

CITY OF GREELEY, COLORADO
ORDINANCE _____, 2021

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 3, TITLE 20 OF THE GREELEY MUNICIPAL CODE (INDUSTRIAL PRETREATMENT CHAPTER)

WHEREAS, the City of Greeley, Colorado ("City") is a home rule municipality empowered pursuant to Sections 1 and 6 of Article XX of the Colorado Constitution to, *inter alia*, construct, purchase, acquire, lease, add to, maintain, conduct, and operate water works and everything required therefor, within or without its territorial limits, for the use of the City; and

WHEREAS, the City is required to develop, implement, and administer an industrial pretreatment program pursuant to 40 CFR §403.8; and

WHEREAS, from August 10-19, 2020, the Environmental Protection Agency ("EPA") conducted a Pretreatment Compliance Inspection ("PCI") of Greeley's Wastewater Treatment and Reclamation Facility; and

WHEREAS, on September 30, 2020, EPA transmitted to Greeley a Pretreatment Compliance Inspection Report (the "Compliance Report") prepared after the PCI, identifying program components that the City was recommended or required to implement, including amendments to Article VI, Chapter 3, Title 20 of the Greeley municipal code (the "Pretreatment Chapter"), in order to effectively implement the industrial pretreatment program and to meet its regulatory requirements; and

WHEREAS, in accordance with the Compliance Report and further recommendations by EPA, staff has prepared the necessary amendments to the Pretreatment Chapter; and

WHEREAS, on May 19, 2021, the Greeley Water and Sewer Board reviewed the proposed amendments to the Pretreatment Chapter and recommended that City Council adopt the same; and

WHEREAS, Water and Sewer staff recommends that City Council adopt the proposed amendments to Article VI, Chapter 3, Title 20, of the Greeley Municipal Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:

Section 1. That Section 20-393 contained in Chapter 3, Article VI, Industrial Pretreatment, shall be amended to read as shown on Appendix A, attached hereto and incorporated herein.

Section 2. That Section 20-395 of the above-entitled ordinance shall be deleted and the section reserved as shown on Appendix A.

Section 3. That Section 20-396 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 4. That Section 20-421 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 5. That Section 20-422 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 6. That Section 20-423 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 7. That Section 20-424 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 8. That Section 20-428 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 9. That Section 20-432 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 10. That Section 20-433 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 11. That Section 20-434 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 12. That Section 20-435 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 13. That Section 20-456 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 14. That Section 20-457 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 15. That Section 20-458 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 16. That Section 20-459 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 17. That Section 20-460 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 18. That Section 20-462 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 19. That Section 20-463 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 20. That Section 20-464 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 21. That Section 20-465 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 22. That Section 20-466 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 23. That Section 20-467 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 24. That Section 20-468 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 25. That Section 20-470 of the above-entitled ordinance shall be deleted and reserved as shown on Appendix A.

Section 26. That Section 20-473 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 27. That Section 20-475 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 28. That Section 20-476 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 29. That Section 20-478 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 30. That Section 20-480 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 31. That Section 20-481 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 32. That Section 20-482 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 33. That Section 20-484 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 34. That Section 20-485 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 35. That Chapter 3, Article VI, Industrial Pretreatment, shall be amended by adding thereto a new Section 20-487 to read as shown on Appendix A.

Section 36. That Section 20-511 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 37. That Section 20-514 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 38. That Section 20-515 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 39. That Section 20-516 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 40. That Section 20-517 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 41. That Section 20-518 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 42. That Section 20-519 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 43. That Chapter 3, Article VI, Industrial Pretreatment, shall be amended by adding thereto a new Section 20-520 to read as shown on Appendix A.

Section 44. That Section 20-520 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 45. That Section 20-521 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 46. That Section 20-522 of the above-entitled ordinance shall be deleted to read as shown on Appendix A.

Section 47. That Section 20-523 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 48. That Section 20-524 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 49. That Chapter 3, Article VI, Industrial Pretreatment, shall be amended by adding thereto a new Section 20-525 to read as shown on Appendix A.

Section 50. That Section 20-525 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 51. That Section 20-526 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 52. That Section 20-527 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 53. That Section 20-528 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 54. That Section 20-529 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 55. That Section 20-530 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 56. That Section 20-531 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 57. That Section 20-532 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 58. That Section 20-533 of the above-entitled ordinance shall be amended to read as shown on Appendix A.

Section 59. That Section 20-534 of the above-entitled ordinance shall be deleted to read as shown on Appendix A.

Section 60. Except as explicitly modified on Exhibit A, all other provisions of Chapter 3, Title 20 of the Greeley Municipal Code shall remain in full force and effect.

Section 61. This Ordinance shall take effect on the fifth day following its final publication, as provided by Section 3-16 of the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS ____ DAY OF _____, 2021.

ATTEST

THE CITY OF GREELEY, COLORADO

City Clerk

Mayor

APPENDIX A
ORDINANCE AMENDING ARTICLE VI, CHAPTER 3, TITLE 20
GREELEY MUNICIPAL CODE

Section 1. Section 20-393 contained in Chapter 3, Article VI, Industrial Pretreatment, shall be amended to read as follows:

Sec. 20-393. Purpose and policy.

This article establishes uniform requirements for ~~Dischargers~~ users of ~~to~~ the city's publicly owned treatment works (POTW) and enables the city to comply with relevant state and federal laws, including the Federal Water Pollution Control Act (33 USC 1251—1387) and the General Pretreatment Regulations (40 CFR 403). The objectives of this article are:

- (1) To prevent the introduction of pollutants into the city's POTW that will interfere with the POTW's operation;
- (2) To prevent the introduction of pollutants into the city's POTW that will pass through the POTW, inadequately treated, into receiving waters, or that will otherwise be incompatible with the POTW;
- (3) To protect both city personnel who may be affected by wastewater and biosolids in the course of their employment, and the general public;
- (4) To promote reuse and recycling of wastewater and biosolids from the city's POTW;
- (5) To establish and distribute equitably fees for the cost of operating, maintaining and improving the city's POTW; and
- (6) To enable the city to comply with its Colorado discharge permit system (CDPS) permit conditions, biosolids use and disposal requirements, and other relevant federal and state laws.

Section 2. Section 20-395 of the above-entitled ordinance shall be deleted and the section reserved as follows:

Sec. 20-395. Reserved. ~~Citation to federal regulations.~~

~~All citations in this article to the Code of Federal Regulations are to those federal regulations in effect on the date this article becomes law. This article does not incorporate later amendments or editions of the cited material.~~

Section 3. Section 20-396 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-396. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251—1387.

Administrative appeal means a petition to reconsider an order issued or a penalty or fine imposed by the director pursuant to this chapter in accordance with section 20-530.

Approval authority means the EPA Regional Administrator for Region VIII; or the state, if and when the state obtains primacy to administer its own pretreatment program under the Act.

Authorized representative of the user means:

- (1) If the user is a corporation: 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;
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively; or
- (3) If the user is a federal, state or local governmental entity: a director or highest level official appointed or designated to oversee the operation and performance of the activities of the government entity.

The individuals described in subsections (1) through (3) of this definition may designate another authorized representative of the user if the authorization is in writing and is submitted to the city director. The authorization shall specify either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager or a position of equivalent responsibility or having overall responsibility for environmental matters for the company.

Best management practices or *BMPs* means schedules of activities, maintenance policies and other management procedures that prevent or reduce the discharge of pollutants into the POTW, and that implement the prohibitions listed in section 20-421. ~~Best management practices~~ BMPs include pretreatment standards and requirements, operating procedures and practices to control plant site runoff, spills, leaks, waste disposal and drainage from raw material storage.

Biochemical oxygen demand or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).

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

Categorical industrial user or CIU means a user subject to a categorical pretreatment standard or categorical standard.

Categorical pretreatment standard or *categorical standard* means any regulation containing discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317(b) and (c)), which applies to a specific category of users, and which appears in 40 CFR 405—471. ~~The term "categorical pretreatment standard" or "categorical standard" includes prohibited discharge standards.~~

Chain of custody means an accurate written record that, at a minimum, lists the outfall location, sample date, sample time, sample type, type of sample preservation, and name of sample collector and can be used to trace the possession and handling of the sample from the moment of its collection through its analysis.

Chapter or Greeley pretreatment chapter means article vi, chapter 3, title 20 of this code.

Composite sample means a sampling procedure defined in 40 CFR 403, Appendix E—Sampling Procedures, I. Composite Method.

Control authority means the POTW.

Daily or day means a calendar day unless otherwise specified. Any time period set forth in this chapter that commences, expires or is determined from a date which falls on a Saturday, Sunday or legal holiday of the state of Colorado, the date of such commencement, performance, expiration or determination shall automatically be extended to the next business day which is not a Saturday, Sunday or legal holiday of the state of Colorado.

Daily maximum means the arithmetic average of all effluent samples for a pollutant collected during a day.

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

Department means the city water and sewer department.

Director means the director of the city water and sewer department or his authorized designee.

