



Item: Ordinance 3113 amending Title 13 of the Official Code of the City of Great Falls

From: Public Works Department

Initiated By: United States Environmental Protection Agency

Presented By: Jim Rearden, Public Works Director

Action Requested: City Commission accept Ordinance 3113 on first reading and set a public hearing for September 3, 2013, to consider adoption of Ordinance 3113

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (accept/deny) Ordinance 3113 on first reading and set a public hearing for September 3, 2013.”

2. Mayor calls for a second, discussion, public comment, and calls for the vote.

Staff Recommendation: Staff recommends that the City Commission accept Ordinance 3113 on first reading and set a public hearing for September 3, 2013, to consider adoption of Ordinance 3113.

Background:

- The Environmental Protection Agency audited the City’s Industrial Pretreatment Program in April, 2008. One of the requirements of the audit was updating Title 13 of the Official Code of the City of Great Falls. The Environmental Protection Agency approved the update in a letter dated June 29, 2010.
- On August 3, 2010, Ordinance 3050 was adopted updating Title 13 of the Official Code of the City of Great Falls. The Environmental Protection Agency notified the City on July 8, 2013, that a correction was required to the ordinance update they approved on June 29, 2010, due to an inaccurate and conflicting definition of “Existing Source” in Title 13 of the Official Code of the City of Great Falls. Section 13.12.020 A of the code defines “Existing Source” as “an industrial user which is in operation at the time of promulgation of Categorical Pretreatment Standards and any industrial user not included in the definition of “New Source.” However, the definition of “Existing Source” conflicts with the definition of “New Source” in the code. The definition of “New Source” in the code which is consistent with the definition in 40 C.F.R. § 403.3(m) states that a New Source

is defined by whether it commenced construction after publication of proposed Pretreatment Standards provided certain elements listed in the definition are met. The New Source definition says that an Existing Source must have commenced construction (not operation) by the time a Categorical Pretreatment Standard is proposed (not promulgated).

- The Environmental Protection Agency gave the City the option of changing the definition or deleting it. The definition is not one of the definitions required by the Code of Federal Regulations, thus it will be deleted.

Fiscal Impact: There is no fiscal impact to either the City or commercial and industrial facilities that are regulated under the Industrial Pretreatment Program.

Alternatives: The City Commission could vote to deny Ordinance 3113.

Attachments/Exhibits: Letter from EPA Region 8, Ordinance 3113, attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>



Ref: 8P-W-WW

CERTIFIED MAIL # 70093410000025952678
RETURN RECEIPT REQUESTED

Jim Rearden
Director of Public Works
City of Great Falls
P.O. Box 5021
Great Falls, MT 59403-5021

Re: Program Modification Approval Correction *

Dear Mr. Rearden:

The City of Great Falls' (City's) pretreatment program was most recently modified in 2010, pursuant to 40 C.F.R. § 403.18. The U.S. Environmental Protection Agency (EPA) approved the program modification in a letter dated June 29, 2010. This letter concerns a correction to the program approval due to an inaccurate and conflicting definition in the City's municipal code (code) that was included in that program modification.

Section 13.12.020 A of the code defines "Existing Source" as "an industrial user which is in operation at the time of promulgation of Categorical Pretreatment Standards and any industrial user not included in the definition of "New Source"." However, the definition "Existing Source" conflicts with the definition of "New Source" in the code. The definition of "New Source" in the code, which is consistent with the definition in 40 C.F.R. § 403.3(m), states that a New Source is defined by whether it commenced construction after publication of proposed Pretreatment Standards provided certain elements listed in the definition are met. In other words, the New Source definition says that an Existing Source must have commenced construction (not operation) by the time of a Categorical Pretreatment Standard is proposed (not promulgated).

Options to correct this inaccurate and conflicting "Existing Source" definition are the following:

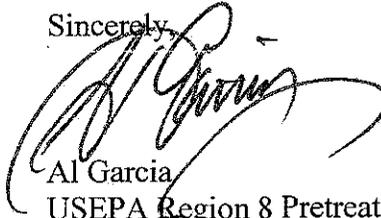
1. Remove the definition of "Existing Source" from the code; or
2. Change the definition of "Existing Source" to be "an industrial user which is not a "New Source".

By July 15, 2013, initiate the City's process to change the code to correct this issue. Provide an updated copy of the City's code to the EPA by September 15, 2013 at the address below:

Al Garcia
U.S. EPA Region 8
1595 Wynkoop Street
8P-W-WW
Denver, CO 80202

If you have any questions about the content of this letter, please feel free to contact me at 303-312-6368 or garcia.al@epa.gov.

Sincerely,



Al Garcia
USEPA Region 8 Pretreatment Coordinator
Office of Partnerships and Regulatory Assistance

cc:
Chris Sorenson Industrial Pretreatment Coordinator, City of Great Falls



ORDINANCE 3113

AN ORDINANCE AMENDING TITLE 13, CHAPTER 12, SECTIONS 020 AND 080 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO DEFINITIONS AND ABBREVIATIONS IN THE INDUSTRIAL PRETREATMENT PROGRAM

* * * * *

WHEREAS, as a result of the Environmental Protection Agency’s (EPA) audit of the Industrial Pretreatment Program administered by the City of Great Falls in April, 2008, the City was required to make numerous updates and changes to Title 13 of the Official Code of the City of Great Falls. The EPA approved the program modification in a letter dated June 29, 2010. On August 3, 2010, Ordinance 3050 was adopted incorporating the changes required by the EPA to align and comply with updates to the Code of Federal Regulations; and,

WHEREAS, the EPA notified the City on July 8, 2013, that a correction to its 2010 program approval was required due to an inaccurate and conflicting definition in the Official Code of the City of Great Falls (OCCGF); and,

WHEREAS, the amendment is required to update the OCCGF to ensure compliance with the requirements for the continued participation by the City of Great Falls in the Industrial Pretreatment Program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

- Section 1. That Title 13, Chapter 12, Sections 020 and 080 of the OCCGF be amended as depicted in Exhibit “A” attached hereto, which removes any language indicated by a strike-out and adds language which is bolded;
- Section 2. This ordinance shall be in full force and effect thirty (30) days after second reading and final adoption by the City Commission.

APPROVED by the City Commission on first reading August 20, 2013.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading September 3, 2013.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3113 in three places within the limits of said City to-wit:

- On the Bulletin Board, first floor, Civic Center Building;
- On the Bulletin Board, first floor, Cascade County Court House;
- On the Bulletin Board, Great Falls Public Library

(Seal of the City)

Lisa Kunz, City Clerk

Chapter 12 - INDUSTRIAL PRETREATMENT PROGRAM ¹³

Sections:

[13.12.010 - General provisions.](#)

[13.12.020 - Definitions and abbreviations.](#)

[13.12.030 - Prohibited discharges and limitations.](#)

[13.12.040 - Pretreatment and monitoring facilities.](#)

[13.12.050 - Industrial discharge permits.](#)

[13.12.060 - Promulgation of new pretreatment standards.](#)

[13.12.070 - Sample collection and analytical methods.](#)

[13.12.080 - Reporting requirements.](#)

[13.12.090 - Sector control programs.](#)

[13.12.100 - Compliance and enforcement.](#)

[13.12.110 - Affirmative defenses to discharge violations.](#)

[13.12.120 - Program cost recovery.](#)

13.12.010 - General provisions.

- A. **Purpose and Policy.** This Chapter sets forth uniform requirements for discharges from all industrial users into Publicly Owned Treatment Works (POTW) and to any persons outside the City who are, by permit, contract or agreement with Great Falls, users of the City POTW and enables the City to comply with applicable state and federal laws including the Clean Water Act (33 United States Code (U.S.C.) Section 1261 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). This Chapter shall apply to the industrial users within the City of Great Falls and to any persons outside the City who are, by contract or agreement with Great Falls, users of the Great Falls wastewater treatment system. No industrial user shall discharge wastewater to the POTW unless done so in compliance with the provisions of this Chapter.
- B. **The objectives of this Chapter are:**
1. To prevent the introduction of pollutants into the Publicly Owned Treatment Works (POTW) which will interfere with the operation of the POTW including interference with the use or disposal of municipal sludge;
 2. To prevent the introduction of pollutants into the POTW which will pass through the treatment works or otherwise be incompatible with the POTW;
 3. To improve the opportunity to recycle and reclaim wastewater and sludge from the system. These chapters provide for the regulation of discharges into the City wastewater system through the enforcement of administrative regulations.
 4. To provide for equitable distribution of cost among the users of the POTW;
 5. To provide for and promote the general health, safety and welfare of the citizens residing within the City and connecting jurisdictions;

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6. To enable the City to comply with its Montana Pollutant Discharge Elimination System (MPDES) permit conditions, sewage sludge use and disposal requirements, and any other applicable federal or state laws or regulations to which the POTW is subject; and
7. To prevent adverse impacts to worker health and safety due to the discharge of pollutants from industrial users.

