ORDINANCE NUMBER 3462

AN ORDINANCE OF THE MISSOULA CITY COUNCIL AMENDING PORTIONS OF MISSOULA MUNICIPAL CODE CHAPTERS 8.40 ENTITLED "HAZARDOUS VEGETATION AND NUISANCE WEEDS", 12.04 ENTITLED "STREET VACATION", 12.12 ENTITLED "CURBS, SIDEWALKS, AND PAVING", 12.14 ENTITLED "RIGHT-OF-WAY OCCUPANCY PERMIT", 12.24 ENTITLED "EXCAVATIONS", 12.30 ENTITLED "FENCES", 13.07 ENTITLED "WASTEWATER PRETREATMENT REGULATIONS", 15.38 ENTITLED "ACCESSIBILITY STANDARDS", 15.65 ENTITLED "GRADING, DRAINAGE, EROSION CONTROL AND STORM WATER POLLUTION PREVENTION PLAN (SWPPP)", PERTAINING TO FEES.

BE IT ORDAINED THAT SECTIONS 8.40.040, 12.04.020, 12.12.100, 12.14.030, 12.16.040, 12.24.030, 12.24.140, 12.30.050, 15.38.050, 15.65.050 AND CHAPTER 13.07 MISSOULA MUNICIPAL CODE BE AMENDED TO READ AS FOLLOWS:

SECTION 1 HAZARDOUS VEGETATION AND NUISANCE WEEDS

8.40.040 Hazardous Vegetation cutting, removal or extermination--Fee for cutting, removal or exterminating by the City.

A. A minimum hazardous vegetation cutting, removal or exterminating fee of one hundred eight dollars ($108.00) per hour or one hundred eight dollars ($108.00) per lot plus a City administrative fee shall be charged for the cutting, removal or exterminating of hazardous vegetation. The work will be performed by a City assigned cut contractor at the direction of the City. Fees are intended to pay for labor, fuel, equipment and administrative costs and may exceed the minimum fee in instances where actual costs exceed the minimum fees.

B. A City administrative fee of three hundred twelve dollars ($312.00) shall be assessed for each weed and grass cutting, removal or exterminating work order that is processed.

C. If a fire originates in the grasses or weeds on a property, the property owner may be assessed costs for fighting that fire if the City Fire Chief deems it appropriate to do so after conducting an investigation of the cause of the fire.

SECTION 2 STREET VACATION

12.04.020 Payment of cost of right-of-way petition process for vacations and closures. At the time any petition is submitted by property owners for the vacation and closure of any public right-of-way within the city, the petitioning property owners shall also pay to the city treasurer the sum of one thousand eight hundred forty-nine ($1,849), which money is for the purpose of defraying the necessary costs of title searches and public notice publications. The money so received shall be deposited by the city treasurer in the general fund of the city, provided, however, where an amended plat or replatting is required in accordance with the laws of the state, and such amended plat or replatting requires or requests any right-of-way to be vacated and/or closed, that has been originally established by the prior official subdivision plat, all costs associated with the preparation and review of the amended plat or replatting shall be the obligation of the petitioner for such amended plat or replatting.

SECTION 3 CURBS, SIDEWALKS, AND PAVING

12.12.100 Bonds, fees and charges prerequisite to construction.

A. No person shall remove, alter, or construct any curb, sidewalk, driveway approach, new parking lot, gutter or any combination thereof, upon first complying with the requirements of Section 12.08.030, nor shall such person remove, alter, or construct sidewalk, curb, driveway approach, or gutter without

the payment to the city of the fees and charges provided in this section and without obtaining a permit from the city engineer.

B. The fee to inspect curb and gutter construction shall be:

		Fee
1.	ROW curb permit: 0-30 lineal feet	$177.00
2.	ROW curb permit: 31-250 lineal feet	$493.00
3.	ROW curb permit: 251-1,000 lineal feet	$746.00
4.	ROW curb permit: greater than 1,000 lineal feet	$746.00
	plus $0.14 per lineal foot	$0.14

C. The fee to inspect sidewalk and driveway approach construction shall be:

		Fee
1.	ROW sidewalk permit: 0-150 square feet	$162.00
2.	ROW sidewalk permit: 151-500 square feet	$433.00
3.	ROW sidewalk permit: 501-1,000 square feet	$545.00
4.	ROW sidewalk permit: greater than 1,000 square feet	$545.00
	plus $0.14 per square foot	$0.14

D. The fee to design and stake curb and gutter shall be three hundred sixty-two dollars ($362.00) and an additional fee of three ($3) dollars per lineal foot shall be charged for curb and gutter construction exceeding a length of fifty feet.

E. The fee to inspect, design and stake curb, gutter and sidewalk work that is contracted by the city shall be nineteen percent (19%) of the total dollar amount of the curb, gutter and sidewalk contract.

F. The costs and permit fees to inspect areas of paving work shall be as follows:

		Fee
1.	Single-family residential:	$111.00
2.	Multi-family/commercial <2,000 square feet:	$314.00
3.	Paving permit 2,000 to 50,000 square feet:	$328.00
4.	Paving permit >50,000 square feet:	$328.00
	plus $0.01 per square foot	$0.01

G. The fee for the City Engineer to review building construction site plans for compliance with applicable codes shall be collected prior to the issuance of the building permit and the fee shall be:

		Fee
1.	Miscellaneous small structure plan check *(sheds, shops, pole barns, sign bases taking 30 minutes or less*:	$48.00
2.	Single-family residential plan check:	$105.00
3.	Hillside single-family residential plan check:	$165.00
4.	Multi-family residential plan check 2-4 units:	$118.00
5.	Multi-family residential plan check 5-20 units:	$180.00
6.	Multi-family residential plan check 21-50 units:	$268.00
7.	Multi-family residential plan check greater than 50 units:	$364.00
8.	Commercial/industrial plan check 0-20,000 square feet:	$180.00
9.	Commercial/industrial plan check 20,001-100,000 square feet:	$224.00
10.	Commercial/industrial plan check greater than 100,000 square feet:	$343.00

H. The fee for the City Engineer to review subdivision plan submittals for compliance with applicable codes shall be collected when the subdivision plan is submitted and the fee shall be:

		Fee
1.	Subdivision - Engineering review major:	$760.00
2.	Subdivision - Engineering review minor:	$352.00

SECTION 4 RIGHT-OF-WAY OCCUPANCY PERMIT

12.14.030 Permit Application Fee.

A. Any applicant wishing to occupy any right-of-way for a permit for the purposes set forth in Section 12.14.020 shall obtain the permit before proceeding with any occupation of the site. All applications must include an approved traffic and/or pedestrian control plan which conforms to the Manual on Uniform Traffic Control Devices as well as the City of Missoula specifications and policies for traffic control in work zones. All applications must include a schedule of work including dates and hours of occupancy. All applications are subject to approval by the City Engineer.

B. The fee for the permit for the purposes set forth in Section12.14.020 shall be fifty-two dollars ($52.00) for up to thirty days of occupancy or one hundred four dollars ($104.00) for up to ninety days of occupancy. After ninety days a new permit application and permit fee payment shall be required.

C. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for the work. The City Engineer may order the site vacated until the investigation is completed and the required permit is issued. An investigation fee, in addition to the permit fee shall be collected prior to issuance of the permit. The investigation fee shall be equal to the permit fee required by this code. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. If the investigated activity is found not to require a permit under the requirements of this code the investigation fee will be waived.

SECTION 5 SIDEWALK MAINTENANCE

12.16.040 Violations: work done, liability therefore, civil penalty and collection.

A. In the event of the failure of any person responsible for clearing the sidewalk to clear away or treat with abrasives or suitable de-icing agents and subsequently clear away any snow, ice, slush, mud, or other impediment from any sidewalk as required by this ordinance, or cause this to be done, the director may, as soon as practicable after such failure, cause such work to be done at the expense of the property owner.

B. The director shall ascertain and keep a record of: the exact date and costs of all work caused to be done in accordance with this section on account of each act or omission of each person; a legal description of the lot or lots fronting, abutting on or containing within a public use easement the sidewalks cleared along with the street address; and the identity of the owner(s) of the premises along with, when possible, any tenant(s), occupant(s) or lessee(s).

C. Each person whose act or omission makes it necessary that the director cause work to be done in accordance with this section shall be liable to the City for the cost of such work. The costs will be: a minimum of twenty-six dollars ($26.00) for up to one-half hour of snow removal work plus actual time for snow removal beyond one-half hour pro-rated at the rate of fifty-two dollars ($52.00) per hour, plus an administrative fee of thirty-six dollars ($36.00). Actual fees may exceed the minimum fee in instances in which actual costs are documented to exceed the minimum fee.

D. The director shall give each person written notice of the amount owed to the City as soon as practicable. The payment of such amount may be enforced through suit for collection or by levying an assessment on the premises or both.

E. In the event of assessment, the City Council shall annually pass and adopt a resolution levying an assessment and tax against each lot or parcel of land fronting, abutting on, or containing within a public

use easement the sidewalks cleared under the order of the director and according to his/her report. Any such assessment or tax against the lot or parcel of real estate to which this sidewalk clearing service is furnished and for which payment is delinquent, shall become a lien on the real estate receiving the benefit.

SECTION 6 EXCAVATIONS

12.24.030 Permit--Application--Fee. Permit fees are based on the average direct and indirect costs to provide plan checking, permit administration, field inspection, record management, warranty inspection, and public works administration for excavations. The fee for obtaining an excavation permit shall be as follows:

A. Excavation Permits for Sanitary Sewer:

	Fee
1. New connection of a service line from the sewer main to the building:	$343.00
2. New connection of a service line from the stub to the building:	$298.00
3. New connection of a service stub from the sewer main to the property line:	$343.00
4. New STEP connection from the sewer main to the building:	$523.00
5. New STEP connection from the stub to the building:	$486.00
6. New STEP connection of a service stub from the sewer main to the property line:	$343.00
7. New STEP tank installation without connection to a sewer main:	$410.00

B. Excavation Permits for Water:

	Fee
1. New connection of a service line from the water main to the building:	$193.00
2. New connection of a service stub from the water main to the property line:	$155.00
3. New connection of a service line from the stub to the building:	$155.00

C. Excavation permits for Miscellaneous Excavations:

1. New utility mains including sewer, water, storm drain, gas, electric, phone, cable television are:

	Fee
a. Utility main construction: 0-600 lineal feet:	$1,948.00
b. Utility main construction: 601-2,400 lineal feet:	$2,864.00
c. Utility main construction greater than 2,400 lineal feet:	$2,864.00
plus $0.39 per lineal foot	$0.37

2. All other permits including repair permits: $180.00

Revenue from these fees shall be credited to the general fund.

SECTION 7 EXCAVATIONS

12.24.140 Assessments for damaging or opening pavement.

A. A charge separate from the excavation permit fee must be paid by the excavator for each square foot of pavement to be removed or damaged. Pavement may be considered damaged if it is gauged, scraped, cracked, or has wheel or tread marks as a result of excavation operations.

B. The asphalt cut assessment rate shall be determined per the following table:

AGE	ARTERIAL	COLLECTOR	LOCAL
2 years or less	$20/SF*	$15/SF*	$10/SF*
More than 2 years to 5 years	$15/SF	$12/SF	$8/SF
More than 5 years to 10 years	$10/SF	$8/SF	$4/SF
Excellent condition >10 years	$8/SF	$4/SF	$1/SF
Pavement < 10 years old and/or seal coat that is < 5 years old outside the asphalt patch that is damaged during excavation operations	$3/SF	$2/SF	$1/SF
Seal Coat 5 years or less**	$3/SF	$2/SF	$1/SF

- * asphalt cutting on streets 0-2 years old will not be allowed unless approved by the City Engineer
- ** the asphalt assessment and the chip and seal assessment shall both be assessed when applicable

C. The City Engineer or a designated agent may, in their judgment, waive the assessment if the pavement is in poor condition. Moneys obtained by these assessments shall be credited to the general fund and earmarked for street construction and repairs.

D. Exception: When the excavation is performed at the request of the City for street reconstruction that requires utility improvements, no pavement assessment will be required of the utility making the improvements.

SECTION 8 FENCES

12.30.050 Encroachments--Permits. The City Engineer, or a designated agent, is authorized to grant a fence encroachment permit to the owner of land abutting city right-of-way for a temporary revocable privilege to construct, install, and maintain a fence upon a portion of the public right-of-way that is not currently or prospectively used or needed in the near future for any public travel or public use. This fence encroachment permit shall be a revocable privilege and shall be in the form of a fence encroachment permit signed and acknowledged by the permittee whereby the permittee recognizes that the permit is revocable by the City at any time upon thirty days' notice to the permittee and whereby the permittee recognizes that the City retains its right to use and to access the public right-of-way subject to the fence encroachment permit. The permittee must as part of the fence encroachment permit application process covenant to remove the fence and restore the land to its former condition, all at the permittee's expense, upon the receipt of such notice. Such fence encroachment permits as the aforesaid to be made by the City, through the action of the City Engineer or a designee, shall be filed with the Missoula County Clerk and Recorder. A fence encroachment permit fee in the amount of eight hundred thirty-five dollars ($835.00) to issue this agreement shall be paid by the property owner.

A. Fences, Encroachments. Restrictions to fences allowed to encroach into the public right-of-way.

1. No fence shall be constructed which will restrict visibility as described in 12.28.110 of this code.

2. No fence shall be allowed to encroach into Montana Highway Department right-of-way.

3. In any public right-of-way, where public sidewalks do not exist, no fence shall be installed closer than two feet to the back of any future public sidewalk as determined by the City Engineer. In any public right-of-way, where public sidewalks exist, no fence shall be installed

closer than one foot to the back of the sidewalk.

