a system development fee to recover the capital costs associated with the construction and maintenance of City's wastewater collection and treatment system. (Ord. 1110 §1, 2010)

**Sec. 17-3-30. Permit application forms and contents.**

(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) Individual wastewater discharge permit requirements.

(1) No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the City Manager, except that a significant industrial user that has filed a timely application pursuant to Subsection (c) of this Section may continue to discharge for the time period specified therein.

(2) The City Manager may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this Chapter.

(3) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this Chapter and subjects the wastewater discharge permittee to the sanctions set out in Article 6 of this Chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(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.

(d) All users required to obtain an individual wastewater discharge permit must submit a permit application. The City Manager may require users to submit all or some of the following information as part of a permit application:

(1) Identifying information:

- a. The name and address of the facility, including the name of the operator and owner.
- b. Contact information, description of activities, facilities, and plant production processes on the premises.

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

(3) Description of operations.

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes and rate of production), and standard industrial classifications of the operations carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

c. Number and type of employees, hours of operation and proposed or actual hours of operation.

d. Type and amount of raw materials processed (average and maximum per day);

e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains and appurtenances by size, location and elevation, and all points of discharge.

(4) Time and duration of discharges.

(5) The location for monitoring all wastes covered by the permit.

(6) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 C.F.R. § 403.6(e).

(7) Measurement of pollutants.

a. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the City Manager, of regulated pollutants in the discharge from each regulated process.

c. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported.

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 17-4-210 of this Chapter. Where the standard requires compliance with a bmp or pollution prevention alternative, the user shall submit documentation as required by the City Manager or the applicable standards to determine compliance with the standard.

e. Sampling must be performed in accordance with procedures set out in Section 17-4-220 of this Chapter.

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

(e) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(f) The City Manager will evaluate the data furnished by the major contributor and may require additional information. Within sixty (60) days of receipt of a complete permit application, the City Manager will determine whether to issue an individual wastewater discharge permit. The City Manager may deny any application for an individual wastewater discharge permit. After evaluation and acceptance of the data furnished, the City Manager may issue a major discharge permit subject to terms and conditions contained in this Chapter. (Ord. 1110 §1, 2010)

#### **Sec. 17-3-40. Permit conditions.**

(a) An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and

disposal, and protect against damage to the POTW. 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;
- (11) Effluent limits, including Best Management Practices, based on applicable General Pretreatment Standards in part 403, this Chapter, Categorical Pretreatment Standards, local limits, and state and local law; and
- (12) Other conditions as deemed appropriate by the City to ensure compliance with this Article.

(b) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this Chapter and subjects the wastewater discharge permittee to the sanctions set out in Article 6 of this Chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements or with any other requirements of federal, state and local law. (Ord. 1110 §1, 2010)

**Sec. 17-3-50. 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. 1110 §1, 2010)

**Sec. 17-3-60. Signatures and certifications.**

(a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in Section 17-4-270.

(b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the City Manager prior to or together with any reports to be signed by an authorized representative. (Ord. 1110 §1, 2010)

**Sec. 17-3-70. 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. 1110 §1, 2010)

**Sec. 17-3-80. 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. 1110 §1, 2010)

**Sec. 17-3-90. 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. 1110 §1, 2010)

**Sec. 17-3-100. 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. 1110 §1, 2010)

**Sec. 17-3-110. 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. 1110 §1, 2010)

**Sec. 17-3-120. 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. 1110 §1, 2010)

**Sec. 17-3-130. 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. 1110 §1, 2010)

**Sec. 17-3-140. 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. 1110 §1, 2010)

**Sec. 17-3-150. Tap size.**

No tap larger than four (4) inches shall be made on an eight-inch sewer line. (Ord. 1110 §1, 2010)

**Sec. 17-3-160. 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. 1110 §1, 2010)

**Sec. 17-3-170. 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. 1110 §1, 2010)

**Sec. 17-3-180. Wastewater discharge permit revocation.**

(a) The City Manager may revoke an individual wastewater discharge permit for good cause, including but not limited to the following reasons:

- (1) Failure to notify the City Manager of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the City Manager of changed conditions pursuant to Section 17-4-160 of this Chapter;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports and certification statements;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the City Manager timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Article.