C. Regulation of Industrial Users from Outside Jurisdictions.

1. In order for the City to effectively implement and enforce Pretreatment Standards and Requirements for all industrial users discharging to the POTW and as required by 40 CFR Section 403.8(f), the City shall enter into Intergovernmental Agreements (IGA) with contributing jurisdictions. Prior agreements shall be unaffected by these requirements until such time as the City determines that modifications are necessary.
2. Prior to entering into an IGA, the City shall be provided the following information from the contributing jurisdiction:
 - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;
 - b. An inventory of all sources of Indirect Discharge located within the contributing jurisdiction that are discharging to the POTW; and
 - c. Such other information as the City may deem necessary.
3. The IGA may contain the following conditions:
 - a. A requirement for the contributing jurisdiction to adopt a sewer use ordinance or rules which specifically require that all non-domestic users shall be under the jurisdiction of this Chapter for the purposes of implementation and enforcement of Pretreatment Standards and Requirements;
 - b. A requirement for the contributing jurisdiction to submit an updated user inventory on at least an annual basis;
 - c. A provision specifying that the City shall be delegated full responsibility for implementation and enforcement of the pretreatment program unless otherwise agreed to and specified in the IGA;
 - d. A requirement for the contributing jurisdiction to provide the City with access to all information that the contributing jurisdiction obtains regarding effluent quantity and quality from non-domestic users;
 - e. Requirements for monitoring the contributing jurisdiction's discharge; and
 - f. A provision specifying remedies available for breach of the terms of the IGA.

D. Responsibility and Authority of the City.

1. Except as otherwise provided herein, the Great Falls Director of Public Works shall administer, implement, and enforce the provisions of this Chapter.
2. The City shall notify in writing any industrial user whom he/she has cause to believe is subject to a National Categorical Pretreatment Standard or Requirement, or other applicable requirements promulgated by the EPA under the provisions of section 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solid Waste Disposal Act. Failure of the City to so notify industrial users shall not relieve said industrial users from the responsibility of complying with applicable requirements. It is the responsibility of Significant Industrial Users to apply for and receive a permit prior to discharge, whether or not the industrial user has been identified and formally requested to do so.

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3. If wastewaters containing any pollutant, including excess flow, or as otherwise defined in this Chapter, are discharged or proposed to be discharged to the POTW, the City may take any action necessary to:
 - a. Prohibit the discharge of such wastewater;
 - b. Require an industrial user to demonstrate that in-plant facility modifications will reduce or eliminate the discharge of such substances in conformity with this Chapter;
 - c. Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the potential for a discharge to violate this Chapter;
 - d. Require the industrial user making, causing or allowing the discharge to pay any additional cost or expense incurred by the City for handling, treating, disposing or remediation costs as a result of wastes discharged to the wastewater treatment system;
 - e. Require the industrial user to apply for and obtain a permit;
 - f. Require timely and factual reports from the industrial user responsible for such discharge; or
 - g. Take such other action as may be necessary to meet the objectives of this Chapter.
- E. **Additional City Authorities.** In addition to the overall authority to control the discharge of wastewater to the POTW, the City shall have the following authorities:
 1. Take enforcement and issue fines and penalties for violations of this Chapter, including the failure of an industrial user to apply for a permit.
 2. Endangerment to Health or Welfare of the Community: The City, after informal notice to the affected industrial user, may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW of the City or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.
 3. Endangerment to Environment or Treatment Works: The City, after written notice to the discharger, may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW, wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.
 4. The discharges referred to above may be halted or prevented without regard to the compliance of the discharge with other provisions of this Chapter.
- F. **Industrial pretreatment program amendments.** The City reserves the right to amend this Chapter and the terms and conditions hereof in order to assure compliance with applicable laws and regulations. The discharger shall be informed of any proposed changes in the Chapter at least thirty (30) days prior to the effective date of change. Where appropriate, the City may issue a compliance schedule to an industrial user to meet the changed or new Pretreatment Standards or Requirements. Such compliance schedule shall not conflict with or extend the compliance date otherwise established by EPA or the State.
- G. **Right of Entry.**
 1. Whenever it shall be necessary for the purposes of this Chapter, the City may enter upon any industrial user's facility, property, or premises subject to this Chapter that is located or conducted or where records are required to be kept for the purposes of:

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- a. Performing all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by an industrial user including the taking of photographs. Compliance monitoring and inspection shall be conducted at a frequency as determined by the City and may be announced or unannounced;
 - b. Examining and copying any records required to be kept under the provisions of this Chapter;
 - c. Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation;
 - d. Sampling any discharge of wastewater into POTW; and/or
 - e. Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under this Chapter, could originate, be stored, used, or be discharged to the POTW.
2. The occupant of such property or premises shall render all proper assistance in such activities. Where an industrial user has security measures in place which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security personnel so that authorized representatives of the City will be permitted to enter without delay to perform their specified functions.
 3. The Director and other duly authorized agents and employees of the City are entitled to enter all private properties through which the City holds an easement.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, § 13.20.010 (part)).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.020 - Definitions and abbreviations.

- A. **Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in Chapter 13.12 shall be as follows:

"Act" or "the Act" means The Federal Water Pollution Control Act, also known as the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

"Approval Authority" means The State Director in an NPDES state with an approved State Pretreatment Program or the Regional Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

"Authorized Representative of the Industrial User" means

1. If the industrial user is a corporation:
 - a. The president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - b. The manager of one (1) 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 Industrial Discharge Permit requirements; and where authority

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to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. If the industrial user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
3. If the industrial user is a federal, state, or local governmental facility: a city 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 subsections 1. through 3. above, may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

"Best Management Practice" (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in [Section 13.12.030](#). BMPs are Pretreatment Standards. BMPs may include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

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

"Bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility pursuant to [Section 13.12.110 C](#).

"Categorical Pretreatment Standard" or "Categorical Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) or the Act (33 U.S.C. Section 1317) that apply to a specific category of industrial users and that appear in 40 CFR chapter I, subchapter N, Parts 405-471.

"Composite sample" means a representative flow-proportioned sample generally collected within a twenty-four-hour period and combined according to flow. Time-proportional sampling may be approved or used by the City where time-proportional samples are believed representative of the discharge.

"Control Authority" means the City of Great Falls.

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

"Domestic (sanitary) wastes" means liquid wastes: 1. from the non-commercial preparation, cooking, and handling of food, or 2. containing only human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

"Environmental Protection Agency" or "EPA" means the U. S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

~~"Existing Source" means an industrial user which is in operation at the time of promulgation of Categorical Pretreatment Standards and any industrial user not included in the definition of "New Source".~~

"Fats, Oil and Grease" or "FOG" means non-petroleum organic polar compounds derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple

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carbon chain triglyceride molecules. These substances are detectable and measurable using analytical procedures established in the 40 CFR Part 136.

"Grab sample" means a sample which is taken from a waste stream on a one-time basis with no regard to the flow and over a period of time not to exceed fifteen (15) minutes.

"Hauled wastes" means any sewage or wastewater contained in a tank or similar apparatus and which is transportable by vehicle, rail car or other mode.

"Indirect discharge" means the discharge or the introduction of pollutants into the POTW from a non-domestic source regulated under Section 307(b), (c) or (d) of the Act (including hauled wastes).

"Industrial" means of, or pertaining to, industry, manufacturing, commerce, trade, or business as distinguished from domestic or residential.

"Industrial Discharge Permit" means the document or documents issued to an industrial user by the City in accordance with the terms of this Chapter that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW as set forth in [Section 13.12.050](#) of this Chapter.

"Industrial user" means a source of Indirect Discharge.

"Industrial wastes" or "non-domestic wastes" means the liquid or solid wastes from industrial manufacturing processes, trade or business activities producing non-domestic or non-residential sewage as distinct from domestic wastewater.

"Instantaneous limit" means the maximum concentration of a pollutant or measurement of a pollutant property allowed to be discharged at any time. For pollutants, compliance is typically determined by use of a grab sample.

