

**ORDINANCE**

**24-04**

**AN ORDINANCE OF THE SILVERTON CITY COUNCIL AMENDING SILVERTON MUNICIPAL CODE CHAPTERS 13.02 AND 13.52 TO COMPLY WITH STATE AND FEDERAL REQUIREMENTS**

**WHEREAS**, the Department of Environmental Quality (“DEQ”) and the City of Silverton (“City”) entered a Mutual Agreement and Order (“MAO”) on May 17, 2023; and

**WHEREAS**, the MAO tasked the City with, among other elements, bringing the Silverton Municipal Code (“SMC”) chapters regarding restricted discharges and pretreatment into compliance with state and federal rules and regulations; and

**WHEREAS**, the SMC chapters pertaining to restricted discharges and pretreatment are SMC chapters 13.02 and 13.52; and

**WHEREAS**, the City duly sought DEQ review and approval of its proposed edits to SMC chapters 13.02 and 13.52 by December 31, 2023; and

**WHEREAS**, the City obtained DEQ conditional approval of the proposed SMC chapter edits via email on January 24, 2024; and

**WHEREAS**, the City properly noticed the proposed edits, as required by federal, state and local rules and regulations; and

**WHEREAS**, the City presented the proposed edits for City Council review during a work session at the February 26, 2024 City Council special meeting; and

**WHEREAS**, the City now desires to amend SMC chapters 13.02 and 13.52 to comply with state and federal law and to permit the imposition stringent civil penalties for non-compliance.

**NOW, THEREFORE, THE CITY OF SILVERTON ORDAINS AS FOLLOWS:**

**Section 1:** The Silverton Municipal Code is amended in substantially the same form as set forth in the attached Exhibit A (Chapters 13.02 and 13.52).

**Section 2:** This ordinance is and shall be effective within 30 days of its passage.

**Section 3.** If any provision, section, phrase, or word of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does in affect other provision that can be given effect without the invalid provision or application.

Section 4. All other provisions of the City of Silverton Municipal Code Title 13 shall remain unchanged and in full effect.

Ordinance passed by the City Council of the City of Silverton by a vote of 7 "for" and 0 "against" on this 18<sup>th</sup> day of March 2024.



\_\_\_\_\_  
Mayor, City of Silverton  
Jason Freilinger

ATTEST:



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City Manager/Recorder, City of Silverton  
Cory Misley

## Silverton Municipal Code 2024

### CHAPTER 13.52

#### RESTRICTED DISCHARGES AND PRETREATMENT

Sections:

- 13.52.010 Standard methods for testing and analysis.
- 13.52.020 Sanitary sewers – Prohibited discharges.
- 13.52.030 Stormwater sewer use requirements.
- 13.52.040 Hazardous discharges designated.
- 13.52.050 Discharge limits; prohibited discharges.
- 13.52.060 Notification of the discharge of hazardous waste.
- 13.52.070 Rejection or pretreatment conditions.
- 13.52.080 Grease, oil, fat, and sand interceptors.
- 13.52.090 Accidental Discharge/Slug Discharge Control Plans
- 13.52.100 Pretreatment facilities – Operation and maintenance.
- 13.52.110 Control manhole for tests.
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- 13.52.130 Discharges Prohibited Without a Permit; New or Renewed Construction.
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- 13.52.350 Publication of Users in Significant Noncompliance.
- 13.52.360 Notification of Violation.
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- 13.52.380 Compliance Orders.
- 13.52.390 Cease and Desist Orders.
- 13.52.400 Emergency Suspensions.

- 13.52.410 Permit Revocation.
- 13.52.420 Injunctive Relief.
- 13.52.430 Civil Penalties – Industrial Users Only.
- 13.52.440 Civil Penalties – Non-Industrial Users.
- 13.52.450 Criminal Penalties.
- 13.52.460 Remedies Nonexclusive.
- 13.52.470 Water Supply Severance.
- 13.52.480 Administrative Review.
- 13.52.490 Best Management Practices.

**13.52.010 Standard methods for testing and analysis.**

A. All measurements, tests, and analyses of the characteristics of water and waste to which reference is made in the Utility Code shall be determined in accordance with the techniques prescribed in 40 CFR, part 136 and all subsequent amendments thereto, and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. In the event that no special manhole is required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

B. Sampling shall be carried out by customarily accepted methods to reflect the effect the effluent may be having on the sewer works and to determine the possible impact to the public welfare.

**13.52.020 Sanitary sewers – Prohibited discharges.**

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or polluted industrial process waters to any sanitary sewer.

**13.52.030 Stormwater sewer use requirements.**

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as stormwater sewers, or to a natural outlet approved by the Director. Industrial cooling water or unpolluted process waters may be discharged to a stormwater sewer or natural outlet, upon written approval of the Director.

**13.52.040 Hazardous discharges designated.**

No person shall discharge or cause to be discharged any one of the following described waters or wastes to any public sewers:

A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; nor any kerosene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides; nor any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

B. Any water or waste containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other waste, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l of cyanide in the waste as discharged to the public sewer;

C. Any water and waste having a pH lower than 5.5 or in excess of 11.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage treatment plant;

D. Solids or viscous substances in quantities or of such size capable of causing

obstruction to the flow in sewers, or other interference with the proper operation of the wastewater treatment facility such as, but not limited to, ashes, feathers, tar, asphalt, lubricating oil, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

**13.52.050 Discharge limits; prohibited discharges.**

A. The Director is authorized to establish specific discharge limits for users pursuant to 40 CFR 403.5(c). The Director shall establish such limits as a component of the Best Management Plan established pursuant to 13.52.480.

B. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes into a public sewer, as measured at the point where the wastewater is discharged to the public sewer:

1. Any pollutant(s) which cause a discharge to exit a wastewater treatment facility in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes Interference or Pass Through;

2. Pollutants which create a fire or explosion hazard in the sewer system, sewage treatment process or equipment, or wastewater treatment facility, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees centigrade);

3. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the sewer system, sewage treatment process or equipment, or wastewater treatment facility;

4. Pollutants which result in the presence of toxic gases, vapors, or fumes within the wastewater treatment facility in a quantity that may cause acute worker health and safety problems;

5. Any trucked or hauled pollutants, except at discharge points designated by the wastewater treatment facility;

6. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees centigrade);

7. Any water or waste containing fats, gas, grease or oils, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees centigrade), or which has a temperature which will inhibit biological activity in the sewage treatment plant, and in no case wastewater with a temperature at the introduction into the sewage treatment plant receiving water which exceeds 104 degrees Fahrenheit (40 degrees centigrade);

8. Any garbage that has not been properly shredded. The installation and operation

of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the Director.

9. Any water or waste containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not;

10. Any water or waste containing iron, chromium, copper, zinc, lead, nickel, silver, mercury, cadmium or other similar toxic substances which exceed EPA or DEQ standards;

11. Any water or waste containing high concentrations of phenols or other taste- or odor-producing substances (as consistent with Environmental Protection Agency standards);

12. Any radioactive waste or isotopes of such half-life or concentration as may exceed state or federal requirements;

13. Any water or waste having a pH of lower than 5.5 or in excess of 11.5;

14. Materials which exert or cause:

a. Unusual concentrations of inert suspended solids, such as fuller's earth, lime slurries and lime residues, or of dissolved solids such as sodium chloride and sodium sulphate,

b. Excessive discoloration, such as dye waste and vegetable tanning solutions,

c. Unusual BOD or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works,

d. Unusual volume of flow or concentration of waste constituting slugs;

15. Water or waste containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving water.

C. A person may have an affirmative defense to Section 13.52.050.C.1 or .2 if it demonstrates that:

1. The person did not know or have reason to know that the discharge, alone or in conjunction with a discharge or discharges from other sources, would cause the alleged violation; and

2. The discharge was in compliance with properly developed local limits prior to and during the alleged violation; or

3. If a local limit designed to prevent the alleged violation has not been developed for the pollutants that caused the alleged violation, the discharge:

- a. Occurred prior to and during the alleged violation; and
- b. Did not change substantially in nature or constituents from prior discharge activity which was regularly in compliance with the requirements of this Chapter and associated rules.

**13.52.060 Notification of the discharge of hazardous waste.**

A. Any user who commences the discharge of hazardous waste shall notify the City, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the sewage treatment plant of a substance which, if otherwise disposed of, would be a hazardous waste under Section 13.52.040. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the sewage treatment plant, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under the requirements of this Chapter. The notification requirement in this subsection does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of this Chapter.

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

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

D. In the case of any notification made under this Section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes



generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

**13.52.070 Rejection or pretreatment conditions.**

If any water or waste are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics outlined in SMC 13.52.040 or 050, and which may have a detrimental effect upon the wastewater treatment facility, processes, equipment or receiving water, or which otherwise may create a hazard to life or constitute a public nuisance, or may otherwise violate the wastewater treatment facility NPDES permit or an individual wastewater permit, the Director may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewer and/or wastewater treatment facility;
3. Require control over the quantities and rates of discharge; and/or
4. Require payment to cover any increase of administering, or any other aspect of, the wastewater permit, the added cost of chemicals needed to address the situation, and the added cost of handling and treating the wastes not covered by existing taxes, fees or other charges under the provisions of the Utility Code.

**13.52.080 Grease, oil, fat, and sand interceptors.**

Grease, oil, fat, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastes containing grease in excessive amounts, or any flammable wastes, and/or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection.

**13.52.090 Accidental Discharge/Slug Discharge Control Plans**

The Director shall evaluate whether each industrial user needs an accidental discharge/slug discharge control plan or other action to control discharges that are non-routine and episodic in nature (including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to in any other way violate the sewage treatment plant regulations, local limits established via Best Management Practices, permit conditions, or this Chapter). The Director may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control such non-routine and episodic discharges. Alternatively, the Director may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;

2. Description of stored chemicals;
3. Procedures for immediately notifying the Director of any such non-routine and episodic, or accidental, discharge, as required by Section 13.52.270 of this Chapter; and
4. Procedures to prevent adverse impact from any non-routine and episodic, or accidental, 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 sewage treatment 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.

**13.52.100 Pretreatment facilities – Operation and maintenance.**

Where preliminary treatment or flow-equalizing facilities are provided for any water or waste, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's own expense.

**13.52.110 Control manhole for tests.**

When required by the Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Director. Any cost to the City for required non-city sampling or testing shall be paid by the owner affected. The manhole shall be installed by the owner at the owner's own expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**13.52.120. Special agreements not restricted.**

A. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern, and provided such agreements are in compliance with EPA and DEQ regulations.

B. When requested, an industrial user must submit information on a survey form prepared by the Director before commencing discharge into the City wastewater system, identifying the nature and characteristics of the user's wastewater. The Director may periodically require industrial users to update the survey. Failure to complete this survey within the time set by the Director is grounds for terminating service to the industrial user or collection of associated fees, or both.

**13.52.130 Discharges Prohibited Without a Permit; New or Renewed Construction.**

A. No industrial user shall begin or recommence to discharge wastewater directly or indirectly into the City's municipal wastewater system without first obtaining a wastewater permit prior to beginning or recommencing such discharge.

B. No permittee shall violate the terms and conditions of a wastewater permit issued pursuant to this chapter. Obtaining a wastewater permit does not relieve a permittee from the obligation to obtain other permits required by federal, state, or local law, or to comply with federal law, state law, and the rules and regulations of this chapter.

