

**RESOLUTION OF THE EXECUTIVE BOARD OF THE FALCON AREA WATER AND
WASTEWATER AUTHORITY, COUNTY OF EL PASO, STATE OF COLORADO,
ADOPTING WASTEWATER DISCHARGE REGULATIONS**

WHEREAS, the Falcon Area Water and Wastewater Authority, County of El Paso, Colorado (the "Authority"), is a quasi-municipal corporation and political subdivision of the State of Colorado organized in accordance with Section 29-1-204.2, Colorado Revised Statutes, as amended; and

WHEREAS, the Authority entered into that certain Wastewater Service Agreement dated May 31, 2024 by and between the City of Colorado Springs ("City") acting by and through its enterprise, Colorado Springs Utilities ("Utilities"), and the Falcon Area Water and Wastewater Authority, whereby the Authority provides wastewater collection service to developments within the Authority's Service Area that are outside of the City's limits and subsequently obtains wastewater treatment service from Utilities (the "Agreement"); and

WHEREAS, the Agreement in Section 3(b) requires the Authority to submit to the jurisdiction of the City for the purposes of implementation and enforcement of Colorado Springs City Code ("City Code") Chapter 12, Article 5 with regard to the Authority and the Authority's customers; and

WHEREAS, the Authority desires, by way of this Resolution, to submit to the jurisdiction of the City for the purposes of implementation and enforcement of City Code Chapter 12, Article 5 and to adopt the same, as required by the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE EXECUTIVE BOARD OF THE FALCON AREA WATER AND WASTEWATER AUTHORITY AS FOLLOWS:

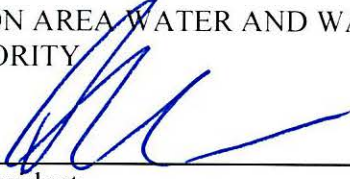
1. Terms not defined herein shall have the same meaning as in the Agreement.
2. The Authority's Executive Board hereby determines that it is in the best interests of the Authority and its customers and pursuant to Section 3(b) of the Agreement, for the Authority to submit to the jurisdiction of the City for the purposes of implementation and enforcement of City Code Chapter 12, Article 5 with regard to the Authority and its customers.
3. The Authority's Executive Board hereby adopts City Code Chapter 12, Article 5 attached hereto as Exhibit A, as it exists now or may be amended in the future as regulations applicable to the Authority and all customers of the Authority.
4. Pursuant to Section 3(b) of the Agreement, the Authority and its customers shall be bound by and comply with all applicable laws, ordinances, resolutions, regulations, rules, standards or policies concerning use of Utilities' Wastewater Treatment System as they exist now or may be amended or replaced in the future.
5. The Authority's Executive Board hereby declares that Utilities or the City shall have the jurisdiction and authority to enforce the provisions of City Code, Chapter 12, Article 5, all other applicable laws, ordinances, resolutions, regulations, rules, standards or policies

concerning use of Utilities' Wastewater Treatment System against the Authority and all customers of the Authority.

6. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

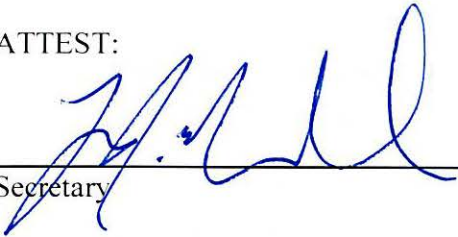
RESOLUTION APPROVED AND EFFECTIVE this 6th day of April, 2026.

FALCON AREA WATER AND WASTEWATER
AUTHORITY

By: 

President

ATTEST:



Secretary

ARTICLE 5 WASTEWATER TREATMENT CODE

PART 1 TITLE AND PURPOSE

SECTION:

12.5.101: Title

12.5.102: Purpose And Applicability

12.5.101: TITLE:

The title of this article shall be *THE WASTEWATER TREATMENT CODE* and this article may be cited as such. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.102: PURPOSE AND APPLICABILITY:

This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Colorado Springs and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and general pretreatment regulations (40 CFR, section 403).

This article shall apply to the City of Colorado Springs and to districts, persons or other entities outside the City who are, by contract or agreement, users of the City's publicly owned treatment works. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

PART 2 DEFINITIONS

SECTION:

12.5.201: Definitions

12.5.202: County Health Department, Health Officer

12.5.201: DEFINITIONS:

A. Unless the context specifically indicates otherwise, the following items, as used in this article, shall have the meanings hereinafter designated:

ACT: The Federal Water Pollution Control Act amendments of 1972, PL 92-500, and subsequent amendments (e.g., Clean Water Act of 1977) 33 USC section 1251 et seq.

APPROVAL AUTHORITY: The State Health Department Director in an NPDES State with an approved State pretreatment program and the appropriate EPA Regional Administrator in a non- NPDES State or NPDES State without an approved State pretreatment program.

APPROVED POTW PRETREATMENT PROGRAM OR PROGRAM OR POTW PRETREATMENT PROGRAM: A program administered by a POTW that meets the criteria established in 40 CFR sections 403.8 and 403.9 and which has been approved by the EPA or State Director in accord with 40 CFR section 403.11 of the general pretreatment regulations (40 CFR section 403).

ARTICLE OR THIS ARTICLE: Chapter 12, article 5 of this Code of the City of Colorado Springs, as amended.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER:

1. A responsible corporate officer, if the industrial user is a corporation. For the purpose of this definition, a responsible corporate officer means:

a. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy making 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 which govern the operation of the regulated facility, including, but not limited to: having the explicit or implicit duty of making major capital investment recommendations; initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; ensuring that the necessary systems are established or actions taken to gather complete and accurate information for control

mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.

3. A duly authorized representative of the individual designated above if the representative is responsible for the overall operation of the facility from which the indirect discharge originates or has overall responsibility for environmental matters for the company. Authorization must be made in writing to the Chief Executive Officer by an individual as described in subsections 1 and 2 of this definition.

4. If an authorization under subsection 3 of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection 3 of this definition must be submitted to the Chief Executive Officer prior to or together with any reports to be signed by an authorized representative.

BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters of the State; to implement the prohibitions of section 12.5.702 of this article and the local limits of subsection 12.5.703B of this article. BMPs also include treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

BIOCHEMICAL OXYGEN DEMAND OR BOD: The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory methods of five (5) days at twenty degrees centigrade (20°C), expressed in terms of weight and concentration (milligrams per liter).

BYPASS: The intentional diversion of wastestreams from any point of an industrial user's treatment facility. Bypass as used in this article is distinct from bypass as used in article 1 of this chapter.

CFR: Code of Federal Regulations.

CATEGORICAL INDUSTRIAL USER: A source of discharge to a POTW that is required to comply with categorical pretreatment standards in accord with Clean Water Act sections 307(B) and (C) (33 USC section 1317).

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD: Technology based effluent limitation for an industrial facility discharging into a Municipal sewer system, which applies to a specific category of users as listed in 40 CFR chapter 1, subchapter N, sections 405 - 471, as promulgated by EPA in accord with sections 307(B) and (C) of the Act (33 USC section 1317).

CENTRALIZED WASTE TREATMENT FACILITY: Any facility that receives nondomestic liquid wastes for treatment or disposal, and is designated as such by the Chief Executive Officer consistent with the provisions contained in 40 CFR section 437.

COLLECTION LINE: That portion of the wastewater treatment system which collects and transmits wastewater from users to the wastewater treatment plant, excluding service lines.

COLORADO DISCHARGE PERMIT SYSTEM OR CDPS: The program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into surface water of the State of Colorado under conditions of the delegation of authority to administer a State water quality control program pursuant to section 402 of the Act.

COMBINED WASTESTREAM FORMULA: A formula as outlined in the general pretreatment regulations of the Clean Water Act and applied to sampled wastewater flow from regulated users in order to determine compliance with all applicable pollutant limitations and which accounts for dilution effects from unregulated wastewater streams such as sanitary, cooling water, etc.

COMPLIANCE SCHEDULE: A schedule enforceable under part 12 of this article containing increments of progress in the form of dates for the commencement and/or completion of major events leading to the construction and operation of additional pretreatment facilities or the implementation of policies, procedures or operational management techniques required for the user to comply with all applicable Federal, State or local environmental regulations which may directly or indirectly affect the quality of the user's wastewater effluent.