4. Fences shall have a maximum height requirement per Section 12.30.040.

5. Fences shall have posts not exceeding two and three-eighths (2-3/8) inches outside diameter for metal pipe or four inch dimension for wooden posts. No fences shall be constructed of stone, rock, masonry, any metal with pointed or projecting tops, cable, or chain. Prior to the issuance of the fence encroachment permit the fence design must be approved by the City Engineer or a designee to ensure conformity to this section and to be reviewed for potential hazards.

6. No other structure or storage of personal property inclusive of motorized vehicles other than landscape materials approved by 12.48.060 of this code shall be allowed in the public right-of-way behind a permitted fence. There shall be no shrubs, bushes, or hedges exceeding the height of the permitted fence in the public right-of-way.

7. No encroachments of fences into the public right-of-way shall be allowed in a commercial or industrial district. No encroachments shall be allowed on properties used for business purposes.

8. When fifty percent or more of an existing fence in or adjacent to a public right-of-way is repaired or reconstructed it shall conform to this section.

SECTION 9 WASTEWATER PRETREATMENT REGULATIONS

Chapter 13.07
Wastewater Pretreatment Regulations

Articles

I. General Provisions
II. General Sewer Use Requirements
III. Pretreatment of Wastewater
IV. Individual Wastewater Discharge Permits
V. Individual Wastewater Discharge Permit Issuance
VI. Reporting Requirements
VII. Powers Relating to Compliance and Reporting
VIII. Administrative Enforcement Remedies
IX. Judicial Enforcement Remedies
X. Supplemental Enforcement Action
XI. Affirmative Defenses to Discharge Violations
XII. High Strength Wastewater Treatment Rates
XIII. Miscellaneous Provisions

Article I. General Provisions

Sections:

13.07.010 Purpose and Policy
13.07.020 Administration
13.07.030 Abbreviations
13.07.040 Definitions

13.07.010 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Missoula and enables the Missoula to comply with all applicable State and Federal Laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this ordinance are:

A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operations;
B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
E. To enable Missoula to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

13.07.020 Administration

Except as otherwise provided herein, the Wastewater Division Superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Wastewater Division Superintendent may be delegated by the Wastewater Division Superintendent to a duly authorized City of Missoula employee.

13.07.030 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CFR – Code of Federal Regulations
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
lbs-pounds
L.E.L. or LEL-lower explosive limit
IU – Industrial User
mg/l – milligrams per liter
MMC-Missoula Municipal Code
NPDES – National Pollutant Discharge Elimination System
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

13.07.040 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
B. Approval Authority. EPA Region 8
C. Authorized or Duly Authorized Representative of the User.
    1. If the User is a corporation:
        a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
        b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    2. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
    3. If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
    4. The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 13.07.200(A) and (B). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
F. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
G. Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.
H. The City. The City of Missoula
I. Commercial or Commercial User. A user that is neither classified as residential user or significant industrial user.
J. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
K. Control Authority. The City of Missoula
L. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
M. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

N. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
O. Existing Source. Any source of discharge that is not a "New Source."
P. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
Q. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.
R. Industrial User or User. Source of indirect discharge
S. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
T. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
U. Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
V. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
W. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
X. Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
Y. New Source.
    1. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
        a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
        b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
        c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
    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 Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
    3. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
        a. Begun, or caused to begin, as part of a continuous onsite construction program
            i. any placement, assembly, or installation of facilities or equipment; or

ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Z. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

AA. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.

BB. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities

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

DD. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

EE. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. Howerver, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).

FF. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

GG. Pretreatment Standards, National Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, BMPs, and Local Limits that apply to all industrial users

HH. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Article II. MMC.

II. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

JJ. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

KK. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

LL. Significant Industrial User (SIU).

MM. A Significant Industrial User is:

1. An Industrial User subject to categorical Pretreatment Standards; or

a. An Industrial User that:

i. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

ii. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

iii. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

NN. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 13.07.200 MMC.. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

OO. Storm Drain System. conveyance or combination of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that discharges to surface water.

PP. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

QQ. Superintendent or Wastewater Division Superintendent. The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a Duly Authorized Representative of the Superintendent.

RR. Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

SS. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

TT. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Article II General Sewer Use Requirements

Sections:

13.07.200 Prohibited Discharge Standards
13.07.210 National Categorical Pretreatment Standards
13.07.220 Local Limits
13.07.230 City's Right of Revision
13.07.240 Dilution
13.07.250 Wastewater Classification Survey
13.07.260 Sector Control Programs

13.07.200 Prohibited Discharge Standards

A. General Prohibitions.

1. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

2. No User or person shall discharge any sewage or other polluted waters from any premises within the City into or upon any public highway, land, public place, stream, water course, or into any cesspool, storm drain or storm drain system (which includes catch basins, curbs, gutters, ditches, manmade channels, municipal streets), private sewer, or natural water outlet, except where suitable treatment has been provided in accordance with applicable Federal, State, and local laws;

B. Specific Prohibitions.

No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

1. Any "hazardous waste" as defined in 40 CFR 261, unless specifically allowed by the Superintendent or designee.
2. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees C) using the test methods specified in 40 CFR 261.21;
3. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or an any point in the POTW, of more than 5% or any single reading over 10% of Lower Explosive Limit of the meter;
4. Wastewater having a pH less than 5.0 or more than 12.0, or otherwise causing corrosive structural damage to the POTW or equipment or hazard to structures, operations, or personnel of the wastewater utility;
5. Solid or viscous substances which will obstruct the flow in the POTW and/or result in Interference, including without limitation, cinders, sand, mud, cement, plaster, lime slurry or sludge, stone or marble dust, asphalt residues, tar, wax, paraffin, paint, chemical sludges or residues, metals, glass, plastics, wood, shavings, waste paper, paunch manure, excessive manure, hair and fleshings, blood, intestinal contents, animal hooves or toenails, bones, hog bristles, hides or parts thereof, excessive amounts of animal fat or flesh or particles of said materials larger than will quarter inch screen, poultry entrails, heads, feet, or feathers, food processing bulk solids, or garbage that has not been ground or comminuted to diameter of less than one-half inch in any dimension;
6. Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW.
7. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
8. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through
9. pollutants which result in the presence of toxic gases, vapors, or fumes within the wastewater utility that may cause acute worker health and safety problems;
10. Trucked or hauled pollutants, except at discharge points designated by the Superintendent or designee in accordance with Chapter 13.17
11. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance, repair, and/or sampling.
12. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
13. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
14. Any Storm Waters, including but not limited to water drainage from ground surface, roof leaders, catch basins, or other source, subsurface drainage or ground water, water from underground drains, sump discharges, natural springs, water accumulated in excavations, or any other drainage associated with construction unless specifically authorized by the Superintendent or designee.
15. Any substance that may cause effluent or any other product of the wastewater treatment plant, such as sludges, scums, and residues, to be unsuitable for reclamation and reuse. In no case may a substance discharged into the wastewater utility cause the wastewater treatment plant to fail to comply with NPDES permit requirements, receiving water quality standards, or sludge use and disposal criteria;
16. Detergents, surface-active agents, or other substances which might cause excessive foaming in the POTW;
17. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/L; Wastewater containing free, floating, or insoluble oil or grease that will solidify or become discernibly viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (0 and 65 degrees Celsius)

18. Wastewater containing BOD, suspended solids, total nitrogen, total phosphorus, or total solids of such character or quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant; but a user may be permitted by specific, written agreement with the City to discharge said materials and pay for cost incurred in the treatment of such wastes;

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW or to a storm drain or storm drain system.