C. An application for a wastewater permit renewal must be received at least 90 days before the current wastewater permit expires.

**13.52.140. Permitting Existing Connections.**

Any industrial user not already possessing a wastewater permit that discharges industrial waste into the City wastewater system prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within 90 days after the effective date, apply to the City for a wastewater permit, and shall not cause or allow discharges to the system to continue after 180 days of the effective date except in accordance with a wastewater permit issued by the Director.

**13.52.150 Wastewater Permit Issuance.**

A. Within 60 days of the date the Director deems a wastewater permit application complete, the Director will evaluate the data furnished by the industrial user and determine whether a wastewater permit should be issued. The Director will issue a wastewater permit unless a circumstance identified in 13.52.130(B) exists.

B. If any wastewater proposed to be discharged to the City wastewater system contains substances identified or possesses the characteristics enumerated in SMC 13.52.040 and 13.52.050 which, in the Director's judgment, may have a deleterious effect upon the City wastewater system, processes, equipment, or waters of the state, or otherwise create a hazard to life or constitute a public nuisance, the Director may:

1. Refuse to permit the discharge;
2. Require pretreatment to an acceptable condition for discharge into the City wastewater system; or
3. Require control over the quantities and rates of discharge.

**13.52.160. Wastewater Permit Duration.**

Wastewater permits shall be issued for a time period specified by the Director, not to exceed five years. Each wastewater permit shall indicate the specific date upon which it will expire.

**13.52.170 Wastewater Permit Contents.**

A wastewater permit shall include such conditions deemed reasonably necessary by the Director, or designee, to prevent pass through or interference and to implement the objectives of this chapter.

A. Wastewater permits shall, at a minimum, contain:

1. A statement of wastewater permit issuance date, expiration date, effective date, and overall duration;
2. A statement that the wastewater permit is nontransferable;
3. Effluent limits applicable to the industrial user, including Best Management Practices, categorical pretreatment standards, local limits, and state and local law;
4. Monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
5. Statement of applicable penalties for violation of pretreatment standards, pretreatment requirements, and compliance schedules; and
6. Requirements to control spills or slug discharges as determined necessary by the POTW, including conditions for emergency suspension of the wastewater permit, or conditions thereof.

B. Wastewater permits may contain:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. 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;
3. Limits on the instantaneous daily and monthly average, and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
4. Requirements for the installation of pretreatment technology or construction of appropriate containment devices or other similar technologies or devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
5. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
6. Development and implementation of waste minimization plans to reduce the

amount of pollutants discharged to the City wastewater system;

7. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

8. Specifications for monitoring programs, which may include designation of sampling locations and frequency of sampling; the number, types, and standards for tests; and reporting schedules;

9. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days of such noncompliance where monitoring indicates a violation;

10. Compliance schedules for meeting pretreatment standards and pretreatment requirements;

11. Requirements for submission of periodic monitoring or special notification reports;

12. Requirements for maintaining and retaining plant records relating to wastewater discharge, and affording the Director or his access thereto;

13. Requirements for prior notification and approval by the Director, or designee, of any introduction of new wastewater pollutants or any change in the volume or character of wastewater prior to introduction in the City wastewater system;

14. Requirements for prior notification to and approval by the Director of any change in the manufacturing and/or pretreatment process;

15. Requirements for immediate notification of excessive, accidental, or slug discharges, or other discharge which may cause any problems to the City wastewater system;

16. A statement that compliance with the wastewater permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards and pretreatment requirements, including those which become effective during the term of the wastewater permit; and

17. Other conditions deemed appropriate by the Director to ensure compliance with this chapter; state and federal laws, rules, and regulations; and the terms of the wastewater permit.

C. In addition to the foregoing, the Director may require wastewater permits for industrial users to contain any or all of the following:

1. Identifying Information.

- a. The name and address of the facility, including the name of the operator and owner.
  - b. Contact information, description of activities, facilities, and plant production processes on the premises;
2. Environmental Permits. A list of any environmental control permits held by or for the facility.
3. Description of Operations.
  - a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the sewage treatment plant from the regulated processes.
  - b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the sewage treatment plant;
  - c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - d. Type and amount of raw materials processed (average and maximum per day);
  - e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
4. Time and duration of discharges;
5. The location for monitoring all wastes covered by the permit;
6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the sewage treatment plant from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e);
7. Measurement of Pollutants.
  - a. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

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

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

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this chapter. Where the standard requires compliance with best management practices, the user shall submit documentation as required by the Director or the applicable standards to determine compliance with the standard.

e. Sampling must be performed in accordance with procedures set out in this Chapter.

8. Any other information as may be deemed necessary by the Director to evaluate the permit application.

D. All industrial users must comply with categorical pretreatment standards as a condition of a wastewater permit.

E. The City reserves the right to establish, by ordinance or in individual wastewater permits, more stringent standards or requirements on discharges to the sewage treatment plant consistent with the purpose of this Chapter. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

#### **13.52.180 Wastewater Permit Appeals.**

A. Any person, including the permittee, may appeal the conditions imposed in a wastewater permit, or the issuance or denial of a wastewater permit within ten days of the issuance of the final wastewater permit by filing a notice of appeal, as provided for in Section 13.52.180.

B. Failure to submit a timely notice of appeal shall be a waiver of all rights to administrative review.

C. In addition to the requirements in Section 13.52.180, the appellant shall indicate the specific objection, the reasons for the objection, and alternative conditions, if any, the appellant seeks to have placed in the wastewater permit.