COMPOSITE SAMPLE: A series of grab samples of equal volume taken at predetermined times during the user operating day without regard to flow and which are combined into one sample.

CONTROL AUTHORITY: The entity directly administering and enforcing the industrial waste pretreatment standards and requirements, under direction of the Chief Executive Officer. The Colorado Springs Utilities Water Services Division is the control authority for the Las Vegas Street Wastewater Treatment Facility and the J.D. Phillips Water Reclamation Facility.

CONTROL MECHANISM: Control mechanisms may be used to control the discharges of significant industrial users and other industrial users. Control mechanisms may be individual or general. Control mechanisms may include significant industrial user permits, written authorizations to discharge for other industrial users, liquid waste hauler permits and other requirements enforceable under this Utilities Code.

CONVENTIONAL POLLUTANT: BOD, suspended solids, pH and fecal coliform bacteria, and the additional pollutants as are now or may be in the future specified and controlled in the CDPS permit for the wastewater treatment works where the works have been designed and used to reduce or remove the pollutants.

COOLING WATER: The water discharged from uses such as air conditioning or refrigeration or to which the only pollutant added is heat.

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

DENTAL DISCHARGER: An industrial user where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, State, or local governments, that discharges wastewater to a publicly owned treatment works (POTW). 40 CFR Part 441.20(e).

DESIGNATED DISPOSAL FACILITY OR DESIGNATED DISPOSAL FACILITIES: A site authorized pursuant to section 12.5.605 of this article, at which the user is allowed to discharge hauled or trucked waste. The site may be for domestic waste or for nondomestic waste only, which is to be treated prior to discharge to the POTW.

DISCHARGE RATE: The unit of volume of effluent discharge per unit of time from the user which has been determined by the Chief Executive Officer to be representative of process effluent from that user, such as gallons per day, gallons per minute or cubic feet per day.

DOMESTIC WASTES OR SANITARY WASTES: Liquid wastes:

1. Wastewater from normal residential activities including, but not limited to, wastewater from kitchen, bath, and laundry facilities; or

2. Wastewater from the personal sanitary conveniences (toilets, showers, bathtubs, fountains, noncommercial sinks and similar structures) of commercial, industrial or institutional buildings, provided that the wastewater exhibits characteristics that are similar to those of wastewater from normal residential activities;

3. Specifically excluded from this definition is wastewater from commercial, industrial or institutional laundries or food preparation facilities.

FLOW PROPORTIONATE SAMPLE: A composite sample where each discrete sample is collected based upon the flow (volume) of wastewater.

GARBAGE: Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.

GENERAL BEST MANAGEMENT PRACTICE: A Best Management Practice developed by the Chief Executive Officer applicable to a category of industrial users, category of activities, or geographic area.

GENERAL CONTROL MECHANISM: A control mechanism issued by the Chief Executive Officer pertaining to a category of industrial users who may discharge into the Utilities wastewater system.

GRAB SAMPLE: A singular sample of user's effluent which is taken during the user's normal operating day without regard for variations in daily operational characteristics, flow or concentration of pollutants.

GREASE/SAND INTERCEPTOR: A tank that serves one or more fixtures and is remotely located. The interceptors include, but are not limited to, tanks that capture wastewater from dishwashers, floor drains, pot and pan sinks and trenches, or wastewater from vehicle maintenance facilities, car washes or activities with a petroleum wash away byproduct.

GREASE TRAP: A device designed to retain grease from one to a maximum of four (4) fixtures per the Uniform Plumbing Code as adopted by the Regional Building Code.

HAZARDOUS WASTE: A solid waste, which meets the criteria of 6 Colorado Code of Regulations 1007-3, section 261.3.

INDIRECT DISCHARGE: The introduction of pollutants into a POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

INDIVIDUAL CONTROL MECHANISM: A control mechanism that only is issued to a specific industrial user and is not available to cover a category of industrial users.

INDIVIDUAL WASTEWATER DISPOSAL SYSTEM: A septic tank, cesspool or similar self-contained receptacle or facility which collects and/or treats or otherwise disposes of wastewater and which is not connected to the wastewater treatment system.

INDUSTRIAL USER: A source of discharge which introduces pollutants into the POTW from any nondomestic source regulated under section 307(B), (C), or (D) of the Act.

INDUSTRIAL WASTE: Any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process or operational procedures of an industrial user. Industrial waste includes wastes generated from cleaning and maintaining equipment and facilities used for the relevant process or operation.

INSTANTANEOUS COMPLIANCE SAMPLE: A grab sample collected for the purpose of gauging compliance with the Wastewater Treatment Code or is otherwise used to track compliance schedule progress.

INTERFERENCE: A discharge which, alone or in conjunction with a discharge or discharges from other sources:

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

2. Therefore is a cause of a violation of any requirement of the POTW's NPDES permit or CDPS permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act [RCRA], and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

LIQUID WASTE HAULER: Any person, firm, corporation or other entity that collects, pumps, transports and/or disposes of "liquid wastes" as defined herein.

LIQUID WASTE HAULER PERMIT: A permit issued by Utilities pursuant to section 12.5.1110 of this article which will authorize a liquid waste hauler to collect, pump, transport, and/or dispose of permitted hauled liquid waste subject to conditions on quality of the waste, time and location of disposal of the waste and operations of the waste hauler into the disposal facilities designated by the Chief Executive Officer.

LIQUID WASTES: Those materials including, but not limited to, sand trap pumpings, septic tank pumpings, portable toilet pumpings, food service or petroleum service grease trap pumpings, sludges generated from domestic wastewater treatment plants and lagoons, waste or used oils and lubricants, chemical wastes, wastes from industrial or commercial wastewater treatment systems, storm drain sludges or dredgings and other wastes as determined by the Chief Executive Officer. Liquid wastes as defined herein are not considered "permitted wastes" for legal discharge into disposal facilities designated by the Chief Executive Officer.

MANIFEST: A written document required by the Chief Executive Officer that specifies, among other things, the source and nature of the waste to be discharged to the disposal facility, designated as provided in section 12.5.605 of this article.

MANIFEST SYSTEM: A system consisting of a document that records information and data on generation, transportation and disposal of waste.

MASTER PLUMBER: As defined in and licensed pursuant to title 12, article 58 Colorado Revised Statutes, as the same may be now or hereafter amended, and registered with the Regional Building Department pursuant to section RBC205.1 of the Building Code.

MAXIMUM ALLOWABLE HEADWORKS LOADING OR MAHL: A quantitative maximum allowable loading in pounds per day at the headworks to the POTW of any particular pollutant. MAHL is the maximum amount allowable in light of the removal efficiency of the wastewater treatment process which still protects against interference or pass-through and attains the effluent limits of the POTW's permit and/or the water quality standards of the stream segment(s) protected by the permit. MAHL may be also based upon protection of sewage sludge for beneficial reuse, worker safety exposure, process upsets and air emissions. MAHL is used to derive local limits applicable to individual significant industrial users.

MAXIMUM ALLOWABLE INDUSTRIAL LOADING OR MAIL: The loading available to the POTW to allocate to industrial users after subtracting the domestic/background uncontrolled sources and a safety and growth factor from the MAHL. MAIL is allocated among significant industrial users as a group, or significant industrial users as specified classes or categories or individual significant industrial users.

MONTHLY AVERAGE: The average of daily discharges over a calendar month as calculated by adding all the daily discharges measured during the calendar month, and dividing the sum by the number of daily discharges measured during that month.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM OR NPDES: The program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone and the oceans pursuant to section 402 of the Act.

NEW SOURCE: Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(C) of the Act which will be applicable to the source if the standards are thereafter promulgated in accord with that section, provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. 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; or
4. Construction on a site on which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection 2 or 3 of this definition but otherwise alters, replaces or adds to existing process or production equipment; or
5. Construction of a "new source" as defined above has commenced if the owner or operator has begun or caused to begin as part of a continuous on-site construction program:

- a. Any placement, assembly, or installation of facilities or equipment; or
- b. 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
- c. 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 definition.