(b) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a user are void upon the issuance of a new wastewater discharge permit to that user. (Ord. 1110 §1, 2010)

**Sec. 17-3-190. Wastewater discharge permit reissuance.**

User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 17-3-30 of this Article, a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge permit. (Ord. 1110 §1, 2010)

## ARTICLE 4

### Use of Public Sewers

#### Sec. 17-4-10. General discharge prohibitions.

(a) General prohibition. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes 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 degrees 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 degrees 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) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the POTW's NPDES permit;

(10) Any noxious or 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 Article 6 of this Chapter. (Ord. 1110 §1, 2010)

#### **Sec. 17-4-20. 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. 1110 §1, 2010)

#### **Sec. 17-4-30. 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. 1110 §1, 2010)

#### **Sec. 17-4-40. 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 Chapter. (Ord. 1110 §1, 2010)

#### **Sec. 17-4-50. 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. 1110 §1, 2010)

#### **Sec. 17-4-60. 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. 1110 §1, 2010)

**Sec. 17-4-70. Accidental discharges by major contributors/slugs discharge control plans.**

(a) The City Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The City Manager may require any user to develop, submit for approval and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the City Manager may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the City Manager of any accidental or slug discharge, as required by Section 17-4-170 of this Article with procedures for follow-up written notification within five (5) days; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site 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. 1110 §1, 2010)

**Sec. 17-4-80. Hauled waste.**

(a) Septic tank waste may be introduced into the POTW only at locations designated by the City Manager, and at such times as are established by the City Manager. Such waste shall not violate Section 17-4-10 of this Article or any other requirements established by the City. The City Manager may require septic tank waste haulers to obtain individual wastewater discharge permits.

(b) The City Manager may require haulers of industrial waste to obtain individual wastewater discharge permits. The City Manager may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The City Manger also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Chapter.

(c) Industrial waste haulers may discharge loads only at locations designated by the City Manager. No load may be discharged without prior consent of the City Manager. The City Manager may collect samples of each hauled load to ensure compliance with applicable Standards. The City Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. 1110 §1, 2010)

**Sec. 17-4-90. 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. 1110 §1, 2010)

**Sec. 17-4-100. 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. 1110 §1, 2010)

**Sec. 17-4-110. 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. 1110 §1, 2010)

**Sec. 17-4-120. 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 the information listed in Subsection (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the City Manager a report which contains the information listed in Subsection (b) below. 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.

(b) Users described above shall submit the information set forth below.

(1) All information required in Paragraphs 17-3-30(d)(1)a., (d)(2), (d)(3)a. and (d)(6) of this Chapter.

(2) Measurement of pollutants.

a. The user shall provide the information required in Subparagraphs 17-3-30(d)a. through d.

b. The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this Paragraph.

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

d. Sampling and analysis shall be performed in accordance with Section 17-4-210 of this Article.

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

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

(3) Compliance certification. A statement, reviewed by the user's authorized representative as defined in Section 17-1-20 of this Chapter and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(4) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 17-4-130 of this Article.

(5) Signature and report certification. All baseline monitoring reports must be certified in accordance with Section 17-4-270 of this Article and signed by an authorized representative as defined in Section 17-1-20.

(c) 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. 1110 §1, 2010)

**Sec. 17-4-130. 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. 1110 §1, 2010)

**Sec. 17-4-140. 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 17-4-120 of this Article. (Ord. 1110 §1, 2010)

**Sec. 17-4-150. Compliance schedule progress reports.**

The following conditions shall apply to the compliance schedule required by Section 17-4-120 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. 1110 §1, 2010)

**Sec. 17-4-160. Reports of changed conditions.**

Each user must notify the City Manager of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least ten (10) days before the change.

(1) The City Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 17-3-30 of this Chapter.

(2) The City Manager may issue an individual wastewater discharge permit under Section 17-3-170 of this Chapter or modify an existing wastewater discharge permit under Section 17-3-50 of this Chapter in response to changed conditions or anticipated changed conditions. (Ord. 1110 §1, 2010)

**Sec. 17-4-170. 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 City Manager, 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.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in Subsection (a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure. (Ord. 1110 §1, 2010)

**Sec. 17-4-180. 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. 1110 §1, 2010)

**Sec. 17-4-190. 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. Resampling by the industrial user is not required if the City performs sampling at the user's facility at least once a month, or if the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the industrial user. (Ord. 1110 §1, 2010)

**Sec. 17-4-200. 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 director, 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 name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this Subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 17-4-160 of this Article. The notification requirement in this Section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 17-4-120, 17-4-140 and 17-4-250 of this Article.

(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.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Chapter, a permit issued thereunder, or any applicable federal or state law. (Ord. 1110 §1, 2010)

**Sec. 17-4-210. 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. 1110 §1, 2010)

**Sec. 17-4-220. 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. 1110 §1, 2010)

**Sec. 17-4-230. 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, including documentation associated with Best Management Practices, 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. 1110 §1, 2010)

**Sec. 17-4-240. 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. 1110 §1, 2010)

**Sec. 17-4-250. Periodic compliance reports.**

(a) Except as specified in Subsection (c) of this Section, all significant industrial users must, at a frequency determined by the City Manager submit no less than twice per year (June and December or on

dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the City Manager or the pretreatment standard necessary to determine the compliance status of the user.