D. The effectiveness of the wastewater permit shall not be stayed pending resolution of appeal.

#### **13.52.190 Wastewater Permit Modifications.**

A. Upon its own volition or following a request by permittee for the same, the Director

may modify a wastewater permit for good cause including, but not limited to, the following:

1. To incorporate any newly revised federal, state, or local pretreatment standards or pretreatment requirements;
2. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater permit issuance;
3. A change in the City wastewater system that requires either a temporary or permanent reduction or elimination of the permitted discharge;
4. Information indicating that the permitted discharge poses a threat to the City wastewater system, City personnel, or waters of the state;
5. Violation of any terms or conditions of the wastewater permit;
6. Misrepresentation or failure to disclose fully all relevant facts in the wastewater permit application or in any required reporting;
7. A revision or grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13; or
8. To correct typographical or other errors in the wastewater permit.

B. The filing of a request by the permittee for a wastewater permit modification does not stay any wastewater permit condition.

**13.52.200 Wastewater Permit Transfer.**

Wastewater permits may not be reassigned or transferred from the permittee to a new industrial user or other user.

**13.52.210 Wastewater Permit Reissuance.**

An industrial user shall apply for wastewater permit reissuance by submitting a complete wastewater permit application no later than 90 days before the expiration of the user's wastewater permit.

**13.52.220 Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.



### **13.52.230 Baseline Monitoring Reports.**

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing industrial users currently discharging to or scheduled to discharge to the sewage treatment plant shall submit to the Director a report which contains the information listed in subsection B, below. At least ninety (90) days prior to commencement of their discharge, new users, and users that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, shall submit to the Director a report which contains the information listed in subsection B, below. A new user shall report the method of pretreatment it intends to use to meet applicable categorical pretreatment standards. A new user also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

1. All information required in Section 13.52.170(C)(1)(a), Section 13.52.170(C)(2), Section 13.52.170(C)(3)(a), and Section 13.52.170(C)(6).

2. Measurement of pollutants.

a. The user shall provide the information required in Section 13.52.170(C)(7) (a) through (d).

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

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

d. Sampling and analysis shall be performed in accordance with this Chapter;

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

f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is

representative of normal work cycles and expected pollutant discharges to the sewage treatment plant.

3. Compliance Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

4. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 13.52.240 below.

5. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with this Chapter and signed by an authorized representative.

#### **13.52.240 Compliance Schedule Progress Reports.**

The following conditions shall apply to the compliance schedule required by Section 13.52.230(B)(3):

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

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

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

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

#### **13.52.250 Reports on Compliance with Categorical Pretreatment Standard Deadline.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new user or new source location following commencement of the introduction of wastewater into the sewage treatment plant, any user subject to such pretreatment standards and requirements shall submit to the Director a report containing (A) the location for monitoring all wastes covered by the permit, (B) information showing the measured average daily and maximum daily flow, in gallons per day, to the sewage treatment plant from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e), and (C) the information required by Section 13.52.230(B)(2). For users subject to equivalent mass or concentration limits, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this chapter. All sampling will be done in conformance with this chapter.

#### **13.52.260 Periodic Compliance Reports.**

A. All industrial users must, at a frequency determined by the Director submit no less than twice per year (June and December) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice or pollution prevention alternative, the user must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the user.

B. All periodic compliance reports must be signed and certified in accordance with this Chapter.

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

D. If a user subject to the reporting requirement in this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in this Chapter, the results of this monitoring shall be included in the report.

#### **13.52.270 Reports of Potential Problems.**

A. If a slug or other discharge occurs which may cause problems for the City wastewater system, the user shall immediately notify the City by telephone of the incident. Notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Unless waived by the Director, within five (5) days following a discharge described in subsection A, the user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any fines, civil penalties, expense, loss, damage, or other liability that may be incurred or imposed as a result of damage to the City wastewater system, wastewater treatment facility, natural resources, or persons or property.

C. Failure to notify the City of potential problem discharges shall be deemed a separate violation of this chapter.

D. Industrial users shall prominently post a notice on a bulletin board or other similar place readily accessible to the user's employees, advising the employees of whom to call in the event of a potential problem discharge, and shall train all employees in the emergency notification procedure.

E. Where the City has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling may not be required if:

1. The City performs sampling at the industrial user at a frequency of at least once per month, or the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.

2. Cost to the City for repeat analysis may be recouped per Section 13.52.060.

**13.52.280 Reports of Significant Production Change.**

An industrial user operating under a wastewater permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the City within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the City of such anticipated change will be required to meet the mass or concentration limits in its wastewater permit that were based on the original estimate of the long-term average production rate. For purposes of this subsection the term "significantly" will be defined in the wastewater permit.

**15.52.290 Recordkeeping**

Users subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices

established under Section 13.52.490. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Director.

### **13.52.300 Notice of Violation/Repeat Sampling and Reporting.**

If sampling performed by a user indicates a violation, the user must notify the Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the City performs sampling at the user's facility at least once a month, or if the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the industrial user.

### **13.52.310 Sample Collection**

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in subsection B and C below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which

historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For periodic compliance reports, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

#### **13.52.320 Inspection and Sampling.**

A. An industrial user shall allow the City to enter the facilities of the user without unreasonable delay (and in no event longer than 24 hours following City's notice to such industrial user of its intent to enter the facilities), to ascertain whether the user is complying with pretreatment standards and pretreatment requirements. Industrial users shall allow the Director, or designee, ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

B. If an industrial user has security measures that require identification and clearance before entry, the industrial user shall make necessary arrangements with its security guards so that upon presentation of proper identification personnel from the City, state, and the EPA will be permitted entry without unreasonable delay to perform their specific responsibilities. An unreasonable delay shall be considered longer than 24 hours.

C. The City, state, and the EPA shall have the right to set up or require installation of such devices as are necessary to conduct sampling and/or metering of the industrial user's operations.

D. The City may require the industrial user to install all necessary monitoring equipment. The facility's sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the industrial user at the industrial user's expense. A qualified technician must calibrate all devices used to measure wastewater flow and quality at least twice yearly to ensure accuracy.