OPERATING DAY: That portion of a twenty four (24) hour day during which industrial wastes are discharged or generated.

PASS-THROUGH: A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES or CDPS permit (including an increase in the magnitude or duration of a violation).

PERMITTED HAULED LIQUID WASTES: Those liquid wastes which are authorized by the Chief Executive Officer in a liquid waste hauler permit to be disposed at the designated disposal facilities of the City.

PERSON: An individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representative, agents or assigns. This definition includes all Federal, State and local governmental entities.

pH: A logarithmic scale used to specify the acidity or basicity of an aqueous solution on a scale from 0 to 14. A measure of how acidic or alkaline a substance is. More acidic solutions have lower pH. More alkaline solutions have higher pH. Substances that are not acidic or alkaline (that is, neutral solutions) have a pH of 7.

PHOTOPROCESSING: A wet chemical process which renders an image on photosensitized material through the use of:

1. A silver halide suspension coated on a substrate (film, glass, plastic, metal, paper or fabric);
2. Exposure of this photosensitized material to electromagnetic radiant energy; and
3. Chemical enhancement of the previously exposed image via oxidation/reduction reactions in a series of chemical solutions. Byproducts of this reaction are liquid wastes which consist of reduced or oxidized chemical solutions, some of which include various complexes of silver and silver thiosulfate. This definition also includes any process which subsequently tones, enhances or alters the developed image. Establishments employing the process may include, but are not limited to, hospitals, radiology clinics, printers and publishers, retail photographic stores, photographers, schools, veterinarians and dentists.

POLLUTANT: Any dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, or sand. Pollutants also include any industrial, Municipal or agricultural waste, and may include some medical wastes to be determined at the discretion of the Chief Executive Officer.

PRETREATMENT: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR section 403.6(d).

PRETREATMENT REQUIREMENT: Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

PRETREATMENT STANDARD, NATIONAL PRETREATMENT STANDARD OR STANDARD: Any regulation containing pollutant discharge limits promulgated by the EPA in accord with section 307 (b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to section 403.5 of the Act, as well as any nonconflicting State or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied. There are two (2) different circumstances in which BMPs may be pretreatment standards. The first is when the Chief Executive Officer establishes BMPs to implement the prohibitions of section 12.5.702 of this article and the local limits of subsection 12.5.703B of this article. The second is when the BMPs are categorical pretreatment standards established by the EPA.

PUBLICLY OWNED TREATMENT WORKS (POTW), WASTEWATER TREATMENT SYSTEM OR WASTEWATER SYSTEM:

1. Any devices, facilities, structures, equipment or works owned by the City or used by Utilities for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, collection lines, pumping, power and other equipment, and their appurtenances and excluding service lines:
 - a. Extensions, improvements, additions, alterations or any remodeling thereof;
 - b. Elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and
 - c. Any works, including the land and sites that may be acquired, that will be an integral part of the treatment process

or is used for ultimate disposal of residues resulting from the treatment, or reuse of treated water for irrigation, recreation or commercial purposes.

d. It does not include the stormwater drainage system, a separate Municipal operation which is not part of Utilities.

2. The municipality, as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

RECEIVING WATER: Lakes, rivers, streams or other watercourses which receive treated or untreated wastewater.

REGIONAL BUILDING OFFICIAL: The Director of the Regional Building Department of El Paso County, Colorado, or the Director's designated representative.

SEPTIC TANK PUMPINGS: The material pumped from individual wastewater disposal systems and which contain domestic wastes only.

SERVICE LINE: The wastewater collector line extending from the wastewater disposal facilities of the premises up to and including the connection to the collection line.

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

SIGNIFICANT INDUSTRIAL USER OR SIGNIFICANT USER OR SIU: Any industrial user of the POTW who:

1. Is a user subject to categorical pretreatment standards under section 403.6 and 40 CFR chapter 1, subchapter n; or
2. Discharges wastewater containing significant amounts of toxic materials specified by the Chief Executive Officer in accord with rulemaking or as defined in the standards issued under section 307 of the Act; or as defined in this Code; or
3. Any other industrial user that discharges an average of twenty five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Chief Executive Officer on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accord with 40 CFR section 403.8(f)(6)).

SIGNIFICANT INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT: An authorization to discharge industrial process wastewaters by a significant industrial user into the City sanitary sewer system.

SIGNIFICANT NONCOMPLIANCE: An industrial user's violation(s) meets one or more of the following criteria:

1. "Chronic violations of wastewater discharge limits", defined here as those in which sixty six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limitations, for the same pollutant parameter; "six (6) month periods" are defined as October 1 to March 31, January 1 to June 30, April 1 to September 30 and July 1 to December 31;
2. "Technical review criteria (TRC) violations", defined here as those in which thirty three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of a numeric pretreatment standard or requirement including instantaneous limitations multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH); "six (6) month periods" are defined as October 1 to March 31, January 1 to June 30, April 1 to September 30 and July 1 to December 31;
3. Any other violation of a pretreatment standard or requirement (daily maximum, long term average, instantaneous limit, narrative standard or BMP) that the Chief Executive Officer determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent a discharge;
5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation or group of violations, which may include a violation of BMPs, which the Chief Executive Officer determines will adversely affect the operation or implementation of the local pretreatment program, including any violation(s) that results in an administrative fine.

SLUG DISCHARGE: Any discharge of a nonroutine, 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 violates the POTW's regulations, local limits or permit conditions, including such discharge which:

1. Contains any substances regulated by part 7 of this article in concentrations or amounts which exceed for any time,

the prohibitions contained in 40 CFR section 403.5(b), as specified in subsections 12.5.702E, F, G, J, N, S, T and U of this article;

2. Causes a twofold or more increase in discharge rate for a period longer than twenty (20) minutes;
3. Causes that user's effluent to violate the pH limitations provided in part 7 of this article for a continuous period longer than thirty (30) minutes; or
4. Is a condition of discharge determined by the Chief Executive Officer to be a slug discharge as is specified in the user's discharge permit, or through other notifications made to the user by the Chief Executive Officer.

STANDARD INDUSTRIAL CODE: A numerical code indicating the classification of users pursuant to the "Standard Industrial Classification Manual" issued by the Executive Office of the President, Office of Management and Budget, 1987, and amendments thereof and supplemented by the Wastewater Division.

STORMWATER: Precipitation induced surface runoff.

SUSPENDED SOLIDS: The total suspended matter, as measured in milligrams per liter, that floats on the surface of, or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering by standard methods.

TOTAL TOXIC ORGANICS: The sum of all concentration values greater than 0.01 milligram per liter for the list of toxic organics as developed by the Federal EPA for an applicable categorical pretreatment standard or otherwise specified by the Chief Executive Officer.

UPSET: An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

USER: Any person, firm, corporation, government or other entity that discharges, causes or permits the discharge of wastewater into the POTW.

USER CLASSIFICATION: A classification of users based on the 1987 (or subsequent) edition of the "Standard Industrial Classification Manual" prepared by the Federal Office of Management and Budget.

WASTE SILVER RICH PHOTOCHEMICAL SOLUTIONS: Any waste photochemical solutions generated from photoprocessing activities that contain silver concentrations generally in excess of four hundred milligrams per liter (400 mg/L). This includes, but may not be limited to: fix, bleach-fix, stabilizers from washless minilabs, low flow washes. This excludes non-silver rich photochemical processing solutions such as developers and wash waters generated from properly operated and maintained photoprocessing equipment.

WASTEWATER: The liquid and water carried industrial or domestic wastes and pollutants from dwellings, commercial buildings, industrial facilities and institutions, including hauled liquid waste, and any groundwater, surface water and stormwater that may be present, whether treated or untreated.

WASTEWATER SYSTEM: See definition of Publicly Owned Treatment Works (POTW).

WASTEWATER TREATMENT SYSTEM: See definition of Publicly Owned Treatment Works (POTW).