13.07.210 National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471

13.07.220 Local Limits

A. The Superintendent or designee is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
B. The following pollutants limits are established to protect against Pass Through and Interference. No User shall discharge wastewater that exceeds the following limits at any time for any length of time:

Pollutant	mg/L
Arsenic (As)	0.574
Cadmium (Cd)	0.032
Chromium (Cr)	0.316
Copper (Cu)	0.680
Lead (Pb)	0.359
Mercury (Hg)	0.003
Molybdenum (Mo)	0.342
Nickel (Ni)	1.321
Oil and Grease (polar n-Hexane Extractable Material (HEM))	100
Selenium (Se)	0.192
Silver (Ag)	0.800
Zinc (Zn)	1.356
Benzene	0.050
BTEX (benzene, toluene, ethyl-benzene, and xylene)	0.750

All concentrations for metallic substances are for total metal unless indicated otherwise.

C. Industrial User daily mass limits may be established under special conditions as determined by the Superintendent or designee. The following must be met when daily limits are established or required:
   1. The maximum daily allowable industrial loading shall be allocated through individual wastewater discharge permits.
   2. The total loading to all permitted industrial users shall not exceed the level specified below.
   3. Industrial users shall monitor and report daily flows as required by the individual wastewater discharge permit.

   Allocations may be revoked by the Superintendent or designee and shall not be considered property rights.

Pollutant	IU Max Daily Loading

	lbs/day
Arsenic (As)	2.718
Cadmium (Cd)	0.153
Chromium (Cr)	1.497
Copper (Cu)	3.218
Lead (Pb)	1.701
Mercury (Hg)	0.014
Molybdenum (Mo)	1.617
Nickel (Ni)	6.251
Selenium (Se)	0.909
Silver (Ag)	3.787
Zinc (Zn)	6.414

All concentrations for metallic substances are for total metal unless indicated otherwise.

D. Commercial User allocation. The total loading from all commercial users shall not exceed the level specified below.

Pollutant	Commercial Maximum Daily Loading lbs/day
Arsenic (As)	0.906
Cadmium (Cd)	0.051
Chromium (Cr)	0.499
Copper (Cu)	1.073
Lead (Pb)	0.567
Mercury (Hg)	0.005
Molybdenum (Mo)	0.539
Nickel (Ni)	2.084
Selenium (Se)	0.303
Silver (Ag)	1.262
Zinc (Zn)	2.138

All concentrations for metallic substances are for total metal unless indicated otherwise.

E. The Superintendent or designee may establish more stringent pollutant limits, additional site-specific pollutant limits, and/or Best Management Practices (BMPs) when, in the judgment of the Superintendent or designee, such limitations are necessary to implement Local Limits and requirements of these regulations.

13.07.230 City's Right of Revision

The City reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

13.07.240 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Superintendent or designee may impose mass limitations on users who are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases when the imposition of mass limitations is appropriate.

13.07.250 Wastewater Classification Survey

A. All Users, except residential users, shall complete and file with the Superintendent or designee a wastewater classification survey containing the following information prior to discharge into the city wastewater utility;
   1. name and facility address;
   2. type of services rendered and products produced;
   3. principal raw materials and catalysts used;
   4. plant operational characteristics;
   5. water use information;
   6. wastewater discharge information;
   7. wastewater generation;
   8. wastewater quantities and constituents;
   9. wastewater pretreatment; and
   10. non-discharge wastes and their disposal.
B. All Users, except residential users, obtaining a building permit for initial construction or for building expansion or remodel shall complete and submit the survey to the Superintendent or designee for review prior to approval of said building or remodel permit.
C. All Users, except residential users, shall update the wastewater classification survey on file with the public works director whenever significant changes are made in the wastewater discharge. Significant changes include without limitation, an increase or decrease in wastewater volume, concentration of materials or substances or changes in types of wastes that will last for a period exceeding normal wastewater production variations. If the normal quantity or quality of the discharge has changed, the user shall so notify the director by letter. The director may request a new submittal of the wastewater classification survey as deemed necessary.
D. The Superintendent or designee shall keep all industrial users apprised of any new federal, state or local pretreatment requirements.

13.07.260 Sector Control Programs

A. General Requirements
   1. The City may establish specific sector control programs for commercial and or non significant industrial users to control specific pollutants as necessary to meet the objectives of this chapter. Pollutants subject to these sector control programs shall be controlled using, pretreatment requirements, Best Management Practices (BMPs), and or by permits as determined by the City who shall establish policies for each sector control program
   2. The City shall establish an industrial user identification and characterization program through which users shall be identified for inclusion into applicable sector control programs. Once identified and included into one or more sector control programs, the facility shall be required to comply with each applicable program policy.
   3. The City shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other change that could change the nature, properties, or volume of wastewater discharge, to ensure that current sector control program policies are incorporated and implements.
B. Inspections
   1. The city may conduct inspections of any facility with or without notice for the purpose of determining applicability and/or compliance with sector control program requirements.
   2. If any inspection reveals noncompliance with any provision of a sector control program policy requirement, corrective action shall be required pursuant to the applicable sector control program policy.
C. Enforcement
   1. Enforcement of this regulation is governed by the express terms herein and the enforcement provisions of 13.07.1220, Chapter 13.07 Article VIII, Chapter 13.07 Article IX, Chapter 13.07 Article X, and Chapter 13.07 Article XI.

Article III Pretreatment of Wastewater

Sections:

13.07.400 Pretreatment Facilities
13.07.410 Additional Pretreatment Measures
13.07.420 Accidental Discharge/Slug Discharge Control Plans

13.07.400 Pretreatment Facilities

A. General Requirements
   1. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in 13.07.200 of this code within the time limitations specified by EPA, the State, or the Superintendent (or designee), whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the superintendent or designee for review, and shall be acceptable to the Superintendent or designee before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User form the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this ordinance.
   2. If inspection of pretreatment systems and devices by authorized personnel of the City reveals such systems are not installed or operating in conformance with the plans and procedures submitted to the City, or are not operating in compliance with the effluent limitations required by the City, the User shall make those modifications necessary to meet City requirements.
   3. All pretreatment systems judge by the Superintendent or designee to require engineering design shall have plans prepared and signed by an engineer of suitable discipline licensed by the State of Montana.