E. Any obstruction to safe and easy access to the industrial facility shall be promptly removed by the industrial user at the request of the Director and shall not be replaced. The costs of removal shall be borne by the industrial user.

F. Unreasonable delays in allowing City personnel access to the industrial user's premises shall be a violation of this chapter. An unreasonable delay shall be considered longer than 24 hours.

#### **13.52.330 Search Warrants.**

If the Director is refused access to a building, structure, or property, or any part thereof, and has probable cause to believe there may be a violation to this chapter or needs to conduct an inspection as part of a routine program designed to protect the overall public health, safety, and welfare of the community, the Director may apply for a search warrant from a court of competent jurisdiction. The application shall identify the specific

location to be searched, and shall specify what locations may be searched and what property may be seized. After issuance, the Director will serve the warrant at reasonable hours.

**13.52.340 Confidential Information.**

A. Information and data on an industrial user obtained from reports, questionnaires, wastewater permit applications, wastewater permits, monitoring programs, and City inspection and sampling activities shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the City attorney that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets, and are exempt from disclosure under applicable law.

B. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 are not confidential and will be made available to the public without restriction, unless the subject of pending or threatened legal claims, litigation, or other legal proceedings.

C. Any information determined to be exempt from disclosure under subsections A or B of this Section shall remain confidential, and portions of a report which might disclose trade secrets or secret processes shall not be available for public inspection, provided that such information shall be made available to governmental agencies for uses related to this chapter or the NPDES permit. Notwithstanding subsections A or B of this section, no information is confidential if the information is relevant to, and necessary for, enforcement proceedings involving the person furnishing the report.

D. For the purposes of this Section, a specific request is made when the words “confidential business information” are stamped on each page containing such information. If no such specific request is made at the time of furnishing the report, the City may make the information available to the public without further notice.

E. All costs, expenses and attorney fees associated with defending a request for confidential information shall be the responsibility of the industrial user requesting confidentiality.

**13.52.350 Publication of Industrial Users in Significant Noncompliance.**

The City shall comply with the public participation requirements of 40 CFR part 25 in the enforcement of all standards in this chapter. These procedures shall include provision for at least annual public notification in a newspaper(s) of general circulation that provides meaningful public notice within the city limit of industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable provisions of this chapter. For the purposes of this provision, an industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

A. Chronic violations of wastewater discharge limits, defined here as those in which 66

percent (66%) or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits (as further defined by 40 CFR 403.3(l));

B. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits (as further defined by 40 CFR 403.3(l)) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of sewage treatment plant or wastewater system personnel or the general public);

D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Director's exercise of its emergency authority under Section 13.52.320 to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance;

H. Any other violation or group of violations, which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local pretreatment program or any aspect of the wastewater treatment system.

### **13.52.360. Notification of Violation.**

Whenever any user has violated or is violating this chapter, a wastewater permit or order issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue a written notice of violation directing the user to come into compliance within a specified time. Within ten (10) days of the receipt of this notice, the user shall submit an explanation of the violation and a detailed plan for the satisfactory correction of the violation and the prevention of future violation. Submission of this plan does not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this Section shall limit the City authority to take emergency action without first issuing a notice of violation. If the user fails to submit



such a required explanation, sewer service may be discontinued to such user unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.

**13.52.370. Consent Orders.**

The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with an industrial user to resolve issues of noncompliance. Such orders shall include the specific action to be taken by the industrial user to correct noncompliance within a time period specified in the order. Consent orders shall be judicially enforceable, and any costs, including attorney's fees, incurred by the City in seeking such enforcement shall be assessed against the industrial user as part of any judgment entered therein

**13.52.380. Compliance Orders.**

When the Director finds an industrial user has violated or continues to violate any provision of this chapter, or a wastewater permit or order issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue an order discontinuing the industrial user's sewer service unless compliance is obtained within a time certain stated in the order. Compliance orders may contain other requirements necessary and appropriate to correct noncompliance, including additional monitoring and changes to management practices designed to minimize the amount of pollutants discharged to the City wastewater system. The Director may require additional monitoring for at least ninety (90) days after consistent compliance has been achieved, after which monitoring conditions set forth in industrial user's discharge wastewater permit shall be followed

**13.52.390. Cease and Desist Orders.**

A. When an industrial user has violated or continues to violate any provision of this chapter, wastewater permits or orders issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue a notice and proposed order to the industrial user to cease and desist all such violations and commanding the user to:

1. Immediately comply with all requirements.
2. Take such appropriate remedial or preventive action as may be needed to properly address the continuing or threatened violation, including halting operations and/or terminating the discharge.

B. The Director may order any industrial user that causes or contributes to a violation of this chapter, wastewater permits or orders issued hereunder, or any pretreatment standard or pretreatment requirement to appear and show cause why a cease and desist order should not be issued.

C. The City will serve notice on the industrial user specifying the time and place for hearing, the nature of the proposed enforcement action, the reasons for such action,

and a direction that the user appear and show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served upon the industrial user or the user's authorized representative, personally or by registered or certified mail, return receipt requested, at least ten days prior to the hearing. A cease and desist order may be issued immediately following the hearing.

**13.52.400. Emergency Suspensions.**

A. The Director may immediately suspend any user's discharge that threatens to interfere with the operation of the City wastewater system, endangers the environment, or may cause violation of the NPDES permit.

B. Any user notified of a suspension of its discharge shall immediately terminate all discharges into the City wastewater system. In the event a user fails to immediately and voluntarily comply with the suspension order, the Director may take such steps deemed necessary, including immediate severance the user's connection to the City wastewater system. The Director may allow the user to recommence discharge when the user demonstrates to the satisfaction of the Director that endangerment has passed, unless termination proceedings under Section 13.52.410 have been initiated.