B. Terms not otherwise defined herein shall have the meanings adopted in the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. (Ord. 98-173; Ord. 99-162; Ord. 00-204; Ord. 01-42; Ord. 05-135; Ord. 06-195; Ord. 08-44; Ord. 10-82; Ord. 14-66; Ord. 15-99; Ord. 18-42; Ord. 19-34)

12.5.202: COUNTY HEALTH DEPARTMENT, HEALTH OFFICER:

Any reference in this article to the "Department of Health" or the "Health Department" shall mean the El Paso County Department of Health and Environment. Any reference in this article to the "Health Officer" shall mean the Health Officer of the El Paso County Department of Health and Environment, or the Health Officer's designated representative. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

PART 3 WASTEWATER SERVICE

SECTION:

12.5.301: Service; Application For

12.5.302: Service Outside City; Policy

12.5.303: Service Outside City; Application For

12.5.304: Service; Special Contract

12.5.305: Service; Excavations For

12.5.301: SERVICE; APPLICATION FOR:

Any person required or desiring to connect a service line to the wastewater treatment system, or to add fixtures to an existing connection, shall make application to the Chief Executive Officer for wastewater service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Chief Executive Officer to determine compliance with all tariffs, ordinances, regulations or rules concerning the wastewater system. The Chief Executive Officer shall endorse approval or disapproval of the application as complying or failing to comply with all tariffs, ordinances, regulations or rules concerning the wastewater system of the City. Upon approval by the Chief Executive Officer of the application, the user receiving wastewater service shall pay therefor in accord with the applicable rates, rules and regulations. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.302: SERVICE OUTSIDE CITY; POLICY:

A. City policy relating to the furnishing of wastewater treatment service to users located outside the corporate limits of the City is set out in subsections 12.1.116 and 12.5.304B of this Code. Utilities expressly reserves the right, except as otherwise specifically limited by State or Federal law, to impose the conditions as it may see fit relative to furnishing the service, and may refuse the service in its discretion.

B. All provisions of this article apply to those areas outside the corporate limits of the city, except those areas covered by a special contract as defined in subsections 12.1.116A and 12.5.304, which expressly establishes other rules for areas served under the contract. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 23-17; Ord. 24-24)

12.5.303: SERVICE OUTSIDE CITY; APPLICATION FOR:

Any person desiring to connect a service line and/or add fixtures to an existing connection which is located outside the City limits shall comply fully with subsection 12.1.116B of this code. The person shall then make application to Utilities for wastewater service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Chief Executive Officer to determine compliance with all tariffs, ordinances, regulations or rules concerning the wastewater system. The Chief Executive Officer shall endorse approval or disapproval of the application as complying or failing to comply with all tariffs, ordinances, regulations or rules concerning the wastewater system of the City. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42; Ord. 23-17; Ord. 24-24)

12.5.304: SERVICE; SPECIAL CONTRACT:

A. Utilities may provide by contract for the use of and connection to the City's wastewater treatment system by institutions, plants, organized sewer districts, Municipal corporations or other similar users which are located outside the corporate limits of the City. The use of or connection to the wastewater treatment system shall be subject to the terms and conditions as Utilities may see fit to impose.

B. Policy for Special Contract Consideration:

1. Persons inside City limits have made significant investments in the City's wastewater system. Persons outside the City limits who desire wastewater service from the City should be required to pay an amount that reflects their pro rata demand on existing and planned infrastructure and resources as well as pay additional fees for such service in recognition for investments made to the wastewater system by persons inside City limits.

2. Wastewater services provided outside City limits must not have an adverse impact on the City and its facilities, public and private.

3. There is no obligation imposed by general law upon the City to provide wastewater service outside its boundaries.

C. Requirements for Special Contract Wastewater Service

1. The City's wastewater facilities, as currently existing or planned, must be sufficient to meet the present and projected wastewater needs for the foreseeable future of all users of the wastewater system located within and outside the corporate limits of the City including those who are to be served under the special contract.

2. The service under such special contract must not interfere with the City's ability to provide wastewater service to in-City customers in accordance with the standards adopted by Utilities and the City's existing contractual obligations.

3. The special contract customer must agree to pay all wastewater system availability fees and other applicable Utilities' fees.

4. Special contracts shall comply with all applicable restrictions in this Code and applicable permits and agreements.

5. The special contract customer must obtain all contracts, permits, administrative approvals as may be required to allow Utilities to provide special contract service without impairing Utilities' ability to operate the wastewater system for the benefit of Utilities' customers.

6. Contracts entered into pursuant to this section shall provide for compliance by the user with the discharge

prohibitions and limitations contained in this article. Among other things, the contracts shall require the user to:

- a. Submit to the jurisdiction of the City for the purposes of the enforcement procedures and penalties set out in this article; and
- b. Stipulate liquidated damages for violation of the provisions of this article in an amount equal to the penalties imposed herein.

7. Contracts entered into pursuant to this section may provide for acceptance by Utilities of only normal domestic strength wastewater, and the requirements of subsection C2 of this section shall not apply to the contracts. However, the contracts shall provide that any discharge of industrial wastewater by the user shall subject the user to consequential damages for breach of contract, including, but not limited to, any amounts the City or Utilities may be required to pay for violation of the conditions of its CDPS permit where the discharge of the user caused or contributed to the violation. Discharges of industrial wastewater by a user bound by the contract shall not be accepted by Utilities except pursuant to notice to the City and execution of an amended or additional contract to which the requirements of subsection C2 of this section shall apply.

D. Contracts for use of or connection to the wastewater treatment system in force and effect on the effective date of this article shall remain in full force and effect in accord with the terms and conditions thereof. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 24-24)

12.5.305: SERVICE; EXCAVATIONS FOR:

All excavations for installation or repair of wastewater lines shall be adequately guarded with barricades and lights and meet all applicable safety standards so as to protect the public from hazard. Any excavation affecting "Public Places", as those terms are defined in section 3.3.201 of this Code, shall be carried out in conformance with chapter 3, article 3, part 2 of this Code. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

PART 4 CONNECTION AND INSTALLATION

SECTION:

12.5.401: Connection Required

12.5.402: Connection Or Disconnection; Permits

12.5.403: Unauthorized Connections/Entry Prohibited

12.5.404: Connection To System; Inspection By City

12.5.405: Collection Lines; Manner Of Extension

12.5.406: Wastewater Lines; Compliance With Subdivision Requirements

12.5.407: Service Lines; Separate For Each Building; Exceptions

12.5.408: Service Line; Construction To Conform To Rules And Regulations

12.5.409: Service Line; Use Of Gravity Flow

12.5.410: Service Line; Maintenance Of

12.5.411: Existing Lines; Conditions For Use

12.5.412: Construction; Requirements For Commencement And Completion

12.5.413: Disconnection

12.5.401: CONNECTION REQUIRED:

The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a collection line of the City, is hereby required at the owner's expense to install suitable wastewater facilities therein, and to connect the facilities directly with the proper collection line in accord with the provisions of this article within ninety (90) days after official notice to do so, provided that the collection line is within four hundred feet (400') (122 m) of the property line. Under unusual circumstances such as unique topographical characteristics, the Chief Executive Officer, with El Paso County Department of Health and Environment approval, may waive the connection requirement herein stipulated. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.402: CONNECTION OR DISCONNECTION; PERMITS:

Utilities shall issue a permit for each connection or disconnection made to or from the wastewater treatment system. The permit will be required for all new connections, existing connections where additional fixtures are to be installed, and for

disconnections. Permits for connection or disconnection shall be issued only to master plumbers. Discharge permits for significant industrial users shall be required as provided in part 11 of this article in addition to the connection permit. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.403: UNAUTHORIZED CONNECTIONS/ENTRY PROHIBITED:

It shall be unlawful for any unauthorized person to uncover, enter, insert equipment, make any connections with or openings into, use, alter or disturb any collection line or appurtenance thereof, without first obtaining written permission from the Chief Executive Officer and the connections shall be made in compliance with Building and Plumbing Codes, Utilities collection system standards and other applicable rules and regulations of the City. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.404: CONNECTION TO SYSTEM; INSPECTION BY CITY:

The master plumber or applicant for the wastewater service connection permit shall notify the Chief Executive Officer when the service line is ready for inspection and connection to the collection line. The connection and testing required by Utilities shall be made under the supervision of the Chief Executive Officer. The City and Utilities shall not be subjected to any liability for any deficiency or defect which is not discovered by inspection nor shall the owner or developer of the premises be absolved from liability for the deficiency or defect and any resulting damage or from responsibility to correct the deficiency or defect. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.405: COLLECTION LINES; MANNER OF EXTENSION:

Collection lines to collect and intercept wastewater from and throughout areas or additions shall be extended by the owner and/or developer of premises to be served by the lines from the existing collection line to the farthest point or points upgrade of the premises. If the Chief Executive Officer determines that extension of collection lines to the farthest point or points upgrade is not necessary for efficient expansion of the wastewater treatment system, the Chief Executive Officer may waive the requirement of the extension. In any event, collection lines shall be extended by the owner and/or developer of premises to be served by the lines from the existing collection line to a point which permits the shortest possible service line between the collection line and the property line of the premises served thereby. Thereafter the collection lines shall be extended to adjoining premises in compliance with Utilities collection system standards and other applicable Utilities rules and regulations. Extensions shall not be made unless the applicant requesting the service shall provide for the cost of the extension to the point of service and the extension is approved by the Chief Executive Officer. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.406: WASTEWATER LINES; COMPLIANCE WITH SUBDIVISION REQUIREMENTS:

No wastewater lines shall be laid or placed in any proposed addition or subdivision to the City until the proposed addition is platted and approved as provided in 7.4.3 of this Code, except the Chief Executive Officer may approve the installation of facilities after final approval of the final plat, but prior to the recording of the plat, upon the request of the owner subject to an agreement as prescribed by the Chief Executive Officer. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42; Ord. 23-17)

12.5.407: SERVICE LINES; SEPARATE FOR EACH BUILDING; EXCEPTIONS:

A separate and independent service line shall be provided for every building. However, where one building stands at the rear of another on an interior lot cannot be subdivided, and for which no line is available nor can be constructed to the rear building through an adjoining alley, court, yard or driveway, the service line of the front building may be extended to the rear building and the whole considered as one service. Multi-family or commercial or industrial complexes having more than one building on a single platted lot may have the individual buildings connected to a single common service line, unless and until the lot is resubdivided or the buildings otherwise become separately owned in which case independent connections shall be made. Waiver of this requirement for a separate and independent service line, may be granted by the Chief Executive Officer upon resubdivision or creation of separate ownership of individual buildings on a single lot. The waiver shall be granted upon showing that the service lines owned in common will be maintained by an entity of the owners of the separate buildings. By regulation, the Chief Executive Officer may provide for additional requirements to assure proper maintenance and repair of the common service lines, and, if necessary, monitoring of effluent quality or quantity. The City and Utilities do not assume any obligation nor acquire any liability for damage to the connecting property or any portion thereof caused by or resulting from any connection to the wastewater system as aforementioned. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.408: SERVICE LINE; CONSTRUCTION TO CONFORM TO RULES AND REGULATIONS:

The size, slope, alignment and materials of construction of a service line, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Codes and utilities collection system standards and other applicable rules and regulations of the City. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.409: SERVICE LINE; USE OF GRAVITY FLOW:

Whenever possible, the service line shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the collection line, wastewater carried by the building drain shall be lifted by means approved by the Regional Building Official if the facility is located inside the structure or by Utilities if the facility is located outside the structure and discharged to the wastewater system. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.410: SERVICE LINE; MAINTENANCE OF:

A. The owner of any premises connected to the wastewater treatment system shall be responsible for the maintenance of the service line and appurtenances thereto, from and including the connection to the collection line to the premises served. The owner shall keep the line in good condition and shall replace, at owner's expense, any portions thereof which, in the opinion of the Chief Executive Officer, have become so damaged or disintegrated as to be unfit for further use or permit excessive infiltration of ground water or exfiltration of wastewater. The owner must secure all required permits for construction purposes and shall be responsible for returning the public right-of-way and the street to City standards. Any drainage from the service line to City roads, storm drains, or natural drains, shall be reported to the Chief Executive Officer by the landowner.

B. In the event that more than one premises is connected to a single service line, the owners of the respective premises shall be jointly and severally responsible for the maintenance and repair requirements imposed by this section.

C. Prior to repair or alteration of the service line, a permit must be obtained from Utilities. A permit fee shall be imposed to cover the costs of the inspection. This inspection shall assure that ordinances and rules applying to the wastewater system are met. The City or Utilities shall not be subjected to any liability for any deficiency in the repair or alteration of the premises, and shall be absolved from liability for the deficiency or defect and any resulting damage or from responsibility to correct the deficiency or defect. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.411: EXISTING LINES; CONDITIONS FOR USE:

Old wastewater lines may be used in connection with new buildings only when they are found, on examination by the Chief Executive Officer, to meet all requirements of this article and to be compatible with the proposed use. If found unacceptable for future use, the owner shall be required to excavate the line at the point of connection to the collection line and cap the connection as required by wastewater collection system standards. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.412: CONSTRUCTION; REQUIREMENTS FOR COMMENCEMENT AND COMPLETION:

Approval of a building permit or a utility service plan (when a building permit is not required) for any premises to be served by a connection to the wastewater system of the City shall be obtained within one hundred twenty (120) days from the date of payment of the charges set out in Utilities' tariffs. Construction of the premises or facility to be served by the connection must begin within one hundred eighty (180) days from building permit issuance or utility service plan approval and the construction shall be pursued to completion without suspension or abandonment, as provided in the City's Building Code or as provided in Utilities' tariffs or service standards and specifications. Failure to comply with the above requirements shall result in cancellation of Utilities' approval of the connection permit. The refund of or application of credit of the connection charges shall be as provided in Utilities' tariffs. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 05-135; Ord. 09-134)

12.5.413: DISCONNECTION:

A. If a user desires to disconnect user's premises from the wastewater system, the user shall not be permitted to take up that portion of the service line between the collection line and the property line of the premises, but at user's expense the service line shall be capped at the property line and the service line shall be removed from the property line to the structure except as required by section 12.5.411 of this part. New service lines to replace existing service lines shall not be approved by Utilities until old service lines are dug up and properly capped. The cap shall be sufficiently tight to prevent the escape of wastewater gas or the infiltration of water.

B. Any service line classified as abandoned and/or inactive through previous City Code or Utilities' rules and regulations (prior to March 1, 2016) shall be returned to service upon request, payment of all applicable fees and costs, and compliance with all applicable rules and regulations.

C. Transfer of credit associated with a wastewater development charge is generally prohibited; however, transfers may be permitted in limited circumstances in accordance with Utilities' tariffs. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 11-101; Ord. 15-99; Ord. 16-11; Ord. 19-34)

PART 5 COSTS AND CHARGES

SECTION:

12.5.501: Biennial Review

12.5.502: Notification

12.5.501: BIENNIAL REVIEW:

A review shall be conducted at least once every two (2) years of the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment works, and the approved user charge system. The biennial review shall be conducted and revisions made in accord with 40 CFR section 35.929-2(b). If as a result of the biennial review, rates must be adjusted, then ratemaking shall occur as provided in section 12.1.108 of this chapter. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.502: NOTIFICATION:

Each user will be notified at least annually, in conjunction with a regular bill (or other means acceptable to the EPA Regional Administrator) of the rate and that portion of the user charges which are attributable to the wastewater treatment services, in accord with 40 CFR sections 35.2140(c) and 35.929-2(f), dated July 1, 1982. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

PART 6 INDIVIDUAL WASTEWATER DISPOSAL SYSTEM

SECTION:

12.5.601: Conditions For Use

12.5.602: Privy Vaults Prohibited

12.5.603: Contents; Removal Of

12.5.604: Cessation Of Use; When Required

12.5.605: Designation Of Disposal Facility

12.5.601: CONDITIONS FOR USE:

A. Where a collection line is not required or available to premises under the provisions established in this article, the wastewater disposal facilities of the premises shall be connected to an individual wastewater disposal system complying with the provisions of this article and the El Paso County individual sewage disposal system regulations.

B. The type, capacity, location and layout of an individual wastewater disposal system shall comply with all standards of the El Paso County Department of Health and Environment. No permit shall be issued for any individual wastewater disposal system employing subsurface soil absorption facilities where the area of the lot does not meet the regulations imposed by the El Paso County Department of Health and Environment. No septic tank or existing cesspool shall be permitted to discharge into any natural waterway or surface drainage.