Discharge or indirect discharge means the introduction of pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

Domestic wastewater means a combination of liquid wastes (sewage) which may include household chemicals, household wastes, human excreta, animal or vegetable matter in suspension or solution or other solids in suspension or solution which are discharged from a dwelling, building or other structure. The term "domestic wastewater" does not include commercial or industrial wastewater, or grease removed from a restaurant grease trap.

Environmental Protection Agency or EPA means the United States Environmental Protection Agency.

Existing source means any source of indirect discharge that is not a new source.

General permit means an authorization to discharge, ~~pollutants to the POTW~~ which covers multiple users within a specific sector in accordance with the requirements of the Act and this chapter.

Grab sample means a sampling procedure defined in 40 CFR 403, Appendix E— Sampling Procedures, II. Grab Method.

Hauled portable toilet wastewater means the liquid or solid material removed from a portable toilet that holds only domestic wastewater (not the portable toilet chemicals or matrix itself).

~~*Indirect discharge or discharge* means the introduction of pollutants into the POTW from any nondomestic source.~~

Industrial wastewater or nondomestic wastewater means water carrying wastes from any process or activity of industry, manufacturing, trade or business, from development of any natural resource, or from animal operations, or contaminated stormwater or leachate from solid waste facilities.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample, independent of the industrial flow rate and the duration of the sampling event.

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

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Contributes to a violation of any requirement of the city's CDPS 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 any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: section 405 of the Act; the Solid Waste Disposal Act (SWDA), including title II, commonly referred to as the Resource Conservation And Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the ~~Solid Waste Disposal Act (SWDA)~~; the Clean Air Act; and the Toxic Substances Control Act.

Maximum allowable headworks loading or MAHL means the estimated maximum loading of a pollutant that can be received at a POTW's headworks without causing pass through or interference.

Maximum allowable industrial loading or MAIL means the estimated maximum loading of a pollutant that can be received at a POTW's headworks from all permitted users and other controlled sources without causing pass through or interference. The mail is usually calculated by applying a safety factor to the MAHL and discounting for uncontrolled sources, hauled waste and growth allowance.

Medical waste means isolation wastes, infectious agents, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly or month means a calendar month unless otherwise specified.

Monthly average limit means the highest allowable average of daily discharges over a month, calculated as the sum of all daily discharges measured during a month divided by the number of daily discharges measured during that month.

New source.

- (1) The term "new source" means any building, structure, facility or installation from which there is (or may be) a discharge, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that will apply 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 source is located;
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, the city director will consider such factors 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.
- (2) 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 subsection (1)a or (1)c of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this subsection has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous onsite construction program:
 1. Any placement, assembly or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavating or removing existing buildings, structures or facilities that is necessary to place, assemble or install new source facilities or equipment; or
 - b. Entered into a binding contract for the purchase of facilities or equipment intended for use in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a binding contract for the purpose of this subsection.

Notice of violation or NOV means an order issued pursuant to section 20-515, based on a finding that a user has violated or continues to violate a provision of this

chapter, a wastewater discharge permit, any order issued pursuant to this chapter, or any other pretreatment standard or requirement.

Non-significant categorical industrial user means a CIU that the director has determined to be a non-significant categorical industrial user rather than a significant industrial user based on a finding that the CIU has never discharged more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and that the following conditions have been met:

- (1) The CIU, prior to the director's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
- (2) The CIU annually submits the certification statement required in section 20-487 (b), together with additional information necessary to support the certification statement; and
- (3) The CIU never discharges any untreated concentrated wastewater.

Noncontact cooling water means water used for cooling that does not directly contact any raw material, intermediate product, waste product or finished product.

Pass through means a discharge from the POTW into state waters in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, causes or contributes to a violation of any requirement of the city's CDPS permit, including an increase in the magnitude or duration of a violation.

Person means an 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. This definition includes all federal, state and local government entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste and certain characteristics of wastewater (such as pH, temperature, TSS, turbidity, color, BOD, toxicity or odor).

Pretreatment means the reduction in the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to introducing such pollutants into the POTW. The user may obtain this reduction or alteration by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants allowed by an applicable pretreatment standard. Appropriate pretreatment technology includes control equipment such as equalization tanks or facilities for protection against surges or slug loads that might interfere with or otherwise be incompatible with the POTW. Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility

must meet an adjusted pretreatment limit calculated limit using the combined waste stream formula in 40 CFR 403.6(e).

Pretreatment requirement or requirement means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standard or standard means ~~any prohibited discharge standard~~ any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to users. this term includes prohibitive discharge limits established pursuant to §403.5, categorical pretreatment standard, best management practices, or local limit.

Pretreatment ~~supervisor~~ coordinator means the individual who oversees and administers the pretreatment program for the POTW.

Prohibited discharge standard or prohibited discharge means an absolute prohibition against the discharge of certain substances; these prohibitions appear in section 20-421.

Publicly-owned treatment works or POTW means the treatment works, as defined by section 212 of the Act (33 USC 1292), that is owned by the city. The definition of the term "publicly-owned treatment works" or "POTW" includes any devices or systems used in the collection, storage, treatment, recycling or reclamation of domestic or nondomestic wastewater and any conveyances that carry such wastewater. ~~POTW also means the city.~~ The term "publicly-owned treatment works" or "POTW" 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.

Satellite waste dump site means a designated location directly connected to the POTW that is permitted to accept hauled portable toilet wastewater or nonhazardous wastewater and nondomestic wastewater.

Sector means users that engage in similar activities and discharge similar pollutants. Examples of similar activities that produce similar pollutants may include, but are not limited to, food service establishments or processors that commonly discharge fats, oils and grease; transportation vehicle repair, maintenance and washing facilities that commonly discharge petroleum oil, grease and sand; photographic or x-ray processing facilities or operations that commonly discharge silver; dental offices that commonly discharge mercury; and healthcare facilities that often have new or emerging contaminants.

Severe property damage means substantial physical damage to property, damage to the user's treatment facility that renders it inoperable, or substantial and permanent loss of natural resources that 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.

Significant industrial user or SIU means:

- (1) ~~A user subject to a categorical pretreatment standard under 40 CFR 403.6 and 40 CFR chapter I, subchapter N-CIU, except for a CIU that the director has designated as a non-significant categorical industrial user;~~ or

- (2) A user that:
- a. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - b. Contributes a process waste stream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. Is designated as such by the city on the basis that the user has a reasonable potential to adversely affect the POTW's operation or to violate any pretreatment standard or requirement.
- (3) ~~The city may determine that an industrial user subject to a categorical pretreatment standard under 40 CFR 403.6 and 40 CFR chapter I, subchapter N, is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gpd of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:~~
- ~~a. The industrial user, prior to the city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;~~
 - ~~b. The industrial user annually submits the certification statement required in section 20-534(b), together with additional information necessary to support the certification statement; and~~
 - ~~c. The industrial user never discharges any untreated concentrated wastewater.~~
- (4) Upon a finding that a user meeting the criteria in subsection (3) of this definition has no reasonable potential to adversely affect the POTW's operation or to violate any pretreatment standard or requirement, the city director may at any time, on ~~its~~ their own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or slug means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge at a flow rate or concentration that could violate the prohibited discharge standards of section 20-421 or the local limits of section 20-424, permit conditions, or which has the reasonable potential to cause interference or pass through.

Slug discharge control plan means a written plan prepared in accordance with section 20-433 and implemented by a user to control slug discharges.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Total suspended solids (TSS) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquid and which is removable by laboratory filtering.

Upset means an exceptional incident that results in unintentional and temporary noncompliance with a categorical pretreatment standard 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.

~~User or industrial user~~ means a person who is a source of indirect discharge.

Wastewater means liquid and water-carried industrial and domestic waste from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, that is contributed to the POTW.

Wastewater discharge permit means an individual ~~wastewater discharge~~ permit or a general permit giving authorization to discharge pollutants to the POTW in accordance with the requirements of the Act and this chapter.

Wastewater treatment plant or *treatment plant* means that portion of the POTW designed to treat wastewater.

Section 4. Section 20-421 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-421. Prohibited discharge standards.

(a) The following general and specific prohibitions apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards, or any other national, state or local pretreatment standard or requirement.