C. No hearing shall be required prior to any emergency suspension.

**13.52.410. Permit Revocation.**

A. A wastewater permit may be revoked if the user:

1. Fails to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
2. Fails to accurately report wastewater constituents and characteristics of its discharge;
3. Falsifies monitoring reports;
4. Refuses reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
5. Tampers with monitoring equipment;
6. Refuses to allow the City timely access to the facility premises and records;
7. Fails to meet, or otherwise exceeds, effluent or other discharge limitations;
8. Fails to pay fines;
9. Fails to pay sewer charges;
10. Fails to meet compliance schedules;

11. Fails to complete a wastewater survey; or

12. Violates any pretreatment standard or pretreatment requirement, the user's wastewater permit, any order issued pursuant to this chapter, or any provision of this chapter.

B. Industrial users shall be notified of proposed termination and be offered an opportunity to appear and show cause why the wastewater permit should not be revoked. Termination of a wastewater permit shall not be a bar to, or a prerequisite for, taking any other enforcement action against the user.

C. Notice shall be served on the industrial user specifying the time and place for the show cause hearing, the reasons for wastewater permit revocation, and a direction that the user appear and show cause why the wastewater permit should not be revoked. The notice of the hearing shall be served upon the industrial user or the user's authorized representative personally or by registered or certified mail, return receipt requested, at least ten (10) days prior to the hearing. An order revoking the wastewater permit may be issued immediately after the hearing.

**13.52.420. Injunctive Relief.**

In addition to other relief, the City attorney may petition a court of competent jurisdiction for the issuance of temporary or permanent injunction to restrain a violation, or compel specific performance, of the terms and conditions of the wastewater permit, order, pretreatment standard or pretreatment requirement, or other provision of this chapter.

**13.52.430. Civil Penalties – Industrial Users Only.**

A. The Director may impose upon any industrial user that has violated or continues to violate this chapter, any order or wastewater permit hereunder, or any pretreatment standard or pretreatment requirement a minimum civil penalty of One Thousand Dollars (\$1,000) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties may accrue for each day during the period of this violation.

B. Where appropriate, the Director may accept mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service to the City and the industrial user's expense in undertaking the project is at least one hundred-fifty percent (150%) of the civil penalty.

C. For purposes of this Section, the term "civil penalty" means the same as the term "administrative fine" as set forth in any Enforcement Response Plan adopted by the City Council pursuant to this Chapter's authority. Any civil penalty assessed pursuant to this Section will be based on the severity of the violation using the factors outlined in the Enforcement Response Plan.

**13.52.440. Civil Penalties – Non-Industrial Users.**

A. A violation of Section 13.52.020; 13.52.040(A)(B)(C); or 13.52.210 is punishable by

a civil penalty not exceeding Ten Thousand Dollars (\$10,000).

B. A violation of any other provision of this chapter is punishable by a civil penalty of not less than One Thousand Dollars (\$1,000). The second and subsequent violation of the same provision of this chapter within any one year period is punishable by a civil penalty of not less than One Thousand Dollars (\$1,000).

C. Any civil penalty assessed pursuant to this Section will be based on the severity of the violation using the factors outlined in a City Council-adopted Enforcement Response Plan, even if the offender is not a party to that Plan.

**13.52.450. Criminal Penalties.**

The Director may refer civil and criminal violations to federal, state, or local agencies as appropriate.

**13.52.460. Remedies Nonexclusive.**

The Director shall prepare an Enforcement Response Plan to be adopted by a resolution of the City Council for use with industrial users related to any violation of Chapter 13.52. The remedies provided for in this chapter are not exclusive, and the Director may take any, all, or any combination of these actions against a noncompliant user, and may bring more than one enforcement action against any noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's Enforcement Response Plan; however, the Director may take other action against any user when the circumstances warrant.

**13.52.470. Water Supply Severance.**

Whenever an industrial user has violated or continues to violate the provisions of this chapter or orders, or wastewater permits issued hereunder, water service to the industrial user may be severed and service will only be resumed, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

**13.52.480. Administrative Review.**

A. Any person aggrieved by any decision or action of the Director may appeal such decision or action as provided in this Section.

B. The appeal must be filed with the City Manager within ten (10) days after the date of the decision or action being appealed, must be in writing and must state:

1. The name and address of the appellant;
2. Nature of the decision or action being appealed;
3. The reason the decision or action is incorrect; and
4. What the correct decision or action should be.

C. An appellant who fails to file such a statement within the time permitted waives all objections, and the appeal shall not be considered.

D. Unless the appellant and City agree to a longer period, an appeal shall be heard by the City Council within forty-five (45) days of the receipt of the notice of appeal. At least ten (10) days prior to the hearing, the City shall mail notice of the time and location of the hearing to the appellant.

E. The City Council will hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the Council deems appropriate. At the hearing, the appellant may present testimony and oral arguments personally or by counsel.

F. If the appeal is from the modification of a wastewater permit pursuant or the imposition a civil penalty, the burden is on the Director to prove that the modification or civil penalty was proper. If the appeal is from the denial of a wastewater permit, the burden is on the appellant to prove that the denial was improper. In all other cases the burden of proof is on the proponent of a fact or position.

G. The City Council will issue a written decision within thirty (30) days of the hearing date. The decision of the City Council is final.

H. An appeal fee established by Council resolution must accompany the statement of appeal.

**13.52.490. Best Management Practices.**

The Director shall draft and adopt a policy document containing Best Management Practices for maintenance procedures, treatment requirements, operating procedures, and other management practices to implement the general and specific prohibitions listed in 40 CFR 403.5(a)(1) and (b), the requirements of this Chapter, and to control site runoff, spillage or leaks, sludge or waste removal, or drainage from raw materials storage. The Public Works shall review the Best Management Practices periodically to ensure that they continue to reflect applicable law and the city's existing management practices.