C. Before commencement of construction of an individual wastewater disposal system on public or private property within the City or in any area under the jurisdiction of the City or Utilities, the owner shall first submit an application for a permit to construct, remodel or install an individual sewage disposal system to the El Paso County Department of Health and Environment. A representative of the El Paso County Department of Health and Environment shall forward the application to the Chief Executive Officer for written approval or denial. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.602: PRIVY VAULTS PROHIBITED:

It shall be unlawful for any person to construct or maintain a privy vault, holding tank or receptacle for wastewater disposal or similar device within the limits of the City, and in all instances where the devices are now in use, the owner or occupant of the premises shall discontinue the use thereof and install a proper service line or individual wastewater disposal system in accord with the provisions of this article except that the use of holding tanks will only be permitted to be used after joint review and approval of Utilities and the El Paso County Department of Health and Environment. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.603: CONTENTS; REMOVAL OF:

The contents of septic tanks or cesspools within the limits of the City shall not be removed therefrom, nor shall the same be transported through any street, alley or public place within the City, except in a sanitary manner, through or by means of airtight tanks, if soft and mixed with matter, and if solid or dry, in tight covered tanks in such manner as shall prevent the escape of any noxious gases or offensive odors, and preserve the contents from sight or exposure during transportation. All tools, appliances and vehicles used in the cleaning and removal shall be kept and maintained in sanitary condition and shall be subject to inspection and licensing by the El Paso County Department of Health and Environment. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.604: CESSATION OF USE; WHEN REQUIRED:

When a collection line becomes available to a property served by an individual wastewater disposal system, and upon

receipt of official notice from the Chief Executive Officer to connect to the wastewater system, a direct connection shall be made to the collection line in compliance with this article and the official notice, and any septic tanks, cesspools and similar individual wastewater disposal systems shall be cleaned and filled with suitable material and be inspected by the El Paso County Department of Health and Environment. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.605: DESIGNATION OF DISPOSAL FACILITY:

A. The septic disposal station at the Colorado Springs wastewater treatment plant on East Las Vegas Street is the primary point of discharge within the wastewater collection service area of the Utilities for materials received from individual wastewater disposal systems containing domestic waste only. Grease from food preparation facilities using grease/sand interceptors and grease traps may be discharged to the disposal station.

B. Hauled liquid waste containing hazardous waste, if disposed within the Utilities service area, may be disposed of only at a designated centralized waste treatment facility that is permitted to receive, treat or discharge hazardous wastes. The centralized waste treatment facilities shall not cause interference or pass-through of the POTW and shall meet any applicable categorical standards for centralized waste treatment.

C. Grease/sand interceptors and grease trap wastes may be disposed of at centralized waste treatment facilities approved and designated by the Chief Executive Officer. Centralized waste treatment facilities may discharge to the publicly owned treatment works only if the treated effluent does not cause interference or pass-through of the POTW. This includes not creating a visible sheen from petroleum and/or food grease sources. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

PART 7 PROHIBITIONS - LIMITATIONS ON WASTEWATER DISCHARGE

SECTION:

12.5.701: Wastewater Discharge; Treatment Required

12.5.702: Wastewater Discharge; Prohibitions

12.5.703: Wastewater Discharge; Limitations

12.5.704: Point Of Discharge; Limitations

12.5.705: Silver Source Control

12.5.706: Mercury Source Control

12.5.707: Best Management Practices

12.5.701: WASTEWATER DISCHARGE; TREATMENT REQUIRED:

It shall be unlawful for any person to discharge into any natural waterway or any surface drainage within the City, or in any area under the jurisdiction of the City, any wastewater unless suitable treatment of the wastewater has been provided in accord with the provisions of this article and applicable County, State or Federal regulations. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.702: WASTEWATER DISCHARGE; PROHIBITIONS:

No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. This prohibition applies to all users of the POTW regardless of whether they are subject to categorical pretreatment standards or any other National, State or local pretreatment standards or requirements. In addition, it shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment facility any wastes or wastewater containing the following:

A. **Stormwater Drainage:** Stormwater from ground, surface, roof headers, catch basins, unroofed area drains (e.g., commercial car washing facilities) or any other source, unless approved in writing by the Chief Executive Officer and after suitable treatment as approved by Chief Executive Officer has been effected.

B. **Other Water:** Other water, including, but not limited to, underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavations or any other water associated with construction, unless approved in writing by the Chief Executive Officer and after suitable treatment as approved by Chief Executive Officer has been effected.

C. **Unusual Concentrations Of Dissolved Solids:** Unusual concentrations of dissolved solids, that may, alone or in conjunction with discharges from other users, cause the POTW effluent to exceed water quality criteria for the pollutant in question.

D. **Oil And Grease:** Oil and grease of the following concentrations, sources or nature:

1. Wastewater containing total grease and oil in excess of one hundred milligrams per liter (100 mg/L) concentration as measured by methods set forth in 40 CFR section 136.

2. Wastewater containing more than twenty five milligrams per liter (25 mg/L) petroleum, as measured as hydrocarbons by methods set forth in 40 CFR section 136. Evidence of oil or grease in wastewater shall be based upon instantaneous or grab samples.

E. Explosive Mixtures: Explosive mixtures consisting of liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the wastewater system be more than five percent (5%), nor may any single reading be over ten percent (10%) of the lower explosive limit (LEL) of the meter. Wastestreams at the point of discharge are prohibited if they have a closed cup flashpoint of less than sixty degrees centigrade (60°C) (140°F) using test methods specified in 40 CFR section 261.21.

F. Noxious Material: Noxious material consisting of noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into any portion of the wastewater system for its maintenance and repair.

G. Improperly Shredded Garbage: Improperly shredded garbage that has not been ground or comminuted to a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the wastewater system to which the user is connected.

H. Radioactive Wastes Or Isotopes: Radioactive wastes or isotopes of such a half-life or concentration that they do not meet regulations set forth by the Colorado Department of Public Health and Environment, State of Colorado, in the latest edition of rules and regulations pertaining to radiological control.

I. Solid, Viscous Or Liquid Wastes: Solid, viscous or liquid wastes in quantities or in a manner which may cause or contribute to obstruction to the flow in a collection line, or otherwise interfere with the proper operation of the wastewater treatment system.

J. Toxic Substances: Toxic substances in amounts exceeding standards promulgated by the Administrator of the United States Environmental Protection Agency pursuant to section 307(a) of the Act, and chemical elements or compounds, phenols or other taste or odor producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system or which will be transmitted through the system to receiving water.

K. Substances Not Amenable To Treatment: Substances which are not amenable to treatment of prescribed reduction by the treatment process employed by Utilities, or are amenable to a limited degree of reduction that a discharge of the wastewater would result in an interference with the wastewater treatment works or pass through the treatment facilities that the effluent discharge from the treatment works does not meet requirements of State, Federal and other agencies having jurisdiction over discharge or application to receiving waters and/or lands.

L. Wastes With Color: Wastes with color not removable by the treatment process.

M. Corrosive Wastes: Corrosive wastes which will cause corrosion, deterioration or interference of the City POTW.

N. Wastewater: Wastewater with an instantaneous pH value of less than 5.5 standard units, or greater than or equal to 12.5 standard units.

1. Except that a more stringent range (upper and lower limits) of acceptable wastewater effluent pH identified in applicable categorical pretreatment standards shall supersede the range noted herein.

2. Compliance shall be measured on a continuous pH recording monitor (installed by the user with the Chief Executive Officer's approval) or demonstrated by written records of sampling approved by the Chief Executive Officer.

O. Spent Process Chemicals, Hazardous Waste: Spent process chemicals, solutions or materials, hazardous waste as defined by the Federal Resource Conservation and Recovery Act; and other materials normally used in industrial/commercial operations unless specifically authorized in writing by the Chief Executive Officer and after suitable treatment as approved by the Chief Executive Officer has been effected.

P. Pollutants Causing Interference: Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

Q. Heat: Heat in amounts which will inhibit biological activity in the POTW resulting in interference but in no case heat in quantities that the temperature at the POTW treatment plant exceeds forty degrees centigrade (40°C) (104°F).