13.07.410 Additional Pretreatment Measures

A. Whenever deemed necessary, the Superintendent or designee may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage necessary to protect the POTW and determine and/or assure the User's compliance with the requirements of this section.
B. The Superintendent or designee may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
C. Grease, oil, and sand interceptors or other approved pretreatment devices shall be installed when, in the opinion of the Superintendent or designee, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users.
   1. This includes but is not limited to mechanical repair, machining, vehicle washing or such facilities which may generate water containing petroleum fuels, oils, grease, sand, grit, or other floating or settleable materials as well as food service facilities, food manufacturing, packaging, and/or wholesale preparation, meat packing facilities, slaughter houses and other such facilities that may generate fats, oils, greases, and/or settable materials.
      a. All newly constructed facilities, facilities which are remodeling or those associated with existing interference to the POTW which are covered by this section shall install an interceptor or other approved pretreatment device per 13.07.410 (C) MMC
      b. All change of use, change of occupant, and or change of menu are subject to review and requirements under this section, 13.07.410 (C) MMC and the FOG Sector Control Program
      c. A variance to the interceptor or other approved pretreatment device may be granted by a Review Committee. The Industrial Interceptor Review Committee shall consist of a representative from the Wastewater Division and City Engineering. The variance fee is one hundred forty-two dollars ($142.00) for each variance considered by the Review Committee. Criteria for allowing a variance shall be feasibility of installation, generation

potential and existing interference to the POTW. A variance may carry conditional requirements including, but not limited to, installation of a solids interceptor, hydromechanical grease interceptor (previously known as a grease trap), and/or self monitoring.

2. All interception units or other approved pretreatment devices shall be of a type and capacity approved by the Superintendent or designee, shall comply with the City's FOG Sector Control program, shall be so located to be easily accessible for cleaning and inspection.
3. Such interceptors shall be inspected, cleaned, and repaired in accordance with the City's FOG Sector Control Program by the User at their expense. This includes maintaining an updated logbook of these activities that will be submitted to Superintendent or designee upon request. Total interceptor contents shall be removed at the time of cleaning.

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

13.07.420 Accidental Discharge/Slug Discharge Control Plans

A. In accordance with 40 CFR 403.8(f)(1)(iii)(B)(6) the Superintendent designee shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Superintendent or designee may require a User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
   1. Description of discharge practices, including non-routine batch discharges;
   2. Description of stored chemicals;
   3. Procedures for immediately notifying the Superintendent or designee of any accidental or Slug Discharge, as required by Section 13.07.1050 MMC; and
   4. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to:
      a. Inspection and maintenance of storage areas,
      b. Handling and transfer of materials,
      c. Loading and unloading operations,
      d. Control of plant site runoff,
      e. Worker training,
      f. Building of containment structures or equipment,
      g. Measures for containing toxic organic pollutants, including solvents,
      h. and/or measures and equipment for emergency response

B. Upon evaluation of The Superintendent or designee may require installation, operation and maintenance of facilities to prevent accidental discharge of such materials or substances, at the user's expense.

Article IV. Individual Wastewater Discharge Permits

Sections:

13.07.600 Wastewater Analysis
13.07.610 Individual Wastewater Discharge Permit Requirement
13.07.620 Individual Wastewater Discharge Permitting: New Connections
13.07.630 Wastewater Discharge Permitting: Outside Jurisdiction Users
13.07.640 Individual Wastewater Discharge Permit Application Contents
13.07.650 Application Signatories and Certifications
13.07.660 Individual Wastewater Discharge Permit Decisions

13.07.600 Wastewater Analysis

When requested by the Superintendent or designee, a User must submit information on the nature and characteristics of its wastewater within 90 days of the request. The Superintendent or designee is

authorized to prepare a form for this purpose and may periodically require Users to update this information.

13.07.610 Individual Wastewater Discharge Permit Requirement

A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the Superintendent or designee, except that a Significant Industrial User that has filed a timely application pursuant to 13.07.620 MMC may continue to discharge for the time period specified therein.
B. The Superintendent or designee may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.
C. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in 13.07.1240 and Chapter 13.07 Article VIII MMC. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

13.07.620 Individual Wastewater Discharge Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with 13.07.640 MMC, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

13.07.630 Wastewater Discharge Permitting: Outside Jurisdiction Users

New Source and new users who are located beyond the Missoula city limits and who are required to obtain a wastewater permit shall comply with Section 13.07.620 MMC.

13.07.640 Individual Wastewater Discharge Permit Application Contents

A. All Users required to obtain an individual wastewater discharge permit must submit a permit application. The Superintendent or designee may require Users to submit all or some of the following information as part of a permit application:
    1. Identifying Information
        a. The name and address of the facility, including the name of the operator and owner
        b. Contact information, description of activities, facilities, and plant production processes on the premises;
    2. Environmental Permits. A list of any environmental control permits held by or for the facility.
    3. Description of Operations.
        a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
        b. Types of wastes generate, and a list of all raw materials and chemicals used or stored a the facility which are, or could accidentally or intentionally be, discharged to the POTW;
        c. Number and type of employees, hours, of operation, and proposed or actual hours of operation;
        d. Type and amount of raw materials processed (average and maximum per day);
        e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
    4. Time and duration of discharges;
    5. The location for monitoring all wastes covered by the permit;
    6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary.
    7. Measurement of Pollutants.

a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent or designees, of regulated pollutants in the discharge from each regulated process.
c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 13.07.1080 and 13.07.1090 of this code. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Superintendent or designee or the applicable Standards to determine compliance with the Standard.
e. Sampling must be performed in accordance with procedures set out in Section 13.07.1090 MMC.

8. 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 13.07.1030 (B) MMC.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

13.07.650 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 13.07.1130 MMC
B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Superintendent or designee prior to or together with any reports to be signed by an Authorized Representative.

13.07.660 Individual Wastewater Discharge Permit Decisions

The Superintendent or designee will evaluate the data furnished by the User and may require additional information. Within ninety days of receipt of a complete permit application, the Superintendent or designee will determine whether to issue an individual wastewater discharge permit. The Superintendent or designee may deny any application for an individual wastewater discharge permit.

Article V INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE

Sections:

13.07.800 Permit Effective Period
13.07.810 Individual Permit Required Contents
13.07.820 Individual Permit Potential Additional Conditions
13.07.830 Permit Issuance Process
13.07.850 Permit Modification
13.07.860 Individual Wastewater Discharge Permit Transfer
13.07.870 Individual Wastewater Discharge Permit Revocation
13.07.880 Individual Wastewater Discharge Permit Reissuance

13.07.800 Permit Effective Period

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Superintendent or designee. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

13.07.810 Individual Permit RequiredContents

Individual wastewater discharge permits must contain:

A. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
B. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 13.07.860 MMC, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
C. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
D. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
E. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 13.07.1030 (B) MMC.
F. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
G. Requirements to control Slug Discharge, if determined by the Superintendent or designee to be necessary.