**13.02.010 Definitions generally.**

Unless the context specifically indicates otherwise, the meaning of terms used in the utility code are as follows:

Act or “the Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

“Authorized or duly authorized representative of the user” means,

1. If the user is a corporation:
  - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
3. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
4. The individuals described in paragraphs 1 through 3, above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

“Air gap” means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device, and the flood level rim of such vessel. All approved air gaps shall be at least double the diameter of the supply pipe, measured vertically, above the top of

the rim of the vessel, and in no case less than one inch. When an air gap is used at the service connection to prevent the contamination or pollution of the public potable water system, an emergency bypass shall be installed around the air gap system, and an approved reduced pressure principle device shall be installed in the bypass system.

“Alternative sewage disposal system” means alternative wastewater treatment process(es) and technique(s) which are proven methods providing for the reclaiming and reuse of water and productively recycled wastewater constituents, or otherwise eliminate the discharge of pollutants. (See Appendix E of the Innovative and Alternative Technology Guidelines, EPA Innovative and Alternative Technology Assessment Manual, MCD53.)

“ASTM” means the standard specifications or methods of the American Society for Testing Materials of the serial designation indicated by the number, and, unless otherwise stated, all references refer to the latest adopted revision of such specification or method.

“Auxiliary water supply” means any water supply on or available to the premises, other than the city’s approved public potable water supply. These auxiliary waters may include water from another provider’s public potable water supply, or any natural source(s) such as a well, spring, river, stream, harbor, etc., or “used waters” or “industrial fluids.” These waters may be polluted or contaminated, or they may be objectionable and constitute an unacceptable water source over which the city does not have sanitary control.

“Back-siphonage” means the flow of water or other liquids, mixtures or substances into the distributing pipes of a potable water supply system, from any source other than its intended source, caused by the sudden reduction of pressure in the potable water supply system.

“Backflow” means the flow of water or other liquids, mixtures or substances under pressure into the distributing pipes of a potable water supply from any source or sources other than its intended source.

“Backflow preventer” means a device or means designed to prevent backflow or back-siphonage.

“Best Management Practices” or “BMP” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in 40 CFR 403.5(a)(1) and (b), the requirements of this Chapter, and to control site runoff, spillage or leaks, sludge or waste removal, or drainage from raw materials storage, as further provided in Section 13.52.490. BMPs

include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

“BOD (biochemical oxygen demand)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in milligrams/liter (mg/l). (EPA Standard Methods 5210(B) shall be used for any tests of BOD.)

“Building drain” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building, and conveys it to the building sewers, beginning five feet (one and one-half meters) outside the inner face of the building walls.

“Building service line” means all water service piping on the customer’s side of the main service meter where the meter is within the public right-of-way or easement. Also, all other service connection piping between the meter and the main located on private property (excluding water meters) where the city does not have existing agreements to maintain and replace such piping.

“Building sewer” means that part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sewer, private sewer, individual sewage disposal system, or other point of disposal.

“Business day” or “working day” means Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding any city-recognized holidays.

“City” means the City of Silverton.

“Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

“COD (chemical oxygen demand)” means the quantity of oxygen, expressed in milligram per liter, utilized by decomposition of organic and inorganic contaminants, dissolved or suspended in water, during a two-hour oxidation test. (EPA Standard Methods 5220(D) shall be used for any tests of COD.)

“Commercial business” means a business establishment which furnishes goods or services to either the general public or other commercial operations.



“Controlled cross-connections” means a connection between a potable water system and a nonpotable water system, with an approved backflow-prevention device properly installed that will continuously afford the protection commensurate with the degree of hazard.

“Cross-connection” means any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems, one of which contains potable water and the other nonpotable water or industrial fluids of questionable safety, through which, or because of which, backflow or back-siphonage may occur into the potable water system. Other types of cross-connections include but are not limited to connectors such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or changeover devices, sliding multiport tube, and solid connections.

“Customer” means the owner, agent, tenant or other authorized representative responsible for occupancy of the premises that is served by a city utility system. A person, corporation, association or agency which rents or leases premises shall be considered an agent of the property owner; also a “user.”

“Developer” means any person, company or corporation who purchases or holds an interest in real property with the intent to increase the value thereof by the installation of utilities, construction of a building or buildings, grading, ditching, improving or enhancing the ground or structures for the purpose of resale.

“Director” means the Public Works Director for the City, Or the Director’s designee.

“Domestic flow” means volume used during peak-hour usage at a minimum residual gauge pressure of 20 psi.

“Domestic wastewater” means wastewater of the type commonly introduced into a treatment works by residential users.

“Double-check valve assembly” means an assembly of two independently operating approved check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve. The entire assembly shall meet the design and performance specifications and approval of a recognized and city-approved testing agency for backflow-prevention devices. To be approved, these devices must be readily accessible for the in-line maintenance and testing.

“Environmental Protection Agency” or “EPA” means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

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

“Garbage” means the solid animal and vegetable waste from the domestic and commercial preparation, cooking and dispensing of food, and from handling, storage and sale of produce.

“Indirect discharge” or “discharge” means the introduction of pollutants into the sewage treatment plant from any nondomestic source.

“Industrial facility” means an establishment primarily engaged in manufacturing, processing or fabrication of goods.

“Industrial user” means any nongovernmental, nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:

Division A – Agricultural, Forestry and Fishing.

Division B – Mining.

Division D – Manufacturing.

Division E – Transportation, Communication, Electric, Gas and Sanitary Services.

Division I – Services.

“Living unit” means any of the following:

1. A single-family dwelling;
2. A habitable unit of multifamily dwelling(s), including an apartment; or
3. A condominium.