- (1) *General prohibition.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference.
- (2) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:
 - a. Any liquid, solid or gas that creates, singly or by interaction with other substances, a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21;
 - b. Wastewater having a pH less than 5.5 or greater than 11.5, or that may otherwise corrode POTW structures or equipment;
 - c. Solid or viscous substances in amounts that will obstruct the flow in the POTW, hinder POTW operations or cause POTW interference;
 - d. Wastewaters containing sand or other inorganic particulate matter that will result in a settleable solids concentration greater than 25 milliliters per liter in the user's discharge;

- e. Pollutants, including oxygen-demanding pollutants (BOD, etc.), discharged at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference;
- f. Wastewater of a temperature sufficient to damage the POTW collection system, or inhibit biological activity in the POTW treatment plant (resulting in interference) or that causes the temperature of the entire wastewater stream to exceed 104 degrees Fahrenheit (40 degrees Celsius) at the entry point to the treatment plant;
- g. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through;
- h. Pollutants that cause toxic gases, vapors or fumes within the POTW in a quantity that may cause worker health or safety problems;
- i. Trucked or hauled pollutants, except at a discharge point designated by the director in accordance with section 20-434;
- j. Noxious or malodorous liquids, gases, solids or other wastewaters that, either singly or by interaction with other wastes, create a public nuisance or a human health hazard, or prevent entry into the sewers for maintenance or repair;
- k. Wastewater that imparts color that 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 POTW's effluent, thereby violating the city's CDPS permit;
- l. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- m. Stormwater, surface water, groundwater, artesian well water, roof runoff and subsurface drainage, unless specifically authorized in writing by the director;
- n. Sludges, screenings or other residues from the pretreatment of industrial wastes;
- o. Wastewater causing, alone or in conjunction with other sources, the POTW's effluent to fail a toxicity test;
- p. Detergents, surface-active agents or other substances that may cause excessive foaming in the POTW;
- q. Fats, oils or greases of animal or vegetable origin in concentrations that cause blockages, flow obstructions or interference;
- r. Wastewater causing two readings on a combustible gas detection meter at any point in the POTW, of more than five percent, or any single meter reading over ten percent of the lower explosive limit;
- s. Chemical treatments used for controlling solidified grease in sewer lines or grease interceptors that cause pass through of grease or obstruction of

flow in the POTW, except in accordance with written authorization from the director;

- t. Unused or expired pharmaceuticals, including, but not limited to, prescription and over-the-counter medications, in amounts that cause or contribute to pass through or interference.

(b) No person shall process or store any pollutant, substance or wastewater prohibited by this article in such a manner that it could be discharged to the POTW.

Section 5. Section 20-422 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-422. National categorical pretreatment standards.

(a) The categorical pretreatment standards found at 40 CFR 405—471 are hereby incorporated in this article. Users must comply with applicable categorical pretreatment standards and requirements.

(b) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose, on their own initiative or at the request of a user, equivalent concentration or mass limits in accordance with 40 CFR 403.6(c) and subsections (b)(1) - (3) and (c) of this section 20-422.

(1) To be eligible for equivalent mass limits, the user must:

- a. employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
- b. currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;
- c. provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
- d. not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
- e. have consistently complied with all applicable categorical pretreatment standards during the period prior to the user's request for equivalent mass limits.

(2) An user subject to equivalent mass limits must:

- a. maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

- b. continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
- c. continue to record the facility's production rates and notify the director whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in subsection (b)(1)c of this section. upon notification of a revised production rate, the director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
- d. continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (b)(1)a of this section so long as it discharges under an equivalent mass limit.

(3) When developing equivalent mass limits, the director:

- a. will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
- b. upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
- c. may retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to section 20-426. the user must also be in compliance with section 20-533 regarding the prohibition of bypass.

(c) The director may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to users. The conversion is at the discretion of the director.

(d) Once included in its permit, the user must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(e) ~~(e)~~When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

(f) ~~(d)~~A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge differ fundamentally from the factors that EPA considered in developing the categorical pretreatment standard.

(g) (e) A user may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with 40 CFR 403.15.

(h) (f) Each user shall be knowledgeable of all regulations applicable to the user. The director shall make reasonable efforts to notify all affected users of applicable standards and reporting requirements under 40 CFR 403.12. Failure of the director to notify an affected user, however, does not relieve the user of complying with appropriate categorical pretreatment standards or applicable reporting requirements.

Section 6. Section 20-423 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-423. Deadline for compliance with applicable pretreatment requirements and standards.

Existing sources shall comply with applicable categorical pretreatment standards within three years of the effective date for the standard unless the standard specifies a shorter compliance period. The city director shall establish a final compliance deadline for any existing user not covered by categorical pretreatment standards, or for any ~~categorical user~~ CIU whose local limits are more restrictive than the categorical pretreatment standards. new sources and new users must comply with applicable pretreatment standards and requirements upon initial discharge. new sources and new users shall install, have operable and start up all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge.

Section 7. Section 20-424 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-424. Local limits.

(a) The city has established the following local limits to prevent pass through and interference and to protect beneficial use of biosolids:

Table 14.11-~~20-424~~ 20-424 A. Total Metals and Conventional Pollutants

Pollutant/Pollutant Property	Daily Maximum Allowable Industrial Loading, lbs./day
Arsenic, Total	0.527
Cadmium, Total	0.316
Chloride	17,082.000
Chromium, Hexavalent	7.978
Copper, Total	6.241
Cyanide, Total	1.170
Lead, Total	1.528
Mercury, Total	0.009
Molybdenum, Total	1.354

Nickel, Total	4.728
Selenium, Total	1.114
Silver, Total	4.436
Zinc, Total	11.711
BOD	14,173.000
TSS	13,176.000

Table 14.11-20-424 B. Total BTEX (Benzene, Toluene, Ethylbenzene and Xylenes) and Benzene

Pollutant/Pollutant Property	Instantaneous Grab, ug/L
BTEX	750
Benzene	50

- (b) The city director will allocate the daily maximum allowable industrial loading among significant industrial users through wastewater discharge permits. The total mass of pollutants allocated to significant industrial users shall not exceed the maximum allowable industrial loading. Allocation of the POTW's maximum allowable industrial loading among all significant industrial users shall be based upon consideration of discharge volume, flow rate or equitable but feasible distribution.
- (c) In addition, the director may develop specific discharge limitations for any other toxic or inhibiting pollutant as necessary to prevent interference, pass through, danger to the health and safety of POTW city personnel or the general public, environmental harm, a POTW permit violation, or to avoid rendering the POTW's biosolids unacceptable for economical reclamation, disposal or use.

Section 8. Section 20-428 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-428. Sector control programs.

The director may establish sector control programs to control specific pollutants as necessary to meet the objectives of this article for users that engage in similar activities and discharge similar pollutants. The director shall establish policies for each sector control program. users subject to these sector control programs may be required to install and operate wastewater pretreatment systems and/or implement ~~best management practices~~ BMPS and may be required to apply for a wastewater discharge permit.

Section 9. Section 20-432 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-432. Additional pretreatment measures.

- (a) Whenever the director finds it necessary to protect the POTW or to accurately assess a user's compliance with this article, he may require a user to restrict its

discharge during peak flow periods, discharge only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams or take other relevant measures.

- (b) The director may require users to install and maintain on their property a suitable storage and flow-control facility to ensure equalization of flow. The city director may issue a wastewater discharge permit solely for flow equalization.
- (c) The user shall install grease, oil and sand interceptors when, in the opinion of the director, they are necessary to properly handle wastewater containing excessive amounts of grease, oil or sand. All interceptors shall be of the type and capacity specified in the city's building code. users shall locate all interceptors so they are easily accessible for cleaning and inspection. The user shall inspect, clean, maintain and repair as needed all interceptors at its expense. The user shall make available for inspection by the director all cleaning and maintenance records for a minimum of three years.
- (d) The director may require users with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter at a point prior to discharge to the POTW.
- (e) The user shall calibrate all devices used to measure wastewater flow for billing purposes to ensure their accuracy as outlined in the city's wastewater flow meter accuracy verification guidelines. A copy of such guidelines is available from the director.

Section 10. Section 20-433 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-433. ~~Accidental discharge/s~~Slug discharge control plans.

- (a) The director shall evaluate whether an ~~industrial~~ user needs an ~~accidental discharge/slug~~ discharge control plan. Such evaluations must be documented in the administrative file. The director may require any user to develop, submit for approval and implement such a plan. Any requirement to develop and implement a slug discharge control plan shall be included in the user's wastewater discharge permit. An ~~accidental discharge/slug~~ discharge control plan shall contain, at a minimum, the following:
 - (1) A description of discharge practices including non-routine batch discharges;
 - (2) A description of stored chemicals;
 - (3) Procedures for immediately notifying the director of any ~~accidental~~ or slug discharge, as required by section 20-478(a); and
 - (4) Procedures to prevent adverse impact from any ~~accidental~~ or slug discharge. Such procedures must address inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and measures and equipment for emergency response.

- (b) An SIU shall notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

Section 11. Section 20-434 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-434. Hauled portable toilet wastewater.

- (a) A user may introduce hauled portable toilet wastewater into the POTW only in accordance with its wastewater discharge permit.
- (b) Hauled portable toilet wastewater shall comply with all relevant provisions of this chapter, including, but not limited to, section 20-421.
- (c) All portable toilet wastewater haulers shall obtain wastewater discharge permits. Portable toilet wastewater haulers must submit a waste manifest form for every load.

Section 12. Section 20-435 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-435. Satellite waste dump sites.

- (a) Satellite waste dump site operators must obtain a wastewater discharge permit prior to introducing wastewater to the POTW.
- (b) Satellite waste dump site operators shall comply with all relevant provisions of this chapter, including, but not limited to, section 20-421.
- (c) Satellite waste dump site operators must maintain records for all loads disposed of at their site. Such records shall include, at a minimum, the name of the hauler, the hauler's vehicle, the license number, the volume of waste and the hauler's certification that the waste is not RCRA hazardous. satellite waste dump site operators shall submit such records to the director as required by their wastewater discharge permit.