13.07.820 Individual Permit Potential Additional Conditions

Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

A. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
B. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works
C. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
D. Development and implementation of 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 the management of the wastewater discharged to the POTW;
F. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
G. A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit; and
H. Other conditions as deemed appropriate by the Superintendent or designee to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

13.07.830 Permit Issuance Process

A. Public Notification. The Superintendent or designee will publish in a newspaper(s) of general circulation that provides meaningful public notice with the jurisdiction(s) served by the POTW, or on the City's web page, a notice to issue a pretreatment permit, at least 30 days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.
B. Permit Appeals. The Superintendent or designee shall provide public notice of the issuance of an individual wastewater discharge permit. Any person, including the User, may petition the Superintendent or designee to reconsider the terms of an individual wastewater discharge permit within 14 days of notice of its issuance.
    1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

2. In its petition, the appealing party must indicate the individual wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit.
3. The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.
4. If the Superintendent or designee fails to act within 14 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

5. Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit decision must do so by filing a complaint with the Fourth Judicial Court of Montana within 8 years.

13.07.850 Permit Modification

A. The Superintendent or designee may modify an individual 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 the individual wastewater discharge permit issuance;
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
4. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, the beneficial reuse of the POTW's sludge or the receiving waters;
5. Violation of any terms or conditions of the individual 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 or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
8. To correct typographical or other errors in the individual wastewater discharge permit; or
9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 13.07.860 MMC.

13.07.860 Individual Wastewater Discharge Permit Transfer

Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety days advance notice to the Superintendent or designee and the Superintendent or designee approves the individual wastewater discharge permit transfer. The notice to the Superintendent or designee must include a written certification by the new owner or operator which:

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
B. Identifies the specific date on which the transfer is to occur; and
C. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

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

13.07.870 Individual Wastewater Discharge Permit Revocation

The Superintendent or designee may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. Failure to notify the Superintendent or disignee of significant changes to the wastewater prior to the changed discharge;
B. Failure to provide prior notification to the Superintendent or designee of changed conditions pursuant to 13.07.060(E);

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
D. Falsifying self-monitoring reports and certification statements;
E. Tampering with monitoring equipment;
F. Refusing to allow the Superintendent or designee timely access to the facility premises and records;
G. Failure to meet effluent limitations;
H. Failure to pay fines;
I. Failure to pay sewer charges;
J. Failure to meet compliance schedules;
K. Failure to complete a wastewater survey or the wastewater discharge permit application;
L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

13.07.880 Individual Wastewater Discharge Permit Reissuance

A. A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 13.07.630 MMC, a minimum of ninety days prior to the expiration of the User's existing individual wastewater discharge.
B. An expired permit will continue to be effective and enforceable until the permit is reissued if:
   1. The permittee has submitted a complete permit application at least ninety (90) days prior to the expiration date of the user's existing permit;
   2. The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the permittee;
   3. The expired permit had a duration of less than five (5) years; and
   4. The continuation of the expired permit does not result in exceeding five (5) years from the date of issuance.

Article VI. Reporting Requirements

Sections:

13.07.1000 Baseline Monitoring Reports
13.07.1010 Compliance Schedule Progress Reports
13.07.1020 Reports on Compliance with Categorical Pretreatment Standard Deadline
13.07.1030 Periodic Compliance Reports
13.07.1040 Reports of Changed Conditions
13.07.1050 Reports of Potential Problems
13.07.1060 Reports from Unpermitted Users
13.07.1070 Notice of Violation/Repeat Sampling and Reporting
13.07.1080 Analytical Requirements
13.07.1090 Sample Collection
13.07.1100 Date of Receipt of Reports
13.07.1110 Recordkeeping
13.07.1120 Hazardous Waste Discharge
13.07.1130 Certification Statement

13.07.1000 Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4),

whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent or designee a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Superintendent or designee a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.
   1. All information required in 13.07.640(A)(1)(a) MMC, 13.07.640(A)(2) MMC, 13.07.640(A)(3)(a) MMC, and 13.07.640(A)(6) MMC.
   2. Measurement of pollutants.
      a. The User shall provide the information required in Section 13.07.640(A)(7)(a) through (e) MMC.
      b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
      c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
      d. Sampling and analysis shall be performed in accordance with 13.07.1090 and 13.07.1100 MMC.
      e. The Superintendent or designee may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
      f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
   3. Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 13.07.040 (C) MMC and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
   4. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 13.07.1010 MMC.
   5. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 13.07.1120(A) MMC and signed by an Authorized Representative as defined in Section 13.07.040(C) MMC.

13.07.1010 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 13.07.1000(B)(4) of this code:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major

components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The User shall submit a progress report to the Superintendent or designee no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent or designee.

13.07.1020 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (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 Superintendent or designee a report containing the information described in Section 13.07.640(A)(6) and (7) and Section 13.07.1000(B)(2) MMC. All compliance reports must be signed and certified in accordance with Section 13.07.1130 MMC.. All sampling will be done in conformance with Section 13.07.1090 MMC

13.07.1030 Periodic Compliance Reports

A. All Significant Industrial Users must, at a frequency determined by the Superintendent or designee submit no less than twice per year (August 1st for the period January 1st through June 30th and February 1st for the period July 1st through December 31st of the previous year) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Superintendent or designee or the Pretreatment Standard necessary to determine the compliance status of the User

B. Per 40 CFR 403.12(e)(2) the City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

   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 5 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 13.07.640(A)(8) MMC.
   3. In making a demonstration that a pollutant is not present, the Industrial 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 13.07.040 (C) MMC, and include the certification statement in Section 13.07.1130 MMC as per 40 CFR 403.6(a)(2)(ii).
   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 Superintendent or designee 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 Superintendent or designee for 3 years after expiration of the waiver.
   7. Upon approval of the monitoring waiver and revision of the User's permit by the Superintendent or designee, the Industrial User must certify on each report with the statement in Section

13.07.1130 MMC, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial 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 13.07.1030(A) MMC, or other more frequent monitoring requirements imposed by the Superintendent or designee, and notify the Superintendent or designee.
9. This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard
10. All periodic compliance reports must be signed and certified in accordance with Section 13.07.1130 MMC.

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

D. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Superintendent or designee, using the procedures prescribed in Section 13.07.1090 MMC., the results of this monitoring shall be included in the report.

13.07.1040 Reports of Changed Conditions

Each User must notify the Superintendent or designee of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

A. The Superintendent or designee may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 13.07. 640 MMC.

B. The Superintendent or designee may issue an individual wastewater discharge permit under Section 13.07.880 MMC or modify an existing wastewater discharge permit under Section 13.07.850 MMC in response to changed conditions or anticipated changed conditions.

13.07.1050 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Superintendent or designee of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Within five (5) days following such discharge, the User shall, unless waived by the Superintendent or designee, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, quality of receiving stream, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance or other applicable law.

C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

D. Significant Industrial Users are required to notify the Superintendent or designee immediately of any changes at its facility affecting the potential for a Slug Discharge.

13.07.1060 Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Superintendent or designee as the Superintendent or designee may require.

13.07.1070 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Superintendent or designee within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent or designee within thirty (30) days after becoming aware of the violation. Re-sampling by the Industrial User is not required if:

A. the City performs sampling at the User's facility at least once a month, or
B. if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or
C. if the City has performed the sampling and analysis in lieu of the Industrial User.

13.07.1080 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or designee or other parties approved by EPA.

13.07.1090 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data representative of conditions occurring during the reporting period, and include a chain of custody for each sampling event.