(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 C.F.R. Part 136 and amendments thereto or with any other sampling and test procedures approved by the administrator of the EPA.

(c) All periodic compliance reports must be signed and certified in accordance with Section 17-4-270 of this Article.

(d) 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.

(e) If a user subject to the compliance reporting requirement in this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City Manager, using the approved analytical procedures prescribed in Section 17-4-220, the results of this monitoring shall be included in the report. (Ord. 1110 §1, 2010)

**Sec. 17-4-260. 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. 1110 §1, 2010)

**Sec. 17-4-270. Certification statements.**

Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with Section 17-3-30; users submitting baseline monitoring reports under Paragraph 17-4-120(b)(5); users submitting reports on compliance with the categorical pretreatment standard deadlines under Section 17-4-140; users submitting periodic compliance reports required by Subsections 17-4-250(a) through (d), and users submitting an initial request to forego sampling of a pollutant on the basis of Paragraph 17-4-

250(b)(4). The following certification statement must be signed by an authorized representative as defined in Section 17-1-20:

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. 1110 §1, 2010)

## **ARTICLE 5**

### **Establishment and Collection of Charges**

#### **Sec. 17-5-10. 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. 1110 §1, 2010)

#### **Sec. 17-5-20. 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 Chapter, 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. 1110 §1, 2010)

## **ARTICLE 6**

### **Enforcement**

#### **Sec. 17-6-10. 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. 1110 §1, 2010)

**Sec. 17-6-20. Suspension or revocation of discharge permit.**

In addition to any other penalty or remedy provided by law or by the specific provisions of this Chapter, the City Manager, 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 Chapter. (Ord. 1110 §1, 2010)

**Sec. 17-6-30. Notice of violation and show cause hearing.**

(a) Whenever the City finds that any user has violated or is violating the provisions of this Chapter 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 Manager, the matter may be dismissed by the City Manager 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 Manager 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 Manager 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 Manager why the stated proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by 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 17-1-20. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

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

(1) Issue in the name of the City Manager 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 Manager 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 Manager has reviewed the evidence, he or she 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 Manager to be necessary and appropriate may be issued from time to time following the initial order.

(g) Nothing in Section 17-6-20 and this Section 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 17-6-10 or to cause to be filed a summons and complaint in the Municipal Court to invoke the penalties specified in Section 17-6-80. (Ord. 1110 §1, 2010)

**Sec. 17-6-40. 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 17-6-50 and 17-6-60 below and shall be judicially enforceable. (Ord. 1110 §1, 2010)

**Sec. 17-6-50. 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. 1110 §1, 2010)

#### **Sec. 17-6-60. 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. 1110 §1, 2010)

#### **Sec. 17-6-70. Administrative fines.**

(a) When the City Manager finds that a user has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City Manager may fine such user in an amount not to exceed twenty-five thousand dollars (\$25,000.00). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of five percent (5%) of the unpaid balance, and interest shall accrue thereafter at a rate of five percent (5%) per month. A lien against the user's property shall be sought for unpaid charges, fines and penalties.

(c) Users desiring to dispute such fines must file a written request for the City Manager to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the City Manager may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The City Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. 1110 §1, 2010)

**Sec. 17-6-80. Emergency suspensions.**

(a) The City Manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The City Manager may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or its receiving stream, or endangerment to any individuals. The City Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City Manager that the period of endangerment has passed, unless the termination proceedings in Section 17-6-90 of this Article are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City Manager prior to the date of any show cause or termination hearing under Section 17-6-30 or 17-6-90 of this Article.

(b) Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section. (Ord. 1110 §1, 2010)

**Sec. 17-6-90. Termination of discharge.**

(a) In addition to the provisions in Section 17-3-180 of this Chapter, any user who violates the following conditions is subject to discharge termination:

(1) Violation of individual wastewater discharge permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(5) Violation of the pretreatment standards in Article 7 of this Chapter.

(b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 17-6-30 of this Article why the proposed action should not be taken. Exercise of this option by the City Manager shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. 1110 §1, 2010)

**Sec. 17-6-100. Injunctive relief.**

When the City Manager finds that a user has violated, or continues to violate, any provision of this Chapter, an wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City Manager may petition the district court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order or other requirement imposed by this Chapter on activities of the user. The City Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. (Ord. 1110 §1, 2010)

**Sec. 17-6-110. Civil penalties.**

(a) A user who has violated, or continues to violate, any provision of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of twenty-five thousand dollars (\$25,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

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

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user. (Ord. 1110 §1, 2010)

**Sec. 17-6-120. Criminal prosecution.**

(a) A user who willfully or negligently violates any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this Chapter, individual wastewater discharge permit or order issued hereunder, or who falsifies, tampers with or

knowingly renders inaccurate any monitoring device or method required under this Chapter ,shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both. (Ord. 1110 §1, 2010)

**Sec. 17-6-130. Remedies nonexclusive.**

The remedies provided for in this Chapter are not exclusive. The City Manager may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City Manager may take other action against any user when the circumstances warrant. Further, the City Manager is empowered to take more than one (1) enforcement action against any noncompliant user. (Ord. 1110 §1, 2010)

**Sec. 17-6-140. Affirmative defenses to discharge violations.**

(a) Upset.