R. Trucked Or Hauled Pollutants: Any trucked or hauled pollutants, except at the discharge points designated as provided in part 6 of this article.

S. Pollutants Resulting In Toxic Gases, Vapors Or Fumes: Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

T. Waste Silver Rich Photochemical Solutions: Waste silver rich photochemical solutions not treated to greater than ninety percent (90%) removal of the initial waste silver concentrations, unless in accord with section 12.5.705 of this part and section 12.5.1111 of this article specifically authorized in writing by the Chief Executive Officer and after suitable treatment as approved by the Chief Executive Officer has been effected.

U. Tetrachloroethane And Trichloroethane: Tetrachloroethane (also known as tetrachloroethylene) and trichloroethane (also known as trichloroethylene) from all nondomestic dischargers.

V. Pesticides: Pesticides containing carbamate or organophosphate compounds are prohibited from being discharged in any amount.

W. Asbestos: Asbestos from, but not limited to, asbestos abatement construction activities from all nondomestic dischargers, unless approved in writing by the Chief Executive Officer and after suitable treatment as approved by the Chief Executive Officer has been effected.

X. Wastes From Interceptors And Traps: Wastes collected from cleaning or pumping grease/sand interceptors, grease traps, oil traps, sand traps or other similar waste collection devices, except at locations approved and designated by the Chief Executive Officer.

Y. BTEX: "BTEX", defined as the sum of benzene, toluene, ethylbenzene, and xylene, in excess of 0.750 milligrams per liter.

Z. Benzene: Waste containing benzene in excess of 0.050 milligrams per liter. (Ord. 98-173; Ord. 99-162; Ord. 00-204; Ord. 01-42; Ord. 08-44; Ord. 10-82; Ord. 14-66; Ord. 18-42)

12.5.703: WASTEWATER DISCHARGE; LIMITATIONS:

A. Compliance Required: It shall be unlawful for any significant industrial user to discharge or deposit or cause or allow to be discharged or deposited into the wastewater facilities, any waste or wastewater which fails to comply with the limitations imposed by this section.

B. Local Limitations: For each significant industrial user, the following tables set forth the local limits on the daily maximum limit (milligrams per liter) and maximum allowable industrial loading (pounds per day) of pollutants, as measured by a composite sample and related flow measurements taken during the user's operating day, unless elsewhere specified in this article or in the significant industrial user's wastewater discharge permit.

DISCHARGES TO THE LAS VEGAS STREET

WASTEWATER TREATMENT FACILITY

Pollutant	Mg/L	Lbs/Day
Pollutant	Mg/L	Lbs/Day
Arsenic (total)	0.062	
Cadmium (total)		0.480
Chromium (total)	0.733	
Copper (total)	2.90	
Fluoride (nondistilled)	56.3	
Lead (total)	1.41	
Manganese (total)		15.3
Mercury (total)	0.0032	
Nickel (total)	1.79	
Selenium (total)		3.48
Silver (total)	0.192	
Zinc (total)	13.4	

DISCHARGES TO THE J.D. PHILLIPS

WATER RECLAMATION FACILITY

Pollutant	Mg/L	Lbs/Day
Pollutant	Mg/L	Lbs/Day
Arsenic (total)	3.35	
Cadmium (total)		0.323
Chromium (total)	8.34	
Copper (total)	3.33	
Fluoride (nondistilled)	282	
Lead (total)	6.42	
Manganese (total)		2.44
Mercury (total)	0.022	

Nickel (total)	19.6	
Selenium (total)		1.96
Silver (total)	0.183	
Zinc (total)	19.6	

C. Maximum Allowable Industrial Loading: Allocation of wastewater treatment system maximum allowable industrial loading among all users shall be based upon consideration of discharge volume, flow rate and equitable but feasible distribution.

D. Categorical Pretreatment Standards: All users subject to a categorical pretreatment standard shall comply with all requirements of the standard, regardless of whether or which categorical pretreatment standard is identified in the discharge permit. The user shall also comply with any limitations contained in this article. Where duplication of the same pollutant exists, the limitations which are more stringent shall prevail. Compliance with National categorical pretreatment standards for existing sources subject to the standards or for existing sources which hereafter become subject to the standards shall be within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standards or by the Chief Executive Officer. New sources shall install and have in operating condition, and shall "start up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.

E. Other Prohibitions, Limitations, Standards: For pollutants listed herein or regulated in categorical pretreatment standards, the Chief Executive Officer may designate in the significant industrial user's wastewater discharge permit, or in other formal notification, more stringent limitations for the pollutants if such are necessary to protect wastewater operations or facilities or to meet the City's or Utilities' permit requirements. For pollutants not listed herein and not regulated by National categorical pretreatment standards, the Chief Executive Officer may designate in the significant industrial user's wastewater discharge permit, or in other formal notification, prohibitions, limitations or other standards as appropriate governing the pollutants.

F. Dilution As A Substitute For Treatment: Consistent with the provisions of the Act, it is unlawful for any discharger into the wastewater treatment system to augment use of process water or otherwise dilute the discharge as a partial or complete substitute for adequate treatment to achieve compliance with these standards. (Ord. 98-173; Ord. 99-162; Ord. 00-204; Ord. 01-42; Ord. 10-82; Ord. 14-66; Ord. 17-5; Ord. 18-42; Ord. 19-34)

12.5.704: POINT OF DISCHARGE; LIMITATIONS:

A. It is unlawful for any person to discharge from a vehicle, portable tank or other container used for transporting normal domestic wastewater, liquid waste or industrial waste into the wastewater system or a private sewer facility directly or indirectly connected to the wastewater system, unless the discharges are specifically approved in writing by the Chief Executive Officer.

B. It is unlawful for any person to discharge or cause the discharge of normal domestic wastewater, liquid wastes or industrial waste into a part of the wastewater system generally used for maintenance or monitoring, including, but not limited to, manholes, cleanouts or sampling chambers, unless the discharges are specifically approved in writing by the Chief Executive Officer.

C. It is unlawful for any person to withdraw liquid wastes or industrial wastes collected in a grease trap, grease/sand interceptor, or other waste collection tank and to reinject any portion thereof into the wastewater system, a private sewer facility or a different grease trap, grease/sand interceptor or other waste collection tank that is directly or indirectly connected to the wastewater system, except at designated disposal facilities or locations approved and designated by the Chief Executive Officer.

D. It is unlawful for any person to discharge any substance directly into a manhole or other opening in the wastewater treatment system other than through an approved service line.

E. It is unlawful for any person to discharge liquid wastes into the wastewater system from chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers, except at locations authorized by the Chief Executive Officer to collect the wastes within the City.

F. It is unlawful for any person to discharge cooling waters or process waters to a storm sewer or natural outlet or to groundwater, which is tributary to surface water, unless such person has a valid CDPS permit. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 10-82; Ord. 18-42)

12.5.705: SILVER SOURCE CONTROL:

A. The Chief Executive Officer may implement BMPs under a Silver Source Control Program for any industrial user who has the potential to discharge waste silver-rich photochemical solutions into the wastewater system. Industrial users that are significant industrial users may be eligible for coverage under the Silver Source Control Program if approved by the Chief Executive Officer.

B. Industrial users subject to coverage under the Silver Source Control Program shall comply with BMPs and treatment

requirements contained in the Silver Source Control Policies and Procedures Manual.

C. Prior to the discharge, the discharger shall install, operate, maintain, and monitor process treatment equipment capable of consistently achieving discharge concentrations which shall not exceed four hundred milligrams per liter (400 mg/L). It is unlawful to fail to either install, operate, or maintain wastewater treatment equipment.