Section 13. Section 20-456 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-456. Requirement to obtain wastewater discharge permit.

- (a) All SIUs and CIUs shall obtain a wastewater discharge permit from the director ~~prior to any discharge to the POTW.~~
- (b) The director may require other users to obtain a wastewater discharge permit as necessary to accomplish the purposes of this article.
- (c) Any violation of the terms and conditions of a wastewater discharge permit shall constitute a violation of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all applicable federal and state pretreatment standards or requirements, or with any other applicable requirements of federal, state and local law.

Section 14. Section 20-457 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-457. Wastewater discharge permitting; existing connections.

An existing ~~discharger user~~ that becomes newly subject to permitting requirements under this article, and that does not currently have a wastewater discharge permit, may continue to discharge to the POTW until its timely wastewater discharge permit application is processed, provided that its discharge does not cause interference or pass through. In order to qualify under this provision, the ~~discharger user~~ must submit its application within ten business days of notification by the director of the permitting requirement.

Section 15. Section 20-458 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-458. Wastewater discharge permitting; new connections.

Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the POTW shall obtain such wastewater discharge permit prior to beginning or recommencing its discharge. The user shall file an application for a wastewater discharge permit in accordance with section 20-459 at least 90 days prior to the date upon which such discharge will begin or recommence.

Section 16. Section 20-459 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-459. Wastewater discharge permit application.

All users required to obtain a wastewater discharge permit must submit a permit application. Users that are eligible may request a general permit under section 20-460. Such application shall include the following information for the premises from which the discharge will occur:

- (1) All information required by section 22-237(b);
- (2) A description of activities, facilities and plant processes, including a list of all raw materials and chemicals used or stored on the premises that will, or could accidentally or intentionally, be discharged to the POTW;
- (3) The number and type of employees and proposed or actual hours of operation;
- (4) Each product to be produced by type, amount, process or processes and rate of production;
- (5) The type and amount of raw materials to be processed (average and maximum per day);
- (6) 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;
- (7) Facility contact information;
- (8) Time and duration of the discharge; ~~and~~

(9) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on section 20-476(e);

(10) Any request to be covered by a general permit based on section 20-460; and

(11) (9)Any other information that the director deems necessary to evaluate the wastewater discharge permit application. The director will return unprocessed to the user all incomplete or inaccurate applications.

Section 17. Section 20-460 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-460. Wastewater discharge permitting; general permits.

(a) At the discretion of the director, the director may use general permits to control ~~industrial user~~ discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations;

(4) Require the same or similar monitoring; and

(5) In the opinion of the director are facilities more appropriately controlled under a general permit than under individual wastewater discharge permits.

(b) To be covered by ~~the a~~ general permit, ~~the a~~ user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with section 20-473(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the ~~POTW~~ director deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the director has provided written notice to the user that such a waiver request has been granted in accordance with section 20-473(b).

(c) The director will retain a copy of the general permit, documentation to support the POTW's determination that a specific user meets the criteria in subsections (a)(1) through (5) of this section and applicable state regulations, and a copy of the user's written request for coverage for three years after the expiration of the general permit.

(d) The director may not control a ~~an~~ SCIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for ~~Users~~ whose limits are based on the combined waste stream formula in section 20-422(c) or net/gross calculations in section 20-422(e).

Section 18. Section 20-462 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-462. Issuance of draft wastewater discharge permits.

If the director determines that a wastewater discharge permit is appropriate, he will first issue a draft wastewater discharge permit for review. Notice of the availability of the draft shall be posted in the same manner as other public notices. The user and the public shall have 30 days to submit written comments on the draft wastewater discharge permit. The director shall issue a wastewater discharge permit within 15 days of the close of the 30-day comment period.

Section 19. Section 20-463 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-463. Wastewater discharge permit decision appeals.

- (a) Any person, including the user, may petition the director to reconsider the terms of a wastewater discharge permit (~~administrative appeal~~) within 30 days of the effective date of the final wastewater discharge permit or the decision not to issue a wastewater discharge permit. ~~(4)~~ Failure to submit a written petition for review within such 30-day period shall constitute a waiver of the right to ~~the administrative appeal~~ the terms of a wastewater discharge permit or the decision not to issue a wastewater discharge permit.
- ~~(21)~~ In its written petition for review, the appealing party must indicate the wastewater discharge permit provisions or the basis for the decision not to issue a wastewater discharge permit that it is objecting to, the reasons for ~~this~~ its objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit. Except for provisions that change from the draft to the final wastewater discharge permit, the ~~petitioner~~ appealing party may only appeal those issues ~~that the appealing party~~ raised during the public comment period.
- ~~(32)~~ Only the challenged portions of the final wastewater discharge permit shall be stayed pending ~~an~~ the appeal.
- ~~(43)~~ The director must issue their final decision within 20 days of receiving the written petition for review. ~~Failure of~~ The director's failure to act within 20 days of receiving a written petition for review shall constitute denial of the petition for review. The director's decision not to reconsider, issue or modify a wastewater discharge permit shall be considered the director's final decision for purposes of this section.
- ~~((5) —~~ Aggrieved parties may seek review of the director's wastewater discharge permit decision by filing a request with the director within 30 days of the date of his final decision asking that the director's written decision be sent to the water and sewer board. The director shall submit his written decision to the water and sewer board within 30 days of receiving the request. The water and sewer board shall make its decision based on the administrative record.
- ~~(6) —~~ Aggrieved (b)(1) The appealing parties, or the user, if not the appealing party, may seeking review of the water and sewer board's wastewater discharge permit director's decision on the petition for review must do so by filing a request for hearing with the administrative hearing officer, as authorized by the city Charter,

within 30 days ~~after of the date of~~ the director's final decision ~~of the board~~. the administrative hearing officer shall conduct the hearing in accordance with the procedures set forth in chapter 12 of title 2 of this code and the administrative hearing officer rules and regulations. Such ~~review hearing~~ shall be de novo, and the administrative hearing officer's decision shall be considered final administrative action for purposes of subsection (c).

(2) The administrative hearing officer's decision to deny a request for hearing shall be considered final administrative action for purposes of subsection (c).

(3) To the extent this chapter is inconsistent with chapter 12 of title 2 of this code or the administrative hearing officer rules and regulations, this chapter shall govern. Chapter 10 of title 1 of this code does not apply to this chapter.

~~(7c)~~ Any appeal from the decision of the administrative hearing officer shall be to the appropriate court pursuant to C.R.C.P. 106.

Section 20. Section 20-464 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-464. Wastewater discharge permit contents.

The director shall include such conditions in the wastewater discharge permit that he determines are reasonably necessary to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect ~~POTW worker~~ city personnel health and safety, facilitate biosolids management and disposal and protect against damage to the POTW.

(1) Wastewater discharge permits shall:

- a. Identify the permit term, which in no event shall exceed five years;
- b. Contain a statement that the wastewater discharge permit is nontransferable without prior notification to the director in accordance with section 20-467, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Contain effluent limits, including BMPs, based on applicable pretreatment standards and requirements;
- d. Contain self-monitoring, sampling, reporting, notification and record-keeping requirements, which shall include the pollutants or BMP to be monitored, sampling location, sampling frequency, sample type and analysis method based on federal, state and local law;
- e. Contain requirements to control slug discharges, if determined by the director to be necessary;
- f. Contain a statement of applicable civil and criminal penalties for violating pretreatment standards and requirements; and
- g. Contain any applicable compliance schedule, which shall not extend the time for compliance beyond that required by applicable federal, state or local law.

- (2) Wastewater discharge permits may contain the following:
- a. Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;
 - b. Requirements to install, operate and maintain pretreatment technology, pollution control or containment devices to reduce, eliminate or prevent the introduction of pollutants into the POTW;
 - c. Requirements to develop and implement spill control plans or other special conditions necessary to prevent accidental, unanticipated or no routine discharges;
 - d. Requirements to develop and implement waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - e. The unit charge or schedule of user charges and fees for treating wastewater discharged to the POTW;
 - f. Requirements to install and maintain inspection and sampling facilities or other equipment, including flow measurement devices;
 - g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility to comply with all applicable federal and state pretreatment standards, including those that become effective during the term of the wastewater discharge permit; and
 - h. Other conditions that the director deems necessary to ensure compliance with this chapter and state and federal requirements.

Section 21. Section 20-465 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-465. Wastewater discharge permit duration.

A wastewater discharge permit shall be issued for a specified term, not exceeding five years from the effective date of the wastewater discharge permit. The director may issue a wastewater discharge permit for a term less than five years.

Section 22. Section 20-466 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-466. Wastewater discharge permit modification.