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

1. Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and
2. Therefore, is a cause of violation of any requirement of the POTW's Montana Pollutant Discharge Elimination System (MPDES) permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder, 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.

"Local limit" means specific discharge limits and BMPs developed, applied, and enforced upon industrial users to implement the general and specific discharge prohibitions listed in [Section 13.12.030](#). Local limits are Pretreatment Standards.

"New Source" means:

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 which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

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- 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 paragraphs 1.b. or 1.c. of this section, 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:
 - 1) Any placement, assembly, or installation of facilities or equipment; or
 - 2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is 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.

"Normal domestic strength wastewater" means wastewater, when analyzed in accordance with procedures established by the EPA pursuant to 40 CFR Part 136, as amended, contains no more than two hundred (200) mg/L of BOD and/or two hundred fifty (250) mg/L of TSS. Discharges that exceed the level of BOD and TSS are subject charges for extra strength wastewater charges pursuant to [Section 13.18.060](#) in addition to any Pretreatment Standards and Requirements established in this Chapter.

"Non-contact cooling water" means cooling water that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

"Non-Significant Industrial User" means any industrial user which does not meet the definition of a Significant Industrial User, but is otherwise required by the City through permit, order or notice to comply with specific provisions of this Chapter and is so notified by the City.

"Pass Through" means 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 Montana Pollutant Discharge Elimination System (MPDES) Permit (including an increase in the magnitude or duration of a violation).

"Person" means any individual, firm, company, association, society, corporation or group.

"pH" means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter of solution and reported as Standard Units (SU).

"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance, biological material, biological nutrient, toxic substance, radioactive material, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or

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agricultural wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor) discharged into or with water.

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

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

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

"Pretreatment Standard", "National Pretreatment Standard" or "Standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to [Section 13.12.030](#) and includes the Specific Prohibitions, local limits and Best Management Practices that are or may be established by the City. In cases of differing Standards or regulations, the more stringent shall apply.

"Publicly Owned Treatment Works" or "POTW" means a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are by contract or agreement with the City, users of the City's POTW.

"Sector control program" means a program to control specific pollutants from industrial users with similar waste generation or treatment through the implementation of Pretreatment Standards and Requirements, including Best Management Practices. These sector control program requirements may be found at [Section 13.12.090](#) of this Chapter.

"Significant Industrial User" is any industrial user which:

1. Is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or
2. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); or
3. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
4. Has reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

"Significant Noncompliance" applies to a Significant Industrial User (or any Industrial User which violates paragraphs 3, 4, or 8) if its violation meets one (1) or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits.
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-

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month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

3. Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public).
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
5. Failure to meet, within ninety (90) days after the schedule date a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
6. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance.
8. Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

"Slug discharge" means 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 this chapter, including a discharge which exceeds the hydraulic or design of an industrial users treatment system or any part of the treatment unit.

"Total Suspended Solids" or "TSS" means the total suspended matter, expressed in milligrams per liter, that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering in accordance with procedures approved in 40 CFR Part 136.

"Toxic pollutants" includes but is not limited to any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of Section 307(a) of the Act (33 U.S.C. §1317(a)) or as otherwise listed at 40 CFR Part 122, Appendix D.

"Upset" means an exceptional incident in which a treatment works is unintentionally and temporarily in a state of noncompliance with Categorical Pretreatment Standards pursuant to [Section 13.12.110 B](#).

Any other term not herein defined shall be defined as presented in the "Glossary — Water and Sewage Control Engineering," A.P.H.A., A.S.C.E. and W.P.C.F., latest edition or 40 CFR Part 403.

B. Abbreviations.

ASTM	American Society Testing Materials
BMP	Best Management Practices
BOD	Biochemical Oxygen Demand

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°C	degrees Celsius
CFR	Code of Federal Regulations
CWA	Clean Water Act
EPA	Environmental Protection Agency
FOG	Fats, Oils and Grease
mg/L	milligrams per Liter
MPDES	Montana Pollutant Discharge Elimination System
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
USC	United States Code
TSS	Total Suspended Solids
WPCF	Water Pollution Control Federation

(Ord. 2645, 1993; Ord. 2601, 1991, § 13.20.011; Ord. 2551 §§ 2, 3, 1989; Ord. 2532 § 3, 1989; Ord. 2531 §§ 1, 2, 1989, Ord. 2386 Exh. A (part), 1985; Ord. 2334, Exh. B (part), 1984, § 13.16.010).
(Ord. No. 3050, § 1, 8-3-2010)

13.12.030 - Prohibited discharges and limitations.

- A. **General Prohibitions.** An industrial user may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in

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paragraph B. of this section apply to each industrial user introducing pollutants into a POTW whether or not the industrial user is subject to other Pretreatment Standards or Requirements.

- B. Specific Prohibitions.** It shall be unlawful for any industrial user to discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system of the City any wastewater which contains the following:
1. Pollutants which create a fire or explosion hazard in the POTW. More specifically, no industrial user shall discharge any wastestream with a closed cup flashpoint of less than sixty (60) degrees Celsius (one hundred forty (140) degrees Fahrenheit) using the test methods specified in 40 CFR Section 261.21. The Director may require industrial users with the potential to discharge flammable, combustible or explosive substances to install and maintain an approved combustible gas detection meter or explosion hazard meter. No two (2) successive readings on an explosion hazard meter at the point of discharge shall be more than five (5) percent, nor any one (1) reading more than ten (10) percent, of the Lower Explosive Limit (LEL) of the meter.
 2. Pollutants which will cause corrosive structural damage to the POTW but in no case discharges with pH lower than pH 5.5.
 3. Solid or viscous substances which may cause obstruction in the sewage system or otherwise cause Interference to the POTW.
 4. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Pass Through or Interference with the POTW.
 5. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds forty (40) °C (one hundred four (104) °F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.
 6. Stormwater drainage from ground resulting in Infiltration and Inflow (I&I) through the industrial user's service line(s), surface, roof drains, catch basins, unroofed area drains (e.g. commercial car washing facilities) or any other source unless otherwise approved by the Director. Specifically prohibited is the connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to the City's wastewater collection system. No person shall connect or discharge water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction activities.
 7. A Slug Discharge as defined in [Section 13.12.020 A](#).
 8. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Pass Through or Interference.
 9. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute health and safety hazards for employees of the City employed at the POTW.
 10. Trucked or hauled pollutants except as authorized by the Director and only at discharge points designated by the Director.
 11. Any water or waste which contains grease or oil or any other substances that will solidify or become discernibly viscous at temperatures between thirty-two (32) degrees Fahrenheit (32° F. or 0° Celsius) and one hundred fifty (150) degrees Fahrenheit (150° F or 65.5° Celsius) and cause or contribute to Interference or Pass Through.

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12. Any pollutant directly into a manhole or other opening in the POTW unless specifically authorized by the City or as otherwise permitted under this Chapter. Prohibited is the opening of a manhole or discharging into any opening in violation of this Chapter.
 13. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable state or federal regulations.
 14. Liquid wastes from chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the POTW except at locations authorized by the City to collect such wastes.
- C. **Specific Discharge Limitations.** It shall be unlawful for any Significant Industrial User to discharge, deposit, cause, or allow to be discharged any waste or wastewater which fails to comply with the limitations imposed by this Section.
1. Dilution is prohibited as a substitute for treatment and shall be a violation of this Chapter. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The City may impose mass limitations on industrial users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the imposition of mass limitations is appropriate.
 2. No Significant Industrial User shall discharge wastewater that exceeds the following limits:

MAXIMUM CONTRIBUTION

POLLUTANT	SYMBOL	Daily Maximum
Arsenic, Total	As	1.57 mg/l
Cadmium, Total	Cd	3.51 mg/l
Chromium, Total	Cr	5.92 mg/l
Chromium (III)	Cr (III)	0.57 mg/l
Chromium (VI)	Cr (VI)	0.04 mg/l
Copper, Total ⁽¹⁾	Cu	1.543 lbs/day
Lead, Total	Pb	0.14 mg/l
Mercury, Total	Hg	0.02 mg/l
Nickel, Total	Ni	0.59 mg/l

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Selenium, Total ⁽¹⁾	Se	0.281 lbs/day
Silver, Total	Ag	0.62 mg/l
Zinc, Total	Zn	2.13 mg/l
Sulfide, Total		3608 mg/l

⁽¹⁾ The loading specified is the total loading for this pollutant that is available to all Significant Industrial Users. The City shall not allocate more pollutant loading through control mechanisms than is available for discharge as specified in this table.