“Interference” means a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the sewage treatment plant, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City’s NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following

statutory/regulatory provisions or permits issued thereunder, 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 the specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

“Mains” means distribution pipelines that are part of the city water system.

“Multi-user” means a customer supplied with water service to more than one living unit, commercial business or industrial facility, or combination thereof, from one water service connection.

“Natural outlet” means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

“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 or Chapter 13.52 of the Utility Code, that will be applicable to such source if such pretreatment standards are thereafter promulgated in accordance with that section or chapter, provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source as defined under this Section has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program: (i) any placement, assembly, or installation of facilities or equipment; or (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

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

“Nonpotable water” means water that is not safe for human consumption, or which is of questionable potability.

“NPDES Permit” means the City National Pollutant Discharge Elimination System permit.

“Operation and maintenance” means activities required to assure the dependable and economical function of the treatment works.

1. “Operation” means control of the unit processes and equipment which make up the treatment works. This includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

2. “Maintenance” means preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance and replacement of equipment as needed.

“Pass through” means a discharge which exits the sewage treatment plant into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City’s NPDES permit, including an increase in the magnitude or duration of a violation.

“Permittee” a user who receives a wastewater permit pursuant to Chapter 13.52.

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

“pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

“Potable water” means any water which, according to recognized standards, is safe for human consumption.

“Premises” means the integral property or area, including improvements thereon, to which water service is or will be provided.

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

“Pretreatment standards” mean prohibited discharge standards, categorical pretreatment standards, and local limits.

“Prohibited discharge standards” mean the prohibitions set forth in Sections 13.52.020 through 13.52.050.

“Private sewer” means a privately owned and maintained lateral sewer system normally six or eight inches in diameter, installed to serve multi-unit structures on single-ownership properties, which cannot legally be further divided, such as apartments, mobile home parks, schools and condominiums.

“Properly shredded garbage” means the wastes from the preparation, cooking and disposing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

“Property owner” means the owner of the premises who is also the ultimate responsible party for all customer charges and fees. The property owner may also be the customer for any given premises.

“Public sewer” means a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

“Reduced pressure principle device” means an assembly of two independently operating approved check valves with an automatically operating differential relief valve between the two check valves, tightly closing shutoff valves on either side of the check

valves, plus properly located test cocks for the testing of the check and relief valves. The entire assembly shall meet the design and performance specifications and approval of a recognized and city-approved testing agency for backflow-prevention assemblies. The device shall operate to maintain the pressure in the zone between the two check valves at a level less than the pressure on the public water supply side of the device. These devices must be readily accessible for in-line maintenance and testing, and be installed in a location where no part of the device will be submerged.

“Replacement” means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term “operation and maintenance” includes replacement.

“Sanitary sewer” means a conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwater, stormwater and surface water that are not admitted intentionally.

“Service connection” means a water connection or sewer connection as the context indicates.

“Service connection charge” means the fee levied to pay for the cost of labor, materials and any inspection required during the construction of a utility service line from the water or sewer main to the property that is to be served, with the charges to be itemized on a standard city billing form.

Sewage, Sewerage, or Sewer Water. See “wastewater.”

“Sewage treatment plant” means publicly owned facilities for collecting, pumping, treating and disposition of sewage which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

“Sewer” means a pipe or conduit for carrying sewage.

“Sewer connection” means a public sewer that has been constructed to the property line or right-of-way line from a public main for the sole purpose of providing a connection for the building sewer.

“Significant industrial user” means:

1. An industrial user subject to categorical pretreatment standards; or

2. An industrial user that:
  - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the sewage treatment plant (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
  - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the sewage treatment plant; or
  - c. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the sewage treatment plant's operation or for violating any pretreatment standard or requirement.
3. Upon a finding that a user meeting the criteria in Subsection B of this part has no reasonable potential for adversely affecting the sewage treatment plant operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

“Significant noncompliance” has the meaning set forth in Section 13.52.350.

“Slug load” or “slug discharge” means any discharge of water, sewage or industrial waste at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 13.52.090. This includes any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the sewage treatment plant's regulations, local limits or permit conditions.

“Stormwater” means a sewer designed to carry only stormwaters, surface runoff and street wash waters, and drainage.

“Surface water” means all natural water whose surface is exposed to the atmosphere, including natural drainage ways, stream corridors, rivers, ponds, wetlands, and impoundments.

“System development charge” means the fee or charge assessed to each commercial business, industry or living unit for the right to connect to the city's sewer or water system, and which is used for expansion of those systems.

“Temporary service” means service of limited duration.

“TSS (total suspended solids)” means the total suspended matter that floats on the surface, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering. (EPA Standard Methods 2450(D) shall be used for any tests for TSS.)

“Useful life” means the period during which a treatment works is planned and designed to be operated.

User. See “customer.”

“User service charge” means a charge levied on customers that may be a combination of a base fee, a usage fee and a fixed fee as set by resolution and/or ordinance.

“Utility” or “utility system” means sewer, water and stormwater management services provided by the city of Silverton.

“Utility code” has the meaning set forth in Section 13.01.010.

“Utility rate” is the rate established by city council to cover the cost of providing utility system services.

“Utility service” means services provided for water, stormwater and sewer.

“Wastewater” means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such incidental groundwater, surface water and stormwater as may be present.

“Wastewater permit” means a permit issued by the City to an industrial user pursuant to Chapter 13.52.

“Water connection” means the pipe, valves, fittings and meter by means of which the city conducts water from its main to and through a meter(s), but not including piping from the meter to the premises served.

“Water main” means water pipe and all necessary valves, fittings, hydrant connections and other appurtenances used for the distribution of water.

“Water system” means all municipally owned facilities of the city used to supply, process and distribute drinking-quality water to each customer service connection or temporary service.

“Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.