- (a) The director 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) A change in the POTW that requires either a temporary or permanent reduction or elimination of the permitted discharge;

- (4) Information indicating that the permitted discharge may threaten the POTW, human health or the environment;
 - (5) Violation of any terms or conditions of the wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revision of categorical pretreatment standards, or a variance there from under 40 CFR 403.13;
 - (8) To correct typographical or other errors in the wastewater discharge permit; or
 - (9) To reflect a transfer of facility ownership or operation to a new owner or operator.
- (b) A user may petition the director and seek review of any wastewater discharge permit modification ~~and request an administrative appeal hearing~~ within ten days following issuance of the wastewater discharge permit with modifications. ~~The administrative appeal hearing shall be conducted according pursuant to procedures described in section 20-463.~~

Section 23. Section 20-467 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-467. Wastewater discharge permit transfer.

- (a) A wastewater discharge permit holder may transfer its wastewater discharge permit to a new owner or operator only if the permittee gives ~~at least 60 days' advance~~ written notice to the director, no less than 30 days in advance of the date of transfer, and the director approves the wastewater discharge permit transfer in writing. The notice to the director must include a written certification by the new owner or operator that:
- (1) The new owner and/or operator acknowledges receipt of a copy of the existing wastewater discharge permit;
 - (2) The new owner and/or operator has fully read and understands the wastewater discharge permit conditions and accepts full responsibility for complying with the existing wastewater discharge permit;
 - (3) The new owner and/or operator has no immediate intent to change the facility's operations and processes; and
 - (4) Identifies the specific date of transfer.
- (b) Upon approval of the wastewater discharge permit transfer, the director shall reissue the transferred wastewater discharge permit in the name of the new owner and/or operator.

Section 24. Section 20-468 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-468. Wastewater discharge permit suspension, ~~or~~ revocation, or termination.

- (a) The director may suspend or revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (1) Failure to provide prior notification to the director of changed conditions pursuant to section 20-477;
 - (2) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (3) Falsifying monitoring reports;
 - (4) Tampering with monitoring equipment;
 - (5) Refusing to allow the director timely access to the facility premises and records;
 - (6) Failure to pay fines;
 - (7) Failure to pay sewer charges;
 - (8) Failure to meet compliance schedules;
 - (9) Failure to complete a wastewater survey or timely permit renewal application;
 - (10) Failure to provide advance notice of the transfer of business ownership of a permitted facility as required by section 20-467; or
 - (11) Violation of any pretreatment standard or requirement, or any terms of the permit or this article.
- (b) A user may file a petition to reconsider the suspension or revocation of its wastewater discharge permit and request an administrative appeal within ten days following issuance of the notice of suspension or revocation. The administrative appeal shall be conducted according to the procedures described in section 20-530.
- (c) All Wastewater Discharge Permits shall be voidable terminate upon (1) the cessation of operations; ~~All Wastewater Discharge Permits are void upon~~ (2) the issuance of a new replacement Wastewater Discharge Permit; ~~(3) THE EXPIRATION OF THE WASTEWATER DISCHARGE PERMIT TERM; OR (4) THE REQUEST OF THE PERMITTEE.~~ The permittee may file a petition to reconsider the ~~appeal the voiding termination of a wastewater discharge permit pursuant to section 20-463 within ten days of notice that the wastewater discharge permit is void has terminated.~~ This ~~appeal may be taken pursuant to section 20-463.~~

Section 25. Section 20-470 of the above-entitled ordinance shall be deleted and reserved:

Sec. 20-470. Reserved. ~~Suspension or revocation of permit; appeal; emergency suspension.~~

- (a) ~~Upon determination by the director of just cause under the terms of this chapter to suspend or revoke a wastewater discharge permit, the user shall be sent, by~~

~~certified mail or personal delivery service, written notice of termination of POTW service.~~

- ~~(b) The user may elect to appeal such determination, in which event such user shall, within ten days of the date of mailing or service, notify in writing, the director of intent to appeal, specifying the particular section of the determination contested and the basis thereof. The appeal shall be conducted according to procedures described in section 20-463.~~
- ~~(c) The suspension or revocation of the permit shall be stayed pending the appeal hearing unless the director determines that the suspension is necessary to prevent an imminent danger to the public health, safety or welfare, or interference with the operation or treatment abilities of the POTW. The director may include in the temporary suspension reasonable orders or conditions with which the permittee shall comply to protect the public health and safety.~~
- ~~(1) Any user notified to suspend its discharge shall immediately stop or eliminate its contribution. If a user fails to immediately comply voluntarily with the suspension order, the director may take all necessary steps, including immediate severance of the water or sewer connection, to prevent or minimize damage to the POTW, its receiving stream or danger to any individuals. The director may allow the user to recommence its discharge when the user demonstrates to the director that the threat has been satisfactorily resolved, unless the director initiates termination proceedings against the user under section 20-519.~~
- ~~(2) A user wholly or partly responsible for any discharge that is ordered suspended under this section shall, within five days of receiving such order, submit to the director a detailed written report describing the causes of the harmful situation and the measures taken to prevent any future occurrence.~~
- ~~(d) Any breach of the conditions or orders of an emergency suspension is an independent ground for revocation of the permit, assessment of a penalty or both.~~

Section 26. Section 20-473 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-473. Baseline monitoring reports.

- (a) *Generally.* Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report containing the information listed in subsection (b) of this section. At least 90 days prior to commencing their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report containing the information listed in subsection (b) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall estimate the anticipated flow and quantity of pollutants it will discharge.

- (b) *Required information of report.* Each user described in subsection (a) of this section shall submit a report containing the following information:
- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - (2) ~~Contact information, description of activities, facilities, etc. Contact information, description of activities, facilities and plant production processes on the premises.~~
 - ~~(3) Environmental permits.~~ A list of all environmental control permits held by or for the facility.
 - (43) *Description of operations.* A brief description of the user's operations and average production rates, including identification of all applicable North American Industry Classification System Codes. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
 - (54) *Flow measurement.* The measured average daily and maximum daily flow, in gpd, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - (65) *Measurement of pollutants.*
 - a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass where required by the categorical standard or by the director, of regulated pollutants in the discharge from each regulated process. The information shall include a chain of custody record ~~that lists the outfall location, sample date, sample time, sample type and name of sample collector.~~
 - c. Instantaneous, daily maximum and long-term average concentrations, or mass where required.
 - d. The sample shall be representative of daily operations and shall be analyzed according to procedures set out in section 20-483. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the director or the applicable standards to determine compliance with the standard.
 - e. The user must sample according to the procedures set out in section 20-484.
 - f. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
 - g. The user should take samples 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 waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternative concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), the user shall submit this adjusted limit along with supporting data to the POTW.

- h. The director may allow the user to submit a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
 - i. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis accurately represent normal work cycles and expected pollutant discharges to the POTW.
- (76) *Certification.* A statement, reviewed by the authorized representative of the user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional O&M and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (87) *Compliance schedule.* If additional pretreatment and/or O&M is required to meet the categorical pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M shall be submitted. 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 chapter must meet the requirements set out in section 20-474 and, when applicable, submitted in accordance with 40 CFR. § 403.12 (b)(7)(i-ii).
- (98) *Signature and report certification.* All baseline monitoring reports must be signed and certified in accordance with section ~~20-534(a)~~ 20-487(a).

Section 27. Section 20-475 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-475. Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in section 20-473(b)(4) through (6). For users subject to equivalent mass or concentration limits established according to the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified according to section ~~20-534(a)~~ 20-487(a).

Section 28. Section 20-476 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-476. Periodic self-monitoring compliance reports.

- (a) An SIU shall submit periodic reports that indicate the nature and concentration of pollutants in its discharge that are limited by a pretreatment standard, along with the measured daily flows. The information shall include a chain of custody record ~~that lists the outfall location, sample date, sample time, sample type and name of sample collector.~~ The director shall establish the schedule for such reporting in the SIU's wastewater discharge permit. Such schedule shall require submittal of the reports at a frequency of no less than every six months. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation as required by the director or the applicable Standard to determine the compliance status of the user. All periodic compliance reports must be signed and certified according to section ~~20-534(a)~~ 20-487(a).
- (b) All reports under this section are due 30 days following the end of the reporting period stated in the SIU's permit.
- (c) All wastewater samples required under this section must be representative of the SIU's discharge. The SIU shall properly operate and maintain all wastewater monitoring and flow measurement facilities. Failure of an SIU to keep its monitoring facility in good working order shall not be grounds for the SIU to claim that sample results are unrepresentative of its discharge.
- (d) If an SIU subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director using the procedures prescribed in section 20-484, the SIU shall include the results of this monitoring in the periodic compliance report.
- (e) the director may authorize a user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. (see 40 CFR 403.12(e)(2)) this authorization is subject to the following conditions:
 - (1) the waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
 - (2) the monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See section 20-459 (9).

- (3) in making a demonstration that a pollutant is not present, the user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
- (4) the request for a monitoring waiver must be signed in accordance with section 20-487 and include the certification statement in section 20-487(c).
- (5) non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- (6) any grant of the monitoring waiver by the director must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the director for 3 years after expiration of the waiver.
- (7) upon approval of the monitoring waiver and revision of the user's permit by the director, the user must certify on each report with the statement in section 20-487(c), that there has been no increase in the pollutant in its wastestream due to activities of the user.
- (8) in the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: comply with the monitoring requirements of section 20-476(a), or other more frequent monitoring requirements imposed by the director, and notify the director
- (9) this provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

Section 29. Section 20-478 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-478. Reports of potential problems.