3. All industrial users subject to a Categorical Pretreatment Standard shall comply with all requirements of such Standard, and shall also comply with any limitations contained in this Chapter. Where the same pollutant is limited by more than one (1) Pretreatment Standard, the limitations which are more stringent shall prevail. Compliance with Categorical Pretreatment Standards shall be the timeframe specified in the applicable Categorical Pretreatment Standard.
4. The City may establish more stringent pollutant limits, additional site-specific pollutant limits, Best Management Practices, or additional Pretreatment Requirements when, in the judgment of the City, such limitations are necessary to implement the provisions of this Chapter.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, § 13.20.020).

(Ord. No. 3050, § 1, 8-3-2010; Ord. No. 3082, § 1(Exh. A), 11-1-2011)

13.12.040 - Pretreatment and monitoring facilities.

- A. An industrial user shall provide necessary wastewater treatment as required to comply with this Chapter and shall achieve compliance with all Pretreatment Standards and Requirements within the time limitations specified by EPA, the state, or the City, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the Director shall be provided, operated and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director for review and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Director prior to the industrial user's initiation of the changes.
- B. The City may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specified sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and demonstrate the industrial user's compliance with the requirements of this Chapter.
- C. The City may require any industrial user discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An Industrial Discharge Permit may be issued solely for flow equalization.

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- D. Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- E. The City may require an industrial user to install at the industrial user's expense, suitable monitoring facilities or equipment that allows for the representative sampling and accurate observation of wastewater discharges. Such equipment shall be maintained in proper working order and kept safe and accessible at all times to City personnel.
- F. The monitoring equipment shall be located and maintained on the industrial user's premises outside of the building unless otherwise approved by the City. When such a location would be impractical, the City may allow such facility to be constructed in the public street or easement area, with the approval of the agency having jurisdiction over such street or easement, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.
- G. When more than one (1) industrial user is able to discharge into a common service line, the City may require installation of separate monitoring equipment for each industrial user.
- H. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the City's requirements and all applicable construction standards and specifications.
- I. Industrial users who discharge process wastewaters determined by the City to contain pollutants necessitating continuous pH measurement to demonstrate compliance shall, subsequent to notification by the City, install a continuous recording pH meter as approved by the City. Such meter shall be installed, operated and maintained at the industrial user's own cost and expense.
- J. If the City determines that an industrial user needs to measure and report wastewater flow, the industrial user shall install an approved flow meter. Such meter shall be installed, operated and maintained at the industrial user's own cost and expense.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, § 13.20.040).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.050 - Industrial discharge permits.

- A. **Permits Required.** All Significant Industrial Users proposing to connect to, or discharge into any part of the wastewater system, shall apply for and obtain an Industrial Discharge Permit prior to commencing discharge to the POTW. A separate permit may be required for each industrial user, building or complex of buildings. The discharge of wastewater to the POTW without a valid permit from a Significant Industrial User shall be a violation of this Chapter. Such Significant Industrial Users shall immediately contact the City and obtain a permit for discharge.
- B. **New Industrial Users: Applying for an Industrial Discharge Permit.** Any industrial user required to obtain an Industrial Discharge Permit who proposes to begin or recommence discharging into the POTW must apply for and obtain such permit prior to the beginning or recommencing of such discharge. The industrial user shall file a permit application on forms provided by the City containing the information specified in paragraph F. below. The completed application for the Industrial Discharge Permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.
- C. **Existing Industrial Users: Applying for an Industrial Discharge Permit Re-issuance.** An industrial user with an expiring Industrial Discharge Permit shall apply for a new permit by submitting a complete permit application at least ninety (90) days prior to the expiration of the industrial user's existing discharge permit. The industrial user shall file a permit application on forms provided by the City containing the information specified in paragraph F. below. An industrial user with an existing permit that has filed a complete and timely application may continue to discharge as approved by the City through an administrative extension of the existing permit.

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- D. **Other Industrial Users.** The City may require other Non-Significant Industrial Users to apply for and obtain wastewater discharge permits necessary to carry out the purposes of this Chapter. The City may issue a discharge permit to prohibit the discharge of some or all non-domestic process wastewater from an industrial user.
- E. **Enforceability.** Any violation of the terms and conditions of an Industrial Discharge Permit, failure to apply for a permit as required, or discharging without a required permit shall be deemed a violation of this Chapter and subjects the industrial user to enforcement by the City. Obtaining an Industrial Discharge Permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements.
- F. **Permit Application Contents.** In support of the application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:
1. Name of business, address of the facility, location of the discharge if different from facility address, contact information for the Authorized Representative of the Industrial User and a description of the activities, facilities, and/or manufacturing process at the facility.
 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);
 - b. The Standard Industrial Classification(s) of the operation(s) carried out by such industrial user;
 - c. A schematic process diagram, which indicates points of discharge to the POTW from the regulated process;
 - d. Types of wastes generated;
 - e. A list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - f. Number of employees; and
 - g. Hours of operation.
 4. Time and duration of discharges.
 5. The location for sampling the wastewater discharges from the industrial user.
 6. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR Section 403.6(e). For New Sources and new permittees not currently discharging, an estimate of flows may be used for meeting the requirements of the Baseline Monitoring Report required in [Section 13.12.080](#)
 7. Measurement of Pollutants.
 - a. The Pretreatment Standards applicable to each regulated process;
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass of regulated pollutants in the discharge from each regulated process where required by the Standard or by the City;
 - c. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported;

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- d. The sample shall be representative of daily operations and shall be collected in accordance with procedures set out in [Section 13.12.070](#). Where the Standard requires compliance with a BMP or pollution prevention alternative, the industrial user shall submit documentation as required by the City or the applicable Standards to determine compliance with the Standard; and
- e. Analyses must be performed in accordance with procedures set out in [13.12.070](#)
8. Accidental or slug discharge control plans as described in [Section 13.12.080](#) shall be submitted.
9. Compliance Schedule. If additional pretreatment and/or Operation and Maintenance (O&M) will be required to meet the Pretreatment Standards, the shortest schedule by which the industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

- a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable Pretreatment Standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No such increment shall exceed nine (9) months.
- b. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director.
10. Certification. A statement, reviewed by an Authorized Representative of the Industrial User and certified to 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 for the industrial user to meet the Pretreatment Standards and Requirements.
11. Any other information as may be deemed by the Director to be necessary to evaluate the permit application;
12. Application Signatory. All Industrial Discharge Permit applications and certification statements must be signed by an Authorized Representative of the Industrial User and contain the applicable certification statement(s) in [Section 13.12.080](#)

G. Industrial Discharge Permit Issuance.

1. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than five (5) years at the City's discretion or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as identified in paragraph J. below. The industrial user shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a time schedule for the industrial user to achieve compliance with such changes or new conditions.
2. Where the City is establishing permit specific Pretreatment Standards, the permit shall be noticed for public comment for thirty (30) days in a newspaper of general circulation that provides meaningful public notice. The City shall consider all comments that are received and incorporate any comments as appropriate prior to issuing the permit.

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3. The City shall issue an Industrial Discharge Permit to the applicant if the City finds that all of the following conditions are met:
 - a. The applicant has provided a timely and complete permit application to the City;
 - b. The proposed discharge by the applicant is in compliance with the limitations established in this Chapter;
 - c. The proposed operation and discharge of the applicant would permit the normal and efficient operation of the POTW; and
 - d. The proposed discharge of the applicant would not result in a violation by the City of the terms and conditions of its MPDES Permit or cause pass through or interference.
 4. If the City finds that the condition set out in subsection 3.b. of this Section is not met, the City may, at their discretion, issue an Industrial Discharge Permit to the applicant if the conditions set out in subsections 3.a., 3.c. and 3.d. of this paragraph have been met and if the applicant submits, and the City approves, a compliance schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to insure compliance with applicable Pretreatment Standards. At no time shall a discharge be allowed to cause violations of the General and Specific Prohibitions established in [Section 13.12.030](#) nor shall the final compliance date for a Categorical Pretreatment Standard be extended.
- H. **Transferability.** Industrial Discharge Permits are issued to a specific industrial user for a specific operation. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new industrial user, different premises, or a new or changed operation without the prior written approval of the City. Any succeeding owner or industrial user shall also comply with the terms and conditions of the existing permit until a new permit is issued.
- I. **Industrial Discharge Permit Conditions.** Industrial Discharge Permits shall be expressly subject to all provisions of this Chapter and all other applicable regulations, user charges and fees established by the City.