(1) For the purposes of this Section, *upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An *upset* does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

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

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

a. An upset occurred and the user can identify the causes) of the upset;

b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

c. The user has submitted the following information to the City Manager within twenty-four (24) hours of becoming aware of the upset if this information is provided orally; a written submission must be provided within five (5) days:

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

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

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

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(b) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Subsection 17-4-10(a) of this Chapter or the specific prohibitions in Paragraphs 17-4-10(b)(1) through (13) of this Chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

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

(c) Bypass.

(1) For the purposes of this Section,

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

b. *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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

(3) Bypass notifications.

a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the City Manager at least ten (10) days before the date of the bypass, if possible.

b. A user shall submit oral notice to the City Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes

aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The City Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) Bypass.

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

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

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under Paragraph (3) of this Subsection.

b. The City Manager may approve an anticipated bypass, after considering its adverse effects, if the City Manager determines that it will meet the three conditions listed in Paragraph (4)a. of this Subsection. (Ord. 1110 §1, 2010)

## **ARTICLE 7**

### **Wastewater Discharge Pretreatment Standards and Requirements**

#### **Sec. 17-7-10. Wastewater discharge limitations.**

It shall be unlawful for any user to discharge, deposit, cause or allow to be discharged any waste or wastewater which fails to comply with the limitations imposed by this Section.

(1) Dilution is prohibited as a substitute for treatment and shall be a violation of this Article except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The City may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate.

(2) Compliance with maximum daily limits shall be measured with a representative sample taken during the industrial user's operating day, unless elsewhere specified in the user's industrial wastewater discharge permit.

(3) No significant industrial user shall discharge wastewater that exceeds the following limits:

<i>Pollutant</i> <sup>(1)</sup>	<i>Maximum Daily Limit</i> <sup>(1)</sup>	<i>Units</i> <sup>(1)</sup>
Arsenic	0.127	MG/L
Cadmium	0.122	MG/L
Chromium	2.21	MG/L
Chromium, hexavalent	1.17	MG/L
Copper	1.93	MG/L
Lead	0.59	MG/L
Mercury	0.0022	MG/L
Molybdenum	0.232	MG/L
Nickel	2.36	MG/L
Selenium	0.044	MG/L
Silver	0.431	MG/L
Zinc	9.1	MG/L
Benzene <sup>(2)</sup>	0.050	MG/L
BTEX <sup>(2)</sup>	0.750	MG/L
Ammonia	151	LBS/DAY <sup>(3)</sup>
BOD <sup>(5)</sup>	999	LBS/DAY <sup>(3)</sup>
Total suspended solids (TSS)	1752	LBS/DAY <sup>(3)</sup>

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

<sup>(2)</sup> These pollutants and limits generally apply to wastewaters from the cleanup of petroleum or gasoline underground storage tanks. In addition, the pollutants may be required of other users or included in permits where sampling and analysis indicate that the wastewater contains concentrations of these pollutants in excess of the stated limits. This is the sum of measured concentrations for Benzene, Toluene, Ethylbenzene and Xylene.

<sup>(3)</sup> These limits are the total pounds per day that can be accepted from all significant industrial users (SIU). The allocation of this poundage to each SIU shall be at the sole discretion of the City and the allocation shall be specified in the industrial wastewater discharge permit issued to that SIU.

(4) All users subject to a categorical pretreatment standard shall comply with all requirements of such standard and shall also comply with any limitations contained in this Chapter. Where the same pollutant is limited by more than one (1) pretreatment standard, the limitations which are more stringent shall prevail. Compliance with categorical pretreatment standards shall be the timeframe specified in the applicable categorical pretreatment standard.

(5) The City may establish more stringent pollutant limits, additional site-specific pollutant limits or additional pretreatment requirements when, in the judgment of the City, such limitations are necessary to implement the provisions of this Chapter.

(6) Best Management Practices (BMPs): the City may establish best management practices (BMPs) or additional pretreatment requirements when, in the judgment of the City, such pretreatment standards are necessary to implement the provisions of this Chapter. (Ord. 1110 §1, 2010)