- (a) In the case of any discharge that may cause potential problems for the POTW, including, but not limited to, accidental discharges, discharges of a nonroutine episodic nature, a noncustomary batch discharge or a slug load, the user shall immediately notify the POTW director by telephone of the incident. This notification shall include the location of the discharge, type of waste, duration, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause of the discharge and the measures the user will take to prevent similar future occurrences. Such report shall not relieve the user of any expense, loss, damage or other liability that it may incur as a result of damage to the POTW, natural resources or other persons or property; nor shall such report relieve the user of any fines, penalties or other liability that may be imposed pursuant to this chapter or other applicable law.

- (c) A user shall permanently post on its bulletin board or other prominent place information advising employees whom to call in the event of a discharge described in subsection (a) of this section. The ~~SIU~~user shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

Section 30. Section 20-480 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-480. Reporting of violations and repeat sampling.

If sampling performed by a user indicates a violation, the user must notify the director in writing or by telephone within 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 director within 30 days after becoming aware of the violation. Where the city director has performed sampling and analysis in lieu of the user, the city director must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Where the city director finds a violation as a result of its compliance monitoring event, then the user shall perform repeat sampling and analysis within 30 days after becoming notified of the violation.

Section 31. Section 20-481 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-481. Bypass reporting.

Users must report all bypasses in accordance with section 20-5323(c).

Section 32. Section 20-482 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-482. Notification of the discharge of hazardous waste.

- (a) A user shall notify in writing the director, the EPA Region VIII Waste Management division and the state hazardous materials and waste management division of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other).
- (1) If the user discharges more than 100 kilograms of such waste per ~~calendar~~ month to the POTW, to the extent such information is known and readily available to the user, the notification shall also identify the hazardous constituents contained in the waste stream; estimate the mass and concentration of such constituents in the waste stream discharged during that ~~calendar~~ month; and estimate the mass and concentration of such constituents in the waste stream the user expects to discharge during the following 12 months.
- (2) The user shall provide such notification no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. (However, the

user must notify the POTW director of any changed conditions under section 20-477). The notification requirement in this subsection does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 20-473, 20-475 and 20-476.

- (b) Users are exempt from the requirements of subsection (a) of this section during a ~~calendar~~ month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a ~~calendar~~ month, or of any quantity of acute hazardous wastes as specified in 40 CFR 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. (However, the user must notify the POTW director of any changed conditions under section 20-477.)
- (c) If EPA or the state issues any new regulations under section 3001 of RCRA identifying any additional characteristic of a hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Region VIII Waste Management division and the state hazardous materials and waste management division of the discharge of such substance within 90 days of the effective date of such regulations.
- (d) In the case of any notification made under this chapter, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practicable.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a wastewater discharge permit issued hereunder or any applicable federal or state law.

Section 33. Section 20-484 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-484. Sample collection.

Reports required in sections 20-473, 20-475 and 20-476 must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- (1) Except as indicated in subsections (2) and (3) of this section, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the ~~city~~ director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols and sulfides, the samples may

be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city director, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques unless specified otherwise in a wastewater discharge permit or otherwise approved by the city director.
- (3) For sampling required in support of baseline monitoring and 90-day compliance reports required in sections 20-473 and 20-475, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by section 20-476, the industrial user is required to collect the number of grab samples necessary to assess and ensure compliance with applicable pretreatment standards and requirements.

Section 34. Section 20-485 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-485. Timely submittal of reports.

For written reports required by this article or a wastewater discharge permit:

- (1) The date of the postmark shall constitute submittal for reports sent postage prepaid by U.S. Mail;
- (2) The date of receipt by the director shall constitute submittal for reports sent by other means, including but not limited to private courier.

Section 35. Chapter 3, Article VI, Industrial Pretreatment, shall be amended by adding thereto a new Section 20-487 to read as follows:

Sec. 20-487. Signatories and certification.

- (a) General. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations.

(b) Annual certification for nonsignificant categorical industrial users. A facility that the director determines is a nonsignificant categorical industrial user must annually submit to the POTW the following certification signed by an authorized representative of the user. This certification must accompany an alternative report required by the director:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____, to _____, _____, [months, days, year]:

(1) The facility described as _____ [facility name] met the definition of a nonsignificant categorical industrial user.

(2) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and

(3) The facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based upon the following information:

_____ official signature

(c) Certification of pollutants not present. Users that have an approved monitoring waiver based on section 20-476 (e) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR _____ [specify applicable national pretreatment standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under section sec. 20-476 (a).

Section 36. Section 20-511 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-511. Right of entry; inspection and sampling.

Upon presentation of proper credentials, the director may enter the premises of any user to determine the user's compliance with this article and any wastewater discharge permit or order issued hereunder. Users shall allow the director ready access to all parts of the premises to inspect, sample, examine and copy records, and to perform any additional duties related to such compliance issues.

- (1) Where a user has security measures in force that 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 director will be permitted to enter without delay for the purpose of performing specific responsibilities.
- (2) The director shall have the right to set up on the user's property, or require installation of, any devices necessary to sample and/or measure the user's operations.
- (3) The director may require the user to install, in accordance with local construction standards and specifications, such sampling and monitoring equipment and facilities as necessary to ensure compliance with applicable requirements. The user shall maintain sampling and monitoring equipment at all times in a safe and proper operating condition at its own expense.
- (4) The director may require the user to install and maintain sampling and monitoring facilities independent of the user's sampling and monitoring facilities to enable the director to independently monitor the user's discharge activities.
- (5) At the request of the director, the user shall promptly remove any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled. The user shall bear any costs of clearing such access.
- (6) In the event that the director is refused admission to the ~~discharger's premises~~ user's property, the director may discontinue water or wastewater service to the premises until the director has been afforded reasonable access to the premises to accomplish inspection or sampling.

Section 37. Section 20-514 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-514. Publication of users in significant noncompliance.

The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the users that, at any time during the previous 12 months-calendar year, were in significant noncompliance with applicable pretreatment standards and requirements. A user is in The term "significant Noncompliance" shall mean if a user committed a violation that meets one or more of the following criteria:

- (1) Chronic violations of any wastewater discharge limits, defined ~~herein~~ as those violations in which 66 percent or more of all of the wastewater measurements

- taken for the same pollutant parameter during a six-month period exceed by any ~~amount~~ magnitude, a numeric pretreatment standard or requirement, including instantaneous maximum allowable discharge limits;
- (2) Technical review criteria (TRC) violations, defined ~~herein~~ as those violations in which 33 percent or more of all of the wastewater measurements taken for ~~each~~ the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including the instantaneous maximum allowable discharge limit, multiplied by the applicable ~~criteria~~ TCR (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
 - (3) Any other violation of pretreatment standards or requirements (daily maximum, long-term average, instantaneous maximum allowable discharge limit or narrative standard) that the director determines (a) has caused, alone or in combination with other discharges, interference or pass through, ~~or that~~ (b) has endangered the health of POTW city personnel or the general public;
 - (4) Any discharge ~~of a pollutant~~ that (a) caused imminent endangerment to human health or welfare or the environment, or resulted in the director's exercise of his emergency authority under section 20-520 to halt or prevent such a discharge;
 - (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or ~~enforcement~~ compliance order for starting construction, completing construction or attaining final compliance;
 - (6) Failure to provide within ~~45~~ 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports related to compliance schedules;
 - (7) Failure to accurately report noncompliance; or
 - (8) Any other violation, including a violation of a sector control program or BMP, that the director determines will adversely affect the operation or implementation of the local pretreatment program.

Section 38. Section 20-515 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-515. Notice of violation.

When the director finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit, an order issued ~~hereunder~~ this chapter or any other pretreatment standard or requirement, the director may serve that user a written notice of violation. ~~Within 30 days of the receipt of such notice, the user shall submit in writing to the director an explanation of the violation and a plan with specific steps to correct the violation and prevent its recurrence. Submission of this plan~~ A notice of violation only applies to the violation(s) identified therein and in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Issuance of a notice of violation shall not be a bar against, or a

prerequisite for, taking any other action against the user. ~~A user may seek review of a notice of violation and request an administrative appeal hearing within ten days following issuance of the notice of violation. The administrative appeal hearing shall be conducted according to procedures described in section 20-529.~~

Section 39. Section 20-516 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-516. Compliance orders.

When the director finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit, an order issued ~~hereunder~~ this chapter or any other pretreatment standard or requirement, the director may order the user responsible for the discharge to attain compliance within a specified time. Compliance orders also may contain other requirements to address the noncompliance, including prohibiting discharge, requiring treatment, additional self-monitoring and other management practices designed to minimize the amount of pollutants discharged to the POTW. Compliance orders may ~~also assess fines and administrative costs~~ include the assessment of administrative fines against the user in accordance with section 20-521. A compliance order ~~may~~ shall not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. ~~A User may seek review~~ file a petition to reconsider the issuance of a compliance order and request an administrative appeal ~~Hearing~~ Hearing within ten ~~(10)~~ days following issuance of a compliance order. ~~The administrative appeal Hearing shall be conducted according to the procedures described in section 20-529~~ 30. ~~A user's petition to reconsider will not stay any condition of a compliance order that is not challenged by the user. The user shall be liable for all continuing violations.~~

Section 40. Section 20-517 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-517. Show cause hearing.