Permits may contain the following:

1. A statement that indicates the permit's issuance date, expiration date and effective date;
2. A statement on permit transferability;
3. The unit charge or schedule of user charges and fees for the wastewater to be discharged into a public sewer;
4. Limits on the average and/or maximum wastewater constituents and characteristics, including but not limited to, effluent limits, including Best Management Practices, based upon applicable Pretreatment Standards;
5. Limits on average and maximum rate and time of discharge or requirements for flow;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
7. Self-monitoring, sampling, reporting, notification and record-keeping requirements, including but not limited to, identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on federal, state and local law;
8. Best Management Practices (BMPs) to control specific pollutants as necessary to meet the objectives of this Chapter;
9. Compliance Schedules;
10. Requirements for maintaining and retaining records;

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11. Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
 12. Requirements to control Slug Discharges, to notify the City immediately of any changes at its facility affecting potential for a Spill or Slug Discharge and to notify the POTW immediately in the event of a slug, spill or accidental discharge to the POTW;
 13. Statements of applicable administrative, civil and criminal penalties for the violation of Pretreatment Standards and Requirements, the permit, this Chapter, and any applicable compliance schedule;
 14. Requirements to reapply for a new permit prior to expiration of the existing permit;
 15. Additional monitoring to be reported;
 16. 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;
 17. Closure requirements for permitted facilities undergoing partial or complete closure activities to ensure closure activities are completed and wastes have been properly disposed and remaining access to sanitary and storm sewers are protected;
 18. Other conditions as deemed appropriate by the City or the Director to ensure compliance with all applicable rules and regulations.
- J. **Industrial Discharge Permit Modifications.** The City may modify an Industrial 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 industrial user's operation, processes, or wastewater volume or character since the time of the Industrial 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 POTW, City personnel, or the receiving waters;
 5. Violation of any terms or conditions of the Industrial Discharge Permit;
 6. Misrepresentations or failure to fully disclose all relevant facts in the Industrial Discharge Permit application or in any required reporting; or
 7. To correct typographical or other errors in the Industrial Discharge Permit.
- K. **Industrial Discharge Permit Revocation.** A violation of the conditions of a permit or of this Chapter or of applicable state and federal regulations shall be reason for revocation of such permit by the City. Upon revocation of the permit, any wastewater discharge from the affected industrial user shall be considered prohibited and in violation of this Chapter. Grounds for revocation of a permit include, but are not limited to, the following:
1. Failure of an industrial user to accurately disclose or report the wastewater constituents and characteristics of their discharge;
 2. Failure of the industrial user to report significant changes in operations or wastewater constituents and characteristics;
 3. Refusal of access to the industrial user's premises for the purpose of inspection or monitoring;

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4. Falsification of records, reports or monitoring results;
5. Tampering with monitoring equipment;
6. Violation of conditions of the permit;
7. Misrepresentation or failure to fully disclose all relevant facts in the Industrial Discharge Permit application;
8. Failure to pay fines or penalties;
9. Failure to pay sewer charges;
10. Failure to pay permit and sampling fees; or
11. Failure to meet compliance schedules.

L. **Special Agreements and Contracts.** No statement contained in this Chapter shall be construed as prohibiting special written agreements between the City and any industrial user allowing industrial waste of unusual strength or character to be admitted to the POTW system, provided the industrial user compensates the City for any additional costs of treatment. The Director may execute an agreement to exceed the specific limitations contained in [Section 13.12.030](#), C. only if the Director finds that:

1. Acceptance of the discharge does not adversely affect the wastewater utility nor cause violation of the City's MPDES permit, cause a violation of the General and Specific Prohibitions specified in [Section 13.12.030](#), A. or B., does not cause the City to exceed its approved Maximum Allowable Industrial Loading (MAIL) or applicable federal and state laws; and
2. The agreement does not waive compliance with Categorical Pretreatment Standards.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, §13.20.050).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.060 - Promulgation of new pretreatment standards.

- A. Upon the promulgation of the Federal Categorical Pretreatment Standard for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed by this Chapter for sources in that subcategory, shall immediately supersede the limitations imposed by this Chapter.
- B. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this Chapter.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, §13.20.150).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.070 - Sample collection and analytical methods.

- A. **Sample Collection.** Compliance determinations with respect to prohibitions and limitations in this Chapter may be made on the basis of either grab or composite samples of wastewater as specified by the City. Such samples shall be taken at a point or points which the City determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty-four (24) hour period, or over a longer or shorter time span, as determined by the City to meet specific circumstances.
- B. **Sample Type.** 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, and based on data that is representative of conditions occurring during the reporting period.

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1. Except as indicated in subparagraphs 2. and 3. below, the industrial user must collect representative wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is required by the City. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the permitted discharge.
 2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (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. Composited 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 local limits, including pH.
 3. For sampling required in support of Baseline Monitoring Reports and 90-Day Compliance Reports required in [Section 13.12.080](#), 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 representative sampling data do not exist. Where historical data are available, the City may authorize a lower minimum. For the reports required by [Section 13.12.080](#), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.
- C. **Analytical Requirements.** All pollutant analysis, including sampling techniques, to be submitted as part of an Industrial Discharge Permit application, report, permit or other analyses required under this Chapter 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 City or other parties approved by the EPA.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, prior code section 13.20.110).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.080 - Reporting requirements.

A. Recordkeeping.

1. All industrial users shall retain, and make available for inspection and copying, all records, reports, monitoring or other data, applications, permits and all other information and documentation required by this Chapter including documentation associated with Best Management Practices.
2. Such records shall include for all samples:
 - a. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
 - b. The dates analyses were performed;
 - c. Who performed the analyses;
 - d. The analytical techniques/methods used; and

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- e. The results of such analyses.

Industrial users shall retain such records and shall keep such records available for inspection for at least three (3) years. This recordkeeping period shall be extended automatically for the duration of any litigation concerning the industrial user's compliance with any provision of this Chapter, or when the industrial user has been specifically and expressly notified of a longer records retention period by the Director.

B. Confidential Information - Disclosure of Information and Availability to the Public.

1. All records, reports, data or other information supplied by any person or industrial user as a result of any disclosure required by this Chapter or information and data from inspections shall be available for public inspection except as otherwise provided in this Section, 40 CFR Section 403.14 and the Montana Open Records Law (Mont. Code Ann. Section 2-6-401 et. seq.).
2. These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include but shall not be limited to processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted by the industrial user which is desired to be considered a trade secret shall have the words, "Confidential Business Information," stamped on each page containing such information. The industrial user must demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

Information designated as a trade secret pursuant to this Section shall remain confidential and shall not be subject to public inspection. Such information shall be available only to officers, employees or authorized representatives of the City charged with implementing and enforcing the provisions of this Chapter and properly identified representatives of the U.S. Environmental Protection Agency and the Montana Department of Environmental Quality.

Effluent data from any industrial user whether obtained by self-monitoring, monitoring by the City or monitoring by any state or federal agency, shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.

C. Periodic Compliance Reports - All Significant Industrial Users.

1. Any industrial user subject to a federal, state, or City Pretreatment Standard or Requirement must, at a frequency determined by the City submit no less than once per six (6) months, unless required more frequently in the permit or by the City, reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practices (BMPs) or pollution prevention alternatives, the industrial user must submit documentation required by the City or the Pretreatment Standard necessary to determine compliance status of the industrial user. All periodic compliance reports must be signed and certified in accordance with [Section 13.12.080 J](#).
2. All wastewater samples must be representative of the industrial 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 an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that the sample results are unrepresentative of its discharge.
3. If an industrial user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City, using the methods and procedures prescribed in [Section 13.12.070](#), the results of this monitoring shall be included in the report.

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4. The sampling and analyses required for the reporting outlined above may be performed by the City in lieu of the permittee. Where the City itself makes arrangements with the industrial user to collect all the information required for the report, the industrial user will not be required to submit the report.