A. Except as indicated in Sections B and Cbelow, 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 Superintendent or designee. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 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, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 13.07.1000 and 13.07.1020 MMC, a minimum of four (4) 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 Superintendent or designee may authorize a lower minimum. For the reports required by Section 13.07.1030 and (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

13.07.1100 Date of Receipt of Reports

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

13.07.1110 Recordkeeping

Users subject to the reporting requirements of this ordinance (including documentation associated with Best Management Practices) shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include:

A. The date, exact place, method, and time of sampling, and the name of the person(s) taking the samples;
B. The dates analyses were performed;
C. who performed the analyses;
D. The analytical techniques or methods used;
E. Chain of Custody; and
F. The results of such analyses.

These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Superintendent or designee.

13.07.1120 Hazardous Waste Discharge

A. The Industrial User shall notify the Superintendent or designee in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 DFR 403.12(j). The notification requirement in this section does not apply to pooutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).
B. Dischargers are exempt from the requirements of paragraph (p)(1) of this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.
C. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.
D. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardouls waste, the Industrial User must notify the POTW ot the discharge of such substance within 90 days of the effective date of such regulations.
E. In the case of any notification made under paragraph M of this section, the Industrial 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 practical.

13.07.1130 Certification Statement

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 13.07.640 MMC; Users submitting baseline monitoring reports under Section 13.07.1000(B)(5) MMC. Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 13.07.1020 MMC; Users submitting periodic

compliance reports required by Section 13.07.1030(A) through (D) MMC, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 13.07.1030(B)(2) MMC. The following certification statement must be signed by an Authorized Representative as defined in Section 13.07.040 MMC.

> 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

13.07.1140 Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 13.071030(B) MMC 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 13.07.1030(A) MMC.

Article VII Powers Relating to Compliance and Reporting

Sections:

13.07.1200 Right of Entry: Inspection and Sampling
13.07.1210 Search Warrants
13.07.1220 Halt Discharge Authority
13.07.1230 Confidentiality Information
13.07.1240 Publication of Users in Significant Non-Compliance

13.07.1200 Right of Entry: Inspection and Sampling

The Superintendent or designee shall have the right to enter the premises of any User, carry out inspections and monitoring procedures, to determine, independent of information supplied by the Industrial Users, whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent or designee ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent or designee shall be permitted to enter without delay for the purposes of performing specific responsibilities.
B. The Superintendent or designee shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
    1. The Superintendent or designee may require the User, at the User's expense, to install monitoring equipment as necessary.

2. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense.
3. All devices used to measure wastewater flow and quality shall be calibrated at a frequency in accordance with manufacturers' specifications to ensure their accuracy, unless a waiver is obtained from, or an alternative method specified by, the Superintendent or designee.
4. The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis. Whether constructed on public or private property, the monitoring facilities shall be provided in accordance with the Supervisor's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the Superintendent or designee to perform independent monitoring activities.

C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Superintendent or designee and shall not be replaced. The costs of clearing such access shall be borne by the User.
D. Unreasonable delays in allowing the Superintendent or designee access to the User's premises shall be a violation of this ordinance.

13.07.1210 Search Warrants

If the Superintendent or designee has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Superintendent or designee may seek issuance of a search warrant from the 4th District Court of Montana.

13.07.1220 Halt Discharge Authority

The Superintendent or designee has the authority (after informal notice to the discharger) to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operations of the POTW.

13.07.1230 Confidentiality Information

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Superintendent's or designee's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Superintendent or designee, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

13.07.1240 Publication of Users in Significant Noncompliance

The Superintendent or designee shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (3), (4) or (8) of this Section and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Chapter 13.07 Article II MMC;
B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Chapter 13.07 Article II MMC multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
C. Any other violation of a Pretreatment Standard or Requirement as defined by Chapter 13.07 Article II MMC (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Superintendent or designee determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's or designee's exercise of its emergency authority to halt or prevent such a discharge;
E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
G. Failure to accurately report noncompliance; or
H. Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent or designee determines will adversely affect the operation or implementation of the local pretreatment program.

Article VIII. Administrative Enforcement Remedies

Sections:

13.07.1400 Notification of Violation
13.07.1410 Consent Orders
13.07.1420 Show Cause Hearing
13.07.1430 Compliance Orders
13.07.1440 Cease and Desist Orders
13.07.1450 Administrative Fines
13.07.1460 Emergency Suspensions
13.07.1470 Termination of Discharge

13.07.1400 Notification of Violation

When the Superintendent or designee finds that a User or Person has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Superintendent or designee may serve upon that User a written Notice of Violation. Within fourteen (14) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Superintendent or designee. Submission of such a plan in no way relieves the User or Person of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Superintendent or designee to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

13.07.1410 Consent Orders

The Superintendent or designee may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User or Person responsible for noncompliance. Such documents shall include specific action to be taken by the User or Person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 13.07.1430 and 13.07.1440 MMC and shall be judicially enforceable.

13.07.1420 Show Cause Hearing

The Superintendent or designee may order a User or Person which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Superintendent or designee and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User or Person specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 13.07.040(C) MMC and required by Section 13.07.640(A) MMC. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

13.07.1430 Compliance Orders

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

13.07.1440 Cease and Desist Orders

When the Superintendent or designee finds that a User or Person has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's or Person's past violations are likely to recur, the Superintendent or his/her designee may issue an order to the User or Person directing it to cease and desist all such violations and directing the User or Person to:

A. Immediately comply with all requirements; and
B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User or Person.

13.07.1450 Administrative Fines

A. When the Superintendent or designee finds that a User or Person has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Superintendent or designee may fine such User or Person in an amount not to exceed $1,000 per day In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of one percent (1%) of the unpaid balance per month. A lien against the User's or Person's property shall be sought for unpaid charges, fines, and penalties.

C. Users or Persons desiring to dispute such fines must file a written request for the Superintendent or designee to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where a request has merit, the Superintendent or designee may convene a hearing on the matter. In the event the User's or Person's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User or Person. The Superintendent or designee may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User or Person.

13.07.1460 Emergency Suspensions

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

A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Superintendent or designee may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent or designee may allow the User or Person to recommence its discharge when the User or Person has demonstrated to the satisfaction of the Superintendent or designee that the period of endangerment has passed, unless the termination proceedings in Section 13.07.1470 MMC are initiated against the User or Person.
B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent or designee prior to the date of any show cause or termination hearing under Section 13.07.1420 or Section 13.07.1440 MMC of this code.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

13.07.1470 Termination of Discharge

In addition to the provisions in Section13.07.870 MMC, any User who violates the following conditions is subject to discharge termination:

A. Violation of individual wastewater discharge permit conditions;
B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
E. Violation of the Pretreatment Standards in Chapter 13.07 Article II MMC.
F. Failure to timely pay any charges assessed.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 13.07.1420 MMC why the proposed action should not be taken. Exercise of this option by the Superintendent or designee shall not be a bar to, or a prerequisite for, taking any other action against the User.