The director may order a user that has violated, or continues to violate, any provision of this article, a wastewater discharge permit, ~~or an~~ an order issued this chapter or any other pretreatment standard or requirement, to appear before the director and show cause why the city should not take the proposed enforcement action, including the assessment of administrative fines and costs. The director shall serve notice on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and requesting that the user show cause why the proposed enforcement action should not be taken. The director shall serve notice of the hearing by ~~certified mail (return receipt requested)~~ personal service or first class U.S. mail at least ~~five~~ ten days prior to the hearing. The director may serve such notice on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. ~~A user may seek review of a show cause hearing determination and request an administrative appeal hearing~~

~~within ten days following receipt of show cause hearing decision. The administrative appeal hearing shall be conducted according to procedures described in section 20-529.~~

Section 41. Section 20-518 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-518. Consent orders.

The ~~director~~ city may enter into a consent order, an assurance of voluntary compliance or other similar document establishing an agreement with any user responsible for noncompliance. Such ~~documents~~ agreement shall include specific action for the user to take to correct the noncompliance within a specified time period and may include administrative fines, stipulated penalties, supplemental environmental projects, or other conditions and requirements as agreed to by and between the city and the user. Such ~~documents~~ agreement shall have the same force and effect as the compliance orders issued pursuant to section 20-516, ~~may contain an agreement as to payment of fines and costs~~ and shall be judicially enforceable.

Section 42. Section 20-519 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-519. Cease and desist orders.

- (a) ~~When the director determines: that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or an order issued hereunder this chapter, or any other pretreatment standard or requirement and; that the user's past violations are likely to recur; or that the user's discharge endangers the environment or threatens to interfere with the operation of the POTW; then the director may, after formal notice to the user and an opportunity to be heard under section 20-517,~~ order the user to cease and desist all such violations and direct the user to:
- ~~(1) Immediately comply with all requirements; and~~
 - ~~(2) Take such appropriate remedial or preventive action necessary to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.~~
- (b) ~~When the director determines that a user's discharge imminently threatens human health or welfare, the director may, after informal notice to the user, order the user to cease and desist such threat and direct the user to:~~
- ~~(1) Immediately comply with all requirements; and~~
 - ~~(2) Take such appropriate remedial or preventive action necessary to properly address the imminent threat, including halting operations and/or terminating the discharge.~~
- ~~(c) A user may file a petition to reconsider the issuance seek review of a cease and desist order according to procedures described in section 20-529~~530. A user's petition to reconsider will not stay any condition of a cease and desist order that is not challenged by the user. The user shall be liable for all continuing violations.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 43. Chapter 3, Article VI, Industrial Pretreatment, shall be amended by adding thereto a new Section 20-520 to read as follows:

Sec. 20-520. Emergency suspension of service.

- (a) Endangerment to human health or welfare. The director, without written notice to the responsible user, may immediately halt or prevent any discharge into the POTW or sanitary sewer system of a connecting jurisdiction by any available means to the city, including but not limited to physical disconnection from the POTW, whenever it reasonably appears that a user's discharge presents an imminent endangerment to human health or welfare.
- (b) Endangerment to environment or treatment works. The director, after written notice to the responsible user, may halt or prevent any discharge into the POTW or sanitary sewer system of a connecting jurisdiction by any available means to the city, including but not limited to physical disconnection from the POTW, whenever a user's discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.
- (c) Suspension of service and elimination of non-complying discharge. Any user notified of a suspension of its wastewater discharge permit and/or its wastewater treatment service shall immediately stop or eliminate the discharge. In the event that a user fails to comply with the suspension order, the director may take any measure they deems necessary, including but not limited to immediate physical disconnection of the sewer connection, to prevent or minimize harm to human health or the environment or damage to the POTW. The director may reinstate the user's wastewater discharge permit and/or its wastewater treatment service upon proof that the user has eliminated the non-complying discharge.
- (d) Statement of cause and preventative measures. Within five days after receiving the notice of a suspension, the responsible user shall submit a detailed written statement to the director describing the cause of the harmful discharge and the measures taken to prevent any reoccurrence. Suspension of service shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 44. Section 20-520 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5201. Administrative fines.

- (a) ~~Following the issuance of a notice of violation, a compliance order or order to show cause, the director may fine a user in an amount not to exceed \$1,000.00 per violation. The director shall determine the applicable fine using the city's administrative penalty evaluation form and administrative penalty matrix. When the director determines that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, an order issued under this~~

chapter or any other pretreatment standard or requirement, the director may assess an administrative fine against such user in an amount not to exceed one thousand dollars (\$1,000.00) per violation per day.

- (1) Each day on which ~~noncompliance~~ a violation occurs, or continues, shall constitute a separate and distinct violation. In the case of monthly or other long-term average discharge limits, the director may assess an administrative fines for each day during the period of violation. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the administrative fine.
- (12) The director may add unpaid charges and fines to the user's next scheduled sewer service charge or utilize other collection remedies. All unpaid fines and charges shall constitute a lien against the user's property. ~~In that case, the director of finance shall file such lien to protect the city's interest. Fines and charges remaining unpaid for 60 calendar days shall accrue interest at the rate set forth in section 6-197 on the unpaid balances.~~
- (23) ~~The assessment~~ issuance of an administrative ~~penalty~~ fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (b) A user may file a petition to reconsider the assessment of an administrative fine according to procedures described in section 20-530. A user's petition to reconsider will not stay any enforcement action that is not challenged by the user. The user shall be liable for all continuing violations.

Section 45. Section 20-521 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5242. Delinquent payment of administrative fines ~~and costs~~; notice before collection action.

Before filing a civil action to collect one or more delinquent ~~penalty~~ assessments, the director shall send a notice to the responsible ~~party or parties~~ user, which advises the ~~party or parties~~ user of the nature of the violation that resulted in ~~a civil penalty~~ the assessment of an administrative fine, the dates on which violations occurred, the original due date of the ~~penalty~~ delinquent assessment and the total amount due ~~of the penalty~~, including any delinquency charges. The notice shall further advise the responsible ~~party or parties~~ user that, unless payment of ~~all assessments~~ the total amount due is made to the city within ten days of the date of the notice, civil action to collect the delinquent amounts may be filed in a court of competent jurisdiction for collection of such assessments.

Section 46. Section 20-522 of the above-entitled ordinance shall be deleted to read as follows:

~~Sec. 20-522. Delinquent payment of administrative fines and costs; collection action initiation.~~

~~If the city does not receive full payment of all fines and costs following the notice provided for in section 20-521, the city attorney shall file civil action for collection in the~~

appropriate court. Any inaccuracy or omission in the notice under section 20-521 shall not bar or serve as a defense to the civil action. Any such defect may result in the disallowance of interest until the city perfects notice.

Section 47. Section 20-523 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-523. Liability for expenses and fines.

Any user violating this article shall be liable for any expense, loss or damage ~~caused to the POTW caused by reason of~~ such violation, including increased costs for sewage treatment, biosolids treatment and disposal, and POTW operation and maintenance expenses resulting from the user's discharge. If a user's discharges ~~pollutants that causes the state or EPA to assess a fine against~~ the city for violating any condition of its CDPS permit ~~or its approved pretreatment program, then the discharger user shall be fully liable for the total amount of the fine assessed against the city by the state or EPA indemnify the city for the total cost of the fine, including, without limitation, all legal, sampling, analytical and other associated costs and expenses.~~

Section 48. Section 20-524 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-524. Injunctive relief.

When the director finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, an order issued ~~hereunder~~ this chapter or any other pretreatment standard or requirement, the ~~director city~~ may petition the appropriate court, ~~through the city attorney,~~ to issue a temporary or permanent injunction, as appropriate, to restrain or compel the specific performance of the wastewater discharge permit, order or other requirement imposed by this chapter on activities of the user. The ~~director city~~ may also seek such other action appropriate for legal and/or equitable relief, including requiring 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.

Section 49. Chapter 3, Article VI, Industrial Pretreatment, shall be amended by adding thereto a new Section 20-525 to read as follows:

Sec. 20-525. Civil penalties

(a) A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, an order issued pursuant to this chapter, or any other pretreatment requirement or standard shall be liable to the city for a civil penalty not to exceed one thousand dollars (\$1,000.00) per day per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.

- (b) The city 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) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (d) 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.

Section 50. Section 20-525 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5256. Criminal prosecution.