D. Baseline Monitoring Reports (BMR) - Categorical Industrial Users.

1. 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 Section 403.6(a)(4), whichever is later, existing industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the City 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 City a report which contains the information listed in paragraph D.2. below. A New Source shall report the method of pretreatment it intends to use to meet applicable Pretreatment Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged from regulated process streams and other non-process streams.
2. Industrial users described above shall submit the information set forth below.
 - a. All information required in [Section 13.12.050](#), F.
 - b. Measurement of pollutants.
 - 1) The industrial user shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this paragraph.
 - 2) 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 industrial user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR Section 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR Section 403.6(e) this adjusted limit along with supporting data shall be submitted to the City.
 - 3) Sampling and analysis shall be performed in accordance with [Section 13.12.070](#)
 - 4) The City may allow the submission of a BMR which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
 - 5) The BMR 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.
 - 6) Signature and Report Certification. All baseline monitoring reports must be signed in accordance with [Section 13.12.080](#) J. and signed by an Authorized Representative as defined in [13.12.020](#)

E. 90-Day Compliance Reports - Categorical Industrial Users.

1. **New Sources:** All New Sources subject to existing Categorical Pretreatment Standards shall submit a report to the City within ninety (90) days from the date of first discharge to the POTW demonstrating actual and continuing compliance with those standards.
2. **Existing Sources:** All Existing Sources required to comply with newly promulgated Categorical Pretreatment Standards shall submit a report to the City within ninety (90) days of the date on which compliance is required with those standards demonstrating that actual and continuing compliance with such standards has been achieved.

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3. Such ninety (90) day Compliance Report shall contain at a minimum the information required in [Section 13.12.050](#) F. subparagraphs 6, 7, 10, 11, and 12.
- F. **Twenty-Four-Hour Notice and Thirty-Day Re-sampling.** If sampling performed by an industrial user indicates a violation of this Chapter, the industrial user shall notify the City within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violations. The industrial user is not required to resample if the following occurs:
1. The City performs sampling at the industrial user's facility at a frequency of at least once per month.
 2. The City performs sampling at the industrial user's facility between the time when the industrial user performs its initial sampling and the time when the industrial user receives the results of this sampling. It is the sole responsibility of the industrial user to verify if the City has performed this sampling.
- G. **Slug/Spill Plan.**
1. Each industrial user shall provide protection from accidental discharges and slug loads of pollutants regulated under this Chapter. Facilities to prevent the discharge of spills or slug loads shall be provided and maintained at the industrial user's expense.
 2. The City shall evaluate whether each Significant Industrial User needs a Spill Prevention and Control Plan or other action to control spills and slug discharges. The City may require an industrial user to develop, submit for approval, and implement a Slug/Spill Plan or take such other action that may be necessary to control spills and slug discharges.
 3. A Slug/Spill Plan shall address, at a minimum, the following:
 - a. Detailed plans (schematics) showing facility layout and plumbing representative of operating procedures;
 - b. Description of contents and volumes of any process tanks;
 - c. Description of discharge practices, including non-routine batch discharges;
 - d. Listing of stored chemicals, including location and volumes;
 - e. Procedures for immediately notifying the City of any spill or Slug Discharge. It is the responsibility of the industrial user to comply with the reporting requirements in [13.12.080](#) H.;
 - f. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response; and
 - g. Any other information as required by the City.
 4. Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees who to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who work in any area where an accidental or slug discharge may occur or originate are advised of the emergency notification procedures.
- H. **Reports of Potential Problems - Slug and Spills.**

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1. In the case of any discharge, including, but not limited to, spills, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or a discharge that may cause potential problems for the POTW, the industrial user shall immediately telephone and notify the City of the incident. This notification shall include:
 - a. Name of the facility.
 - b. Location of the facility.
 - c. Name of the caller.
 - d. Date and time of the discharge.
 - e. Date and time discharge was halted.
 - f. Location of the discharge.
 - g. Estimated volume of the discharge.
 - h. Estimated concentration of pollutants in the discharge.
 - i. Corrective actions taken to halt the discharge.
 - j. Method of disposal, if applicable.
 2. Within five (5) working days following such discharge, the industrial user shall, unless waived by the City, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, penalties, or other liability which may be imposed pursuant to this Chapter.
- I. **Reports for Non-Significant Industrial Users.** The City may require any Non-Significant Industrial User of the POTW to submit reports as necessary to carry out the provisions of this Chapter, independent of whether or not the industrial user has applied for or obtained a wastewater discharge permit as specified in [13.12.050](#) D.
- J. **Signatory Certification.** All reports and other submittals required to be submitted to the City shall include the following statement and signatory requirements:
1. The Authorized Representative of the industrial user signing any application, questionnaire, report or other information required to be submitted to the City must sign and attach the following certification statement with each such report or information submitted to the City:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or the 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 a fine and imprisonment for knowing violations."
 2. If the 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 authorization satisfying the requirements provided in the definition of Authorized Representative of the Industrial User (Section [13.12.010](#)) must be submitted to the City prior to or together with any reports to be signed by an authorized representative.
- K. **Compliance Schedules.** Should any schedule of compliance be established in accordance with the requirements of this Chapter, the following conditions shall apply to such schedule:

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1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);
 2. No increment referred to above shall exceed nine (9) months;
 3. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the City including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the City.
- L. **Change in Discharge or Operations.** Every Significant Industrial User shall file a notification to the City a minimum of fourteen (14) days prior to any planned significant change in operations or wastewater characteristics. A significant change shall be a change equal to or greater than twenty (20) percent in the mass of a pollutant or volume of flow discharged to the POTW. In addition, this notification shall include changes to:
1. Adding or removing processing, manufacturing or other production operations.
 2. New substances used which may be discharged.
 3. Changes in the listed or characteristic hazardous waste for which the industrial user has submitted or is required to submit information to the City as required by paragraph M. below, this Chapter and 40 CFR Section 403.12 (p) as amended.
- M. **Notification of the Discharge of Hazardous Waste.**
1. Any industrial user shall notify the City, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification to the City shall be made within the appropriate time frames specified in [Section 13.12.080](#) paragraphs F, H, and L.
Such notification must include:
 - a. The name of the hazardous waste as set forth 40 CFR Part 261;
 - b. The EPA hazardous waste number;
 - c. The type of discharge (continuous, batch, or other).
 - d. An identification of the hazardous constituents contained in the wastes;
 - e. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
 - f. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;
 - g. Certification that the industrial user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and
 - h. Signatory certification as required by [Section 13.12.080](#) J.
 2. Any industrial user shall notify the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of the discharge into the POTW of a substance

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which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261 and meets the reporting criteria specified at 40 CFR 403.12(p). Notification to the State and EPA is the responsibility of the industrial user and shall be made as required under 40 CFR §403.12(p). The industrial user shall copy the City on all notifications made to the State and EPA.

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

(Ord. 2386 Exh. A (part), 1985, §13.20.130).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.090 - Sector control programs.

A. General Requirements.

1. **Authority.** The City may establish specific sector control programs for industrial users to control specific pollutants as necessary to meet the objectives of this Chapter. Pollutants subject to these sector control programs shall generally be controlled using Best Management Practices (BMPs) or by permits as determined by the City. These sector control programs shall not limit the City's authority to inspect, sample, require reports, enforce or otherwise carry out its responsibility under this Chapter.
2. **Notification to the City by the Industrial User and Management Review.** The City shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other change that could affect the nature, properties, or volume of wastewater discharge, to ensure that current sector control program requirements are incorporated and implemented.
3. When a sector control program is adopted, the industrial users covered by that sector control program shall inform the City prior to:
 - a. Sale or transfer of ownership of the business; or
 - b. Change in the trade name under which the business is operated; or
 - c. Change in the nature of the services provided that affect the potential to discharge sector control program pollutants; or
 - d. Remodeling of the facility that may result in an increase in flow or pollutant loading or that otherwise requires the facility to submit plans or specifications for approval through a building or zoning department, or any other formal approval process of a city, county, or other jurisdiction.
4. **Closure.** The City may require closure of plumbing, treatment devices, storage components, containments, or other such physical structures that are no longer required for their intended purpose. Closure may include the removal of equipment, the filling in and/or cementing, capping, plugging, etc.
5. **Variance.** A variance as to the requirements to install a grease interceptor or sand/oil separator may be granted by the City for good cause. The facility has the burden of proof of demonstrating through data and other information why a variance should be granted. In no case shall a variance result in violation of any requirement or effluent limit specified in this Chapter applicable to the discharge. The granting of any variance shall be at the sole discretion of the City.