Article IX. Judicial Enforcement Remedies

Sections:

13.07.1600 Injunctive Relief
13.07.1610 Civil Penalties
13.07.1620 Criminal Prosecution
13.07.1630 Remedies Nonexclusive

13.07.1600 Injunctive Relief

When the Superintendent or designee finds that a User or Person has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Superintendent or designee may petition the Fourth District Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User or Person. The Superintendent or designee may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User or Person 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 or Person.

13.07.1610 Civil Penalties

A. A User or Person who has violated, or continues to violate, any provision of this municipal code, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of $1,000 per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
B. The Superintendent or designee may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's or Person's violation, corrective actions by the User or Person, the compliance history of the User or Person, and any other factor as justice requires.
D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User or Person.

13.07.1620 Criminal Prosecution

A. A User or Person who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $1,000 per day, or imprisonment for not more thansix (6) months, or both.
B. A User or Person who willfully or negligently introduces any substance into the POTW or Storm Drain System which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least $25,000, or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
C. A User or person 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 ordinance, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than $1,000per day, or imprisonment for not more than six (6) months, or both.

13.07.1630 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Superintendent or designee may take any, all, or any combination of these actions against a noncompliant User or Person. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Superintendent or designee may take other action against any User or Person when the circumstances warrant. Further, the Superintendent or designee is empowered to take more than one enforcement action against any noncompliant User or Person.

Article X. Supplemental Enforcement Action

Sections:

13.07.1800 Performance Bonds
13.07.1810 Payment of Outstanding Fees and Penalties
13.07.1820 Water Supply Severance
13.07.1830 Informant Rewards
13.07.1840 Contractor Listing

13.07.1800 Performance Bonds

The Superintendent or designee may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to comply with any provision of this municipal code, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Superintendent or designee to be necessary to achieve consistent compliance.

13.07.1810 Payment of Outstanding Fees and Penalties

The Superintendent or designee may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

13.07.1820 Water Supply Severance

Whenever a User or Person has violated or continues to violate any provision of this municipal code, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's or Person's expense, only after the User has satisfactorily demonstrated its ability to comply.

13.07.1830 Informant Rewards

The Superintendent or designee may pay up to five hundred dollars ($500) for information leading to the discovery of noncompliance by a User or Person.

13.07.1840 Contractor Listing

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Superintendent or designee.

Article XI. Affirmative Defenses to Discharge Violations

Sections:

13.07.2000 Upset
13.07.2010 Prohibited Discharge Standards Violation
13.07.2020 Bypass

13.07.2000 Upset

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

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (3), below, are met.

C. 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 the cause(s) of the upset;
   2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
   3. The User has submitted the following information to the Superintendent or designee within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
      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; and
      c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

E. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

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

13.07.2010 Prohibited Discharge Standards Violation

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 13.07.200(A) MMC or the specific prohibitions in Section 13.07.200 (B) (5) through (9) MMC if it can proved 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:

A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.07.2020 Bypass

A. For the purposes of this Section,
   1. Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.
   2. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications
   1. If a User knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent or designee, at least ten (10) days before the date of the bypass, if possible.
   2. A User shall submit oral notice to the Superintendent or designee of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Superintendent or designee may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass
   1. Bypass is prohibited, and the Superintendent or designee may take an enforcement action against a User for a bypass, unless
      a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
      b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
      c. The User submitted notices as required under Section 13.07.2020(C) MMC.
   2. The Superintendent or designee may approve an anticipated bypass, after considering its adverse effects, if the Superintendent or designee determines that it will meet the three conditions listed in Section 13.07.2020 (1) MMC.

Article XII. High Strength Wastewater Treatment Rates

Sections:

13.07.2200 Excess User Charges
13.07.2210 Basis for Excess User Charges

13.07.2200 Excess User Charges

Users, except residential users, required to obtain an Individual Wastewater Discharge Permit and discharging wastes in excess of average strength sewage shall pay excess user charges in lieu of flat wastewater utility fees, as prescribed by Section 13.08.010 MMC

13.07.2210 Basis for Excess User Charges

Sampling, analyses, and reporting requirements to determine the excess user charge shall be a condition of the user's Individual Wastewater Discharge Permit and shall be carried out in accordance with procedures as defined in Sections 13.07.1080 and 13.07.1090 MMC.

Article XIII. Miscellaneous Provisions

Sections:

13.07.2400 Pretreatment Charges and Fees
13.07.2410 Significant Industrial User Permit Fee

13.07.2400 Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

A. Fees for wastewater discharge permit applications including the cost of processing such applications;
B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
C. Fees for reviewing and responding to accidental discharge procedures and construction;
D. Fees for filing appeals;
E. Fees to recover administrative and legal costs (not included in 13.07.2400(B)) associated with the enforcement activity taken by the Superintendent or designee to address IU noncompliance; and
F. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this code and are separate from all other fees, fines, and penalties chargeable by the City.

13.07.2410 Significant Industrial User Permit Fee

Per Section 13.07.2400(A) MMC a Significant Industrial User shall pay an annual permit fee of $150

SECTION 10 ACCESSIBILITY STANDARDS

15.38.050 Permit—Application—Fee. Permit fees are based on the average direct and indirect costs to provide plan checks, permit administration, field inspection, and record management. The fee for obtaining a permit shall be as follows:

	Fee
1. Single family residential driveways:	No permit required
2. Multifamily parking lots which are not subject to accessibility requirements:	No permit required
3. Parking lots up to 12,000 square feet (SF):	$314.00
4. Parking lots over 12,000 SF up to 42,000 SF:	$364.00
5. Parking lots greater than 42,000 SF	$440.00

Revenue from these fees shall be credited to the general fund.

SECTION 11 GRADING, DRAINAGE, EROSION CONTROL AND STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

15.65.050 Permit—Application—Fee.

Permit fees are based on the average direct and indirect costs to provide plan checks, permit administration, field inspection, and record management. The fee for obtaining a permit shall be as follows:

Grading, Drainage and Erosion Control

	Fee
1. Single family residence with slopes between five percent (5%) and ten percent (10%):	$314.00
2. Single family residence with slopes greater than ten percent (10%):	$364.00
3. Commercial/industrial/multifamily development:	$440.00

Air Quality, Water Quality and Storm Water Pollution Prevention Plan (SWPPP)

	Fee
1. One (1) acre or greater up to five (5) acre development / parcel / lot:	$260.00
2. Greater than five (5) acre up to ten (10) acre development / parcel / lot:	$305.00
3. Greater than ten (10) acre up to twenty (20) acre development / parcel / lot:	$354.00
4. Greater than twenty (20) acre development / parcel / lot:	$427.00

Revenue from these fees shall be credited to the general fund.

EFFECTIVE DATE
This ordinance shall go into effect on October 1, 2011.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

PASSED BY a 7 ayes, 3 nays, 0 abstains, 2 absent vote and

APPROVED by the Mayor this 6th day of June, 2011.

ATTEST:

/s/ Martha L. Rehbein
Martha L. Rehbein, CMC
City Clerk

APPROVED:

/s/ John Engen
John Engen
Mayor