- (a) A user who knowingly or negligently violates any provision of this chapter, a wastewater discharge permit, an ~~or~~ order issued hereunder this chapter, or any other pretreatment standard or requirement, shall, upon conviction, be guilty of a misdemeanor offense, punishable by a fine of not more than \$1,000.00 per violation per day or imprisonment for not more than one year, or both. Each day, or portion thereof, that a ~~person~~ user commits, continues or allows a violation of any provision of this article, wastewater discharge permit, an ~~or~~ order issued hereunder this chapter, or any other pretreatment standard or requirement, shall constitute a separate offense and ~~is~~ be punishable accordingly.
- (b) 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, a wastewater discharge permit, ~~or an~~ order issued hereunder this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation per day, or imprisonment of not more than one year, or both.
- (c) The city may refer violations that may warrant criminal prosecution to the U.S. attorney, state attorney general, EPA criminal investigations division, or other appropriate agency. Such referral shall not be a bar against, or a prerequisite for, taking any other action against a user.

Section 51. Section 20-526 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5267. Remedies nonexclusive.

The remedies provided for in this article are not exclusive of any other remedies that the city may have under Colorado law. The ~~director~~ city may take any, all or any combination of ~~these~~ actions described in this chapter against a ~~noncompliant~~ user who violates any provision of this chapter, a wastewater discharge permit, an order issued pursuant to this chapter, or any other pretreatment requirement ~~as permitted by~~

~~law. The city may seek damages from any user whose discharge causes damage or detrimental effects on the POTW or otherwise causes the city to expend resources to respond to such discharge. The city's enforcement response guide will direct enforcement of pretreatment violations. However, the director may take other action against any user when the circumstances warrant, interested parties may obtain copies of the city's enforcement response guide from the director.~~

Section 52. Section 20-527 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5278. Performance bonds.

The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit ~~or an~~ order issued hereunder this chapter, or any other pretreatment standard or requirement, unless such user first files a bond or other financial instrument acceptable to the director of finance and payable to the city, in a sum not to exceed a value that the director determines to be necessary to achieve consistent compliance.

Section 53. Section 20-528 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5289. Water supply severance.

The director may discontinue water service to any user who has violated or continues to violate any provision of this article, a wastewater discharge permit, ~~or an~~ order issued hereunder this chapter, or any other pretreatment standard or requirement. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. Within ten days following discontinuance of water service, the user may request a hearing which shall be held in accordance with section 20-~~529~~530.

Section 54. Section 20-529 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-52930. Administrative appeal hearings.

(a) Any user ("appealing party") may petition the director to reconsider ("administrative appeal") an ~~notice of violation, order issued under this chapter, penalty or any other enforcement action~~ fine imposed pursuant to in this chapter within ten days of the receipt of the ~~notice of violation or other enforcement action order, penalty or fine.~~ (1) failure to submit a written petition for ~~review~~ reconsideration within such ten-day period shall constitute a waiver of the right to the administrative appeal.

(21) In its written petition, the appealing party must indicate the enforcement actions objected to, the reasons for ~~this its~~ objection, and any proposed alternative action. (3) Only the challenged portions of the final enforcement action shall be stayed pending an appeal.

- (42) The director shall serve the appealing party with notice of the hearing on the administrative appeal, including the location, date and time by certified first class U.S. mail (return receipt requested) of the location, date and time of the administrative appeal hearing at least five ten days prior to the hearing.
- (35) The director shall issue a written decision on the ~~petition~~ administrative appeal within 20 days after the ~~administrative appeal~~ hearing. The director's written decision shall be considered the director's final decision for purposes of this section.
- (6) ~~Aggrieved parties may seek review of the director's decision by filing a written request with the director within 30 days of the date of such final decision, asking that the director's written decision be sent to the water and sewer board. The director shall submit his written decision to the water and sewer board within 30 days of receiving the request. The water and sewer board shall make its decision based on the administrative record. The water and sewer board may elect to decline to issue a decision on the user's appeal. If the water and sewer board so elects, the user's appeal shall be directed to the administrative hearing officer.~~
- (b7)(1) ~~aggrieved parties~~ the appealing party may seeking review of the water and sewer board ~~director's decision on the petition for reconsideration on the administrative record must do so~~ by filing a request and fee for hearing with the administrative hearing officer, as authorized by the city charter within 30 days of the date of the director's ~~after the decision of the board.~~ The administrative hearing officer shall conduct the hearing in accordance with the procedures set forth in chapter 12 of title 2 of this code and the administrative hearing officer rules and regulations. Such review hearing shall be de novo-, and the administrative hearing officer may assess fines and issue orders consistent with the provisions of this chapter. The administrative hearing officer's decision shall be considered final administrative action for purposes of subsection (c).
- (2) ~~The administrative hearing officer's decisions not to deny a request for hearing reconsider an enforcement action shall be considered the final administrative action for the purposes of judicial review subsection c. The administrative hearing officer shall conduct the hearing in accordance with the procedures set forth in chapter 12 of title 2 of this Code and in the administrative hearing officer rules and regulations. The administrative hearing officer may assess fines and issue orders consistent with the provisions of this chapter.~~
- (3) ~~To the extent this chapter is inconsistent with chapter 12 of title 2 of this Code or the administrative hearing officer rules and regulations, this chapter shall govern. chapter 10 of title 1 of this code does not apply to this chapter.~~
- (8c) Any appeal from the decision of the administrative hearing officer shall be to the appropriate court pursuant to C.R.C.P. 106.

Section 55. Section 20-530 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5301. Upset.

- (a) ~~For the purposes of this section, the term "upset" means an exceptional incident that results in unintentional and temporary noncompliance with a categorical pretreatment standard 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.~~
- (a**b**) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards, provided that the user immediately notifies the director upon discovery of the upset and meets the requirements of subsection (c) of this section.
- (b**e**) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
- (1) An upset occurred and the user can identify its cause;
 - (2) The facility was, at the time, being operated in a prudent and professional manner and in compliance with applicable operation and maintenance procedures; and
 - (3) In addition to the immediate notice required in subsection (b) of this section, the user submitted the following information to the director within 24 hours of becoming aware of the upset:
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - c. Steps the user is taking or plans to take to reduce, eliminate and prevent recurrence of the noncompliance; and
 - d. If the user initially provided the foregoing information orally, the user must submit it in writing within five days.
- (c**d**) In any enforcement proceeding, the user seeking to establish the affirmative defense of an upset shall have the burden of proof.
- (d**e**) A user will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e**f**) A user shall control all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until restoring the facility or providing an alternative method of treatment. This requirement applies in the situation, among others, where the user partially or completely loses power to its treatment facility.

Section 56. Section 20-531 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5312. Affirmative defense. Lack of knowledge.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibition in section 20-421(b) or the specific prohibitions in section 20-421(c), 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 complied 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 CDPS permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Section 57. Section 20-532 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5323. Bypass.

~~(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

~~Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.~~

~~Severe property damage means substantial physical damage to property, damage to the treatment facility that renders it inoperable or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. The term "severe property damage" does not mean economic loss caused by delays in production.~~

~~(a) A user may allow any bypass to occur that does not violate a pretreatment standard or requirement, but only if such bypass is necessary for essential maintenance to ensure efficient operation. These bypasses are not subject to subsections (b) and (c) of this section.~~

~~(b) If a user knows in advance of the need for a bypass, it shall notify the director at least ten days before the date of the bypass or at the earliest possible time the user becomes aware of the bypass need if less than ten days prior to the bypass.~~

~~(c) A user shall orally notify the director of an unanticipated bypass that exceeds applicable pretreatment standards immediately upon becoming aware of the bypass, but in no case later than 24 hours from the time it becomes aware of the bypass. The user must also submit a written report within five days of the time it becomes aware of the bypass. The report shall describe the bypass and its cause; state the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, its anticipated duration; and steps taken or planned to prevent reoccurrence of the bypass.~~

~~(d) Bypass is prohibited, and the director may take 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 was no feasible alternative 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 that occurred during normal periods of equipment downtime or preventive maintenance); and
 - (3) The user submitted the notices required under subsection (d) of this section.
- (ef) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that the bypass will meet the three conditions listed in subsection (ed) of this section.

Section 58. Section 20-533 of the above-entitled ordinance shall be amended to read as follows:

Sec. 20-5334. Pretreatment charges and fees.

The city may assess reasonable fees and charges through rules or other means to recoup the costs of administering its pretreatment program, which may include:

- (1) Fees for wastewater discharge permit applications, including the cost of processing such applications;
- (2) Fees for monitoring, inspection and surveillance procedures, including the cost to collect and analyze a user's discharge samples and to review monitoring reports submitted by users;
- (3) Fees for reviewing accidental discharge procedures;
- (4) Fees for filing appeals; and
- (5) Other fees that the city may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines and penalties chargeable by the city.

Section 59. Section 20-534 of the above-entitled ordinance shall be deleted as follows:

~~Sec. 20-534. Signatories and certification.~~

~~(a) All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:~~

~~I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure 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.

(b) Annual certification for nonsignificant categorical industrial users. A facility that the director determines is a nonsignificant categorical industrial user, as defined in section 20-396, must annually submit to the POTW the following certification signed by an authorized representative of the user. This certification must accompany an alternative report required by the director:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____, to _____, _____, [months, days, year]:

- a. The facility described as _____ [facility name] met the definition of a nonsignificant categorical industrial user as described in section 20-396;
- b. The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
- c. The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based upon the following information:

Official Signature