If a variance is granted, the facility shall institute Best Management Practices and other mitigation measures as specified by the City. These BMPs may include, but not be limited to:

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- a. Provide quarterly cleaning of its private service line to prevent the buildup of oil, grease and solids;
- b. Submit records of this cleaning to the City within fifteen (15) days of each sewer line cleaning;
- c. Pay the costs incurred by the City for accelerated sewer line cleaning on the City's sewer line providing service to the facility, costs to the City for treating the excess strength waste and any costs for sampling and analysis. The City believes that these costs will be comparable to costs incurred by a user that installs and maintains grease interceptors or oil/sand separators.

6. **Enforcement and Compliance.**

- a. These requirements form a part of this Chapter. Enforcement of this regulation is governed by the express terms herein and the enforcement provisions of [Section 13.12.100](#)
- b. Any costs incurred by the City due to interference, damage, Pass Through, or maintenance necessary in the treatment and/or collection system shall be paid by the industrial user to the City. The direct costs of all labor, equipment and materials incurred in rectifying the interference or damage, including reasonable attorneys fees, shall be billed directly to the owner or the industrial user by the City, and such costs shall become part of the total charges due and owing to the City and shall constitute a lien on the industrial user until paid in full.

B. **Trucked and Hauled Wastes.**

1. **General Requirements.** The requirements established in this Section shall apply to persons and operators of companies who discharge trucked and hauled waste at the POTW, including any discharge that enters the City's sewer system.

2. **Control Requirements.**

- a. **Discharge Permits.** No person or company shall discharge trucked or hauled wastes into any sewer system or treatment works until a discharge permit has been obtained. Such discharge permits will only be issued for the discharge of wastes from septic tanks, grease traps, privies, and sewer cleanings, and for the discharge of other non-hazardous materials and wastes which can be effectively and efficiently treated by the City wastewater treatment works.

Individuals or companies desiring to discharge such wastes to the system shall file an application with the Director for a discharge permit. Discharge permits are not transferable to another vehicle or owner. Discharge permit application forms may be obtained by writing or calling the Public Works Department, City of Great Falls. Vehicles for which a permit has been issued must display such permit in a window of the vehicle during the discharge of wastes to the system such that it can be seen from the outside of the vehicle and will not obstruct the view of the driver of the vehicle.

- b. **Vehicle Maintenance/Operations.** The permittee shall:
 - 1) Maintain tanks, pumps, valves, hoses, racks, cylinders, diaphragms, pipes, connections, and other appurtenances on a vehicle in good repair and free from leaks;
 - 2) Provide a safety plug or cap for each tank;
 - 3) Ensure that the vehicle exterior is clean at the beginning of each work day (prior to entry to the POTW);
 - 4) Clean the inside of tanks to ensure that non-permitted residual wastes are not left in the tank and allowed to mix with permitted wastes;

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- 5) Ensure that tanks are an integral part of a vehicle to transport liquid waste. Portable tanks or other containers temporarily installed in vehicles are prohibited (unless prior approval is obtained from the City, e.g. portable toilets);
 - 6) Piping, valves, and connectors (excluding the discharge hose) shall be permanently attached to tank and/or vehicle;
 - 7) Tanks must be liquid tight and tanks constructed so that every interior and exterior portion can be easily cleaned;
 - 8) Opening of tank to be constructed so that collected waste will not spill during filling, transfer, transport or disposal;
 - 9) Outlet connections to be constructed so that no liquid waste will leak, run, or spill out from the vehicle;
 - 10) Outlets to be of a design and type suitable for the liquid waste handled and capable of controlling flow or discharge without spillage and undue spray on or flooding of immediate surroundings while in use; and
 - 11) Pumps, valves, cylinders, diaphragms, and other appurtenances to be of a design and type suitable for the type of waste handled, capable of operation without spillage, spray, or leakage, and capable of being easily disassembled for cleaning.
- c. **Discharge Permit Renewal.** Discharge permits for discharge of wastes shall be issued for a specified time period, not to exceed five (5) years. The permittee shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the permittee's existing permit. Applications for such permit renewals for each vehicle may be obtained from the Director. If the renewal application is not received within the allotted time, the discharge permit will expire on the existing permit's expiration date. Once a permit has expired, discharge of trucked and hauled waste by the vehicle is prohibited.
 - d. **Permit Suspension and Revocation.** Any discharge or vehicle permit(s) issued in accordance with this Chapter will be subject to suspension or revocation by the City, at its discretion, for failure to submit accurate reports, failure to submit timely reports, failure to pay proper charges, failure to maintain the vehicle as required, failure to discharge at authorized disposal site(s), failure to meet sanitation standards, discharging of industrial sludges or other unacceptable wastes into the system, for any other infraction of this Chapter, or if the Director determines it is necessary to protect the City's facilities. The permittee shall maintain valid and current registrations, permits, and licenses as required by any local, State or federal regulation or requirement.
 - e. **Reports.** The person or company discharging trucked and hauled wastes shall provide a signed Hauled Waste Manifest to the City with each load that disposal is permitted. Copies of the Hauled Waste Manifest may be obtained from the Director. The City shall not allow the discharge of any trucked and hauled wastes to the POTW without a completed and signed Hauled Waste Manifest. Failure to provide a complete and accurate Hauled Waste Manifest shall result in suspension and/or revocation of the discharge permit, forfeiture of the performance bond and possible enforcement action by the City.
 - f. **Authorized Disposal Site(s).** Only those disposal site(s) authorized in the permit shall receive trucked and hauled waste. Disposal of trucked and hauled wastes at sites other than those allowed by permit is prohibited and a violation of this Chapter.
 - g. **Sanitation and Safety Standards.** Each permittee who discharges wastes to the system shall be responsible for the cleanliness and safety practices at the points of disposal. It shall be the responsibility of the permittee to discharge wastes in such a manner as to keep the area clean and free from spills or other debris. Any spills shall be promptly cleaned up. The permittee is also responsible for keeping his vehicle and related facilities

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clean and in good repair while being used for disposal to the POTW. These sanitary and safety practices shall be carried out in a manner acceptable to the City and to appropriate health departments. Failure to comply with these sanitation and safety standards shall be grounds for revocation of the permit.

- h. **Quality of Wastes.** Wastes discharged to the System under a permit granted by this Chapter shall be representative of what the permittee disclosed in the permit application and conform to any local, state or federal standards or requirements. The permittee consents to the City's right to sample and analyze the contents of any vehicle utilizing the POTW for the discharge of wastes and charge the user for such sampling and analytical costs. The purpose of such sampling and analysis will be to determine conformance with this Chapter, the permit and any local, state or federal regulation. It shall be the responsibility of the permittee's driver to assist in sample collection as directed by the City.
- i. **Performance Bond.** The City may decline to issue or reissue a discharge permit to any user who has failed to comply with any provision of this Chapter, a previous discharge permit, or any applicable Pretreatment Standard or Requirement, unless such user first files a satisfactory bond, payable to the City of Great Falls, in a sum not to exceed a value determined by the City to be necessary to achieve consistent compliance. All trucked and hauled waste haulers shall be bonded in an amount of at least twenty-five thousand dollars (\$25,000.00), indemnifying the public against damages sustained by any reason; any spill, dumping or discharge of any liquid waste, hazardous waste, or incompatible waste within the jurisdictional limits of the City. Proof of bonding shall be provided to the City at time of permit application.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, §13.20.142).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.100 - Compliance and enforcement.

- A. **Enforcement Response Plan.** The City may adopt policies and procedures as set forth in the City's Enforcement Response Plan for carrying out the provisions of this Chapter, provided that such policies and procedures are not in conflict with this Chapter or any applicable state or federal law or regulation.
- B. **Publication of Industrial Users in Significant Noncompliance.** The City 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 Significant Industrial Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance as defined in [Section 13.12.020](#) with applicable Pretreatment Standards and Requirements. In addition, any industrial user found to be in Significant Noncompliance with paragraphs 3, 4, or 8 as shown in the definition of Significant Non-Compliance found at [Section 13.12.020](#) shall also be published in the newspaper.
- C. **Administrative Enforcement Actions.**
 - 1. **Notice of Violation (NOV).** When the City finds that an industrial user has violated, or continues to violate, any provision of this Chapter, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon the industrial user a written Notice of violation. Within five (5) working days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction or prevention thereof, to include specific required actions, shall be submitted by the industrial user to the City. The industrial user may also request a meeting with the Director to present further information and explanation. Submission of such a plan in no way relieves the industrial user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

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2. **Suspension of Service.** The City, through the Director of Public Works, may suspend water service and/or wastewater treatment service and/or revoke an Industrial Discharge Permit (Section [13.12.050](#) K.) when such revocation is necessary in the opinion of the Director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, the environment, causes Pass Through or Interference or causes the City to violate any condition of its MPDES Permit.

Any person notified of a suspension of the water service and/or wastewater treatment service and/or the Industrial Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The City may reinstate the Industrial Discharge Permit, water service and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge.

3. **Administrative Compliance Order.** When the City finds that an industrial user has violated, or continues to violate, any provision of this Chapter, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an order to the industrial user responsible for the discharge directing that the industrial user come into compliance within a specific time. If the industrial 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 industrial 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 industrial user.
4. **Consent Orders.** The City may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any industrial user responsible for noncompliance. Such documents shall include specific actions to be taken by the industrial user to correct the noncompliance within a time period specified by the document. A consent order may include penalties, supplemental environmental projects, or other conditions and requirements as agreed to by the City and the industrial user.
5. **Show Cause Hearing.**
 - a. The City may order any industrial user who causes or allows an unauthorized discharge to enter the POTW to show cause before an ad hoc committee appointed by the City Manager why the proposed enforcement action should not be taken. A notice shall be served on the industrial user specifying the time and place of a hearing to be held by the ad hoc committee regarding the violation, the reasons why the proposed action is to be taken, and directing the industrial user to show cause before the ad hoc committee why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or be registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation or other Authorized Representative of the Industrial User.
 - b. At any hearing held pursuant to the Chapter, testimony taken must be under oath and recorded. The transcript of testimony will be made available to any member of the public and any party to the hearing upon payment of charges for the preparation thereof. The hearing may be suspended or continued at the discretion of the presiding officer, provided that all evidence is received and the hearing is closed within sixty (60) days after it is commenced.

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- c. After the ad hoc committee has reviewed the evidence, it shall issue an order to the industrial user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate to correct the violation may be issued.

6. **Administrative Fines.**

- a. When the City finds that an industrial user has violated, or continues to violate, any provision of this Chapter, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or requirement, the City may fine such industrial user in an amount not to exceed one thousand dollars (\$1,000.00) per day per violation. Such fines shall be assessed on a per-violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- b. A lien against the industrial user's property shall be sought for unpaid charges, fines, and penalties.
- c. Industrial users desiring to appeal such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Such notice or appeal shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and request a hearing pursuant to procedures outlined in [Section 13.12.100](#), C.5.
- d. Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

D. **Judicial Enforcement Remedies.**

1. **Injunctive Relief.** When the City finds that an industrial user has violated, or continues to violate, any provision of this Chapter, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or requirement, the City may petition the District Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Industrial Discharge Permit, order, or other requirement imposed by this Chapter on activities of the industrial user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the industrial user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an industrial user.
2. **Civil Penalties.**
 - a. An industrial user who has violated, or continues to violate, any provision of this Chapter, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or requirement shall be liable to the City for a maximum civil penalty not to exceed one thousand dollars (\$1,000.00) per day per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.
 - b. The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
 - c. 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 industrial user's violation, corrective actions by the industrial user, the compliance history of the industrial user, and any other factor as justice requires.

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- d. Actions for civil penalties shall be civil actions brought in the name of the City. The City must prove alleged violations by a preponderance of the evidence.
 - e. Filing a suit for civil penalties shall not be bar against, or a prerequisite for, taking any other action against an industrial user.
3. **Civil Fine Pass Through.** In the event that an industrial user discharges such pollutants which cause the City to violate any condition of its MPDES permit and the City is fined by the EPA or the State for such violation, then such industrial user shall be fully liable for the total amount of the fine and/or supplemental environmental project that results from such action by the EPA and/or the State.
 4. **Criminal Prosecution.** An industrial user who purposely, knowingly or negligently violates any provision of this Chapter or willfully, negligently introduces any substance into the POTW which causes personal injury or property damage or 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 an Industrial 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 not to exceed one thousand dollars (\$1,000.00) per day per violation and be subject to imprisonment for not more than six (6) months, or both. In addition, these penalties may be sought for any person who maliciously, willfully, or negligently breaks, destroys, uncovers, defaces, tampers with, or otherwise destroys, or who prevents access to, any structure, appurtenance or equipment, or any part of the POTW.
- E. **Remedies Nonexclusive.** The remedies provided for in this Chapter are not exclusive of any other remedies that the City may have under the provisions of Montana law. The City may take any, all, or any combination of these actions against a noncompliant industrial user. Enforcement of pretreatment violations will generally be in accordance with the Enforcement Response Plan. However, the City may take other action against any industrial user when the circumstances warrant and may take more than one (1) enforcement action against any noncompliant industrial user.
- F. **Public Nuisance.** Any violation of this Chapter, a wastewater discharge permit, or any order issued pursuant to this Chapter, is hereby declared a public nuisance and may be corrected or abated by the Director or his designee. Any person creating such a public nuisance may be subject to the provisions of the Great Falls Municipal Code governing nuisances, including the provisions requiring reimbursement to the City for its costs of abatement. Action taken by the City to abate any nuisance shall not be a bar to criminal or other civil enforcement of this Code. The Director may initiate, on behalf of the City, an action in any court of competent jurisdiction concerning the abatement of any public nuisance created or caused by a violation of this Chapter. In any such action, the Director may request any legal or equitable relief, including injunctive relief and civil damages, as provided by applicable law.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, §13.20.120).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.110 - Affirmative defenses to discharge violations.

- A. **Prohibited Discharge Standards.** An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in [Section 13.12.030](#) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:
1. A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

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2. No local limit exists, but the discharge did not change substantially in nature or constituents from the industrial user's prior discharge when the City was regularly in compliance with its MPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements, or
3. The industrial user disclosed the pollutants causing the violation in the Wastewater Permit Application.

B. Upset Provisions.

1. For the purposes of this Section, Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. **Effect of an upset.** An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph 3. are met.
3. **Conditions necessary for a demonstration of upset.** An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An Upset occurred and the industrial user can identify the cause(s) of the Upset;
 - (b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
 - (c) The industrial user has submitted the following information to the Director 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):
 - (i) A description of the Indirect Discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - (iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
4. **Burden of proof.** In any enforcement proceeding the industrial user seeking to establish the occurrence of an Upset shall have the burden of proof.
5. **User responsibility in case of Upset.** The industrial user 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.

C. Bypass.

1. For the purposes of this section:
 - a. Bypass means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
 - b. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a

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bypass. Severe property damage does not mean economic loss caused by delays in production.

2. Bypass not violating applicable Pretreatment Standards or requirements. An industrial user may allow any bypass to occur which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs 3. and 4. of this section but are reportable under [Section 13.12.080 L](#).
3. Notice.
 - a. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Director, if possible, at least ten (10) days before the date of the bypass.
 - b. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Director within twenty four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial 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 Director may waive the written report on a case-by-case basis if the oral report has been received within twenty four (24) hours.
4. Prohibition of Bypass.
 - a. Bypass is prohibited, and the Director may take enforcement action against an industrial user for a bypass, unless;
 - 1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - 3) The industrial user submitted notices as required under paragraph 3. of this Section.
 - b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three (3) conditions listed in paragraph 4.a. of this Section.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, §13.20.140).

(Ord. No. 3050, § 1, 8-3-2010)

13.12.120 - Program cost recovery.

The City may recover the costs to the City of implementing the program established by this Chapter and adopt charges and fees, including, but not limited to the following:

- A. Fees for monitoring, inspection and surveillance activities;
- B. Fees for reviewing accidental discharge procedures and construction;
- C. Fees for permit applications;

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- D. Fees for filing appeals and other legal expenses;
- E. Fees for consistent removal by the City of pollutants as allowed under 40 CFR Section 403.7;
- F. Such other fees as the City may deem necessary to administer and enforce the requirements contained herein.

(Ord. 2645, 1993; Ord. 2386 Exh. A (part), 1985, §13.20.141).

(Ord. No. 3050, § 1, 8-3-2010)

FOOTNOTE(S):

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Editor's note— Ord. No. 3050, § 1, adopted August 3, 2010, amended Ch. 12, in its entirety, to read as herein set out. Prior to inclusion of said ordinance, Ch. 12 pertained to sewer general rules and regulations. See also the Code Comparative Table. [\(Back\)](#)