D. In order to assure compliance with the POTW's CDPS permits, compliance with local limits and the MAHL, and to prevent pass-through; or otherwise protect the wastewater system, the Chief Executive Officer may modify the Silver Source Control Policies and Procedures Manual in accordance with subsection 12.1.110B of this chapter, to require more restrictive treatment requirements, to impose numeric limits, to require discharge monitoring and/or other conditions determined to be necessary by the Chief Executive Officer. Alternatively, the Chief Executive Officer may revoke coverage under the Silver Source Control Program and may issue an individual control mechanism or discharge permit. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 06-195; Ord. 10-82; Ord. 14-66; Ord. 18-42; Ord. 19-34)

12.5.706: MERCURY SOURCE CONTROL:

A. The Chief Executive Officer may implement BMPs under a Mercury Source Control Program for any industrial user who has the potential to discharge mercury into the wastewater system. Industrial users that are significant industrial users are not eligible for coverage under the Mercury Source Control Program.

B. Industrial users subject to coverage under the Mercury Source Control Program shall comply with BMPs and treatment requirements contained in the Mercury Source Control Policies and Procedures Manual. In addition, dental dischargers shall comply with the BMPs and treatment requirements contained in the Mercury Source Control Policies and Procedures Manual and the Dental Amalgam Pretreatment Standards found in 40 CFR Part 441.

C. In order to assure compliance with the POTW CDPS permits, local limits, and the MAHL; and to prevent pass-through or otherwise protect the wastewater system, the Chief Executive Officer may modify the Mercury Source Control Policies and Procedures Manual in accordance with subsection 12.1.110B of this chapter, to require more restrictive treatment requirements or BMPs, to impose numeric limits, to require discharge monitoring, and/or other conditions determined necessary by the Chief Executive Officer. Alternatively, the Chief Executive Officer may revoke coverage under the Mercury Source Control Program and may issue an individual control mechanism or discharge permit.

D. If an industrial user exceeds the local limit for mercury, is not in compliance with the requirements contained in the Mercury Source Control Program, or otherwise is designated by the Chief Executive Officer as a significant industrial user, the Chief Executive Officer shall revoke coverage under the Mercury Source Control Program. The Chief Executive Officer may require a discharge permit or may issue an individual control mechanism. Remedies for noncompliance shall be in accordance with part 12 of this article. (Ord. 06-195; Ord. 10-82; Ord. 18-42; Ord. 19-34)

12.5.707: BEST MANAGEMENT PRACTICES:

A. The Chief Executive Officer may develop BMPs to implement the prohibitions of section 12.5.702 of this part and the local limits of subsection 12.5.703B of this part. BMPs shall be considered pretreatment standards and local limits for purposes of this article and section 307(d) of the Act. Additionally, BMPs may be categorical pretreatment standards, established by the EPA.

B. The Chief Executive Officer may develop general BMPs that are applicable to categories of industrial users, categories of activities or geographic areas. Adoption of general BMPs shall be in accord with subsection 12.1.110B of this chapter.

C. Elements of a BMP may include, but are not limited to:

1. Installation of treatment.
2. Requirements for or prohibitions on certain practices or discharges.
3. Requirements for the operation and maintenance of treatment equipment.
4. Time frames associated with key activities.
5. Procedures for compliance certification, reporting and records retention.
6. Provisions for reopening and revoking BMPs.

D. Any industrial user may be required to comply with BMPs. BMPs may be incorporated in categorical pretreatment standards, discharge permits, control mechanisms, and orders. (Ord. 06-195; Ord. 10-82; Ord. 18-42; Ord. 19-34)

PART 8 CONTROL OF PROHIBITED WASTES

SECTION:

12.5.801: Regulatory Actions; General Powers Of Chief Executive Officer

12.5.802: Regulatory Actions; Specific Powers Of Chief Executive Officer

12.5.803: Pretreatment Facilities; Submission Of Plans

12.5.804: Pretreatment Facilities; Operations

12.5.805: Admission To Property

12.5.806: Accidental Discharge, Protection From

12.5.807: Slug Discharge; Report Required

12.5.808: Prohibited Procedural Actions Or Failure To Act

12.5.809: Workplace Notices

12.5.810: pH Recording Meters

12.5.811: Hazardous Chemical Handling; Submission Of Plans

12.5.801: REGULATORY ACTIONS; GENERAL POWERS OF CHIEF EXECUTIVE OFFICER:

In addition to the Chief Executive Officer's authority to reduce, prevent or eliminate discharges through enforcement of discharge limitations and prohibitions, the Chief Executive Officer shall have the following authorities:

A. **Endangerment To Health Or Welfare Of The Community:** The Chief Executive Officer, after informal notice to the affected discharger, may immediately and effectively reduce, halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, wastewater collection system of the City or any wastewater system tributary thereto, by any means available to the Chief Executive Officer, including physical disconnection from the wastewater system, whenever it reasonably appears that the discharge presents an imminent endangerment to the health or welfare of individual persons or the community.

B. **Endangerment To Environment Or The POTW:** The Chief Executive Officer, after written order to the discharger, may reduce, halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, wastewater collection system of the City or any wastewater system tributary thereto, by any means available to the Chief Executive Officer, including physical disconnection from the wastewater system, whenever the discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW. (See also subsection 12.5.1203B of this article.)

C. **Reducing, Halting Or Preventing Discharges:** The discharges referred to above may be reduced, halted or prevented without regard to the compliance of the discharge with other provisions of this article. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 10-82; Ord. 18-42)

12.5.802: REGULATORY ACTIONS; SPECIFIC POWERS OF CHIEF EXECUTIVE OFFICER:

If wastewaters containing any substance described in part 7 of this article are discharged or proposed to be discharged into any natural waterway, surface drainage within the City, any area under the jurisdiction of the City, into the wastewater collection system of the City or any wastewater system tributary thereto, the Chief Executive Officer may take any action necessary to:

- A. Prohibit the discharge of the wastewater;
- B. Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of the substances in conformity with this article;
- C. Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the objectionable characteristics or substance so that the discharge will not violate this article;
- D. Require the person making, causing or allowing the discharge to pay any additional cost or expense incurred by the City or Utilities for surface or subsurface cleanup and remediation of wastewaters, as well as handling, treating or disposing excess loads imposed on the wastewater treatment system including any system development charges, fines or legal expenses associated with alleged or actual violations of the City's CDPS permit attributed to an unauthorized user discharge;
- E. Obtain timely and factual reports from the facility responsible for the discharge;
- F. Evaluate whether each significant industrial user needs a plan or other action to control slug discharges within one year of the user being designated as a significant industrial user.
- G. Require: 1) the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements, and 2) the submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including, but not limited to, the reports required in section 12.5.901 of this article.
- H. Take other or further remedial action, including issuance of a control mechanism, as may be deemed to be desirable or necessary to achieve the purposes of this article. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 10-82; Ord. 18-42)

12.5.803: PRETREATMENT FACILITIES; SUBMISSION OF PLANS:

Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, plans, specifications and other pertinent data or information relating to the pretreatment or flow control facilities shall first be submitted to the Chief Executive Officer for review and approval. The approval shall not exempt the user from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. The approval shall not be construed as or act as a guaranty or assurance that any discharge is or will be in compliance with any applicable code, ordinance, rule, regulation, or order of any governmental authority. Any subsequent alterations or additions to the pretreatment or flow control facilities shall not be made without due notice to and prior approval of the Chief Executive Officer. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.804: PRETREATMENT FACILITIES; OPERATIONS:

If pretreatment or control of wastewater flow is required, the facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at the owner's or operator's own cost and expense, subject to the requirements of this Code and all other applicable codes, ordinances, laws, rules and regulations. The Chief Executive Officer may require the owner or operator of the facilities to submit a documented plan to the Chief Executive Officer describing how the equipment will be operated and maintained. The approval shall not be construed as or act as a guarantee or assurance that any discharge is or will be in compliance with any applicable code, ordinance, rule, regulation, or order of any governmental authority. Any subsequent alterations or additions to the pretreatment or flow control facilities shall not be made without due notice to and prior approval of the Chief Executive Officer. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.805: ADMISSION TO PROPERTY:

A. The Chief Executive Officer has the power to carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under this article, to assure compliance with pretreatment standards.

B. The inspection shall be completed with reasonable promptness. If any samples are taken, a portion of the sample shall be given, if requested, to the owner, agent, or operator. The occupant of the property or premises shall render all proper assistance in the activities.

C. If entry or inspection to any property is denied or not promptly consented to, or at any other time to investigate sources of pollution impacting water quality within the wastewater system or the waters of the State within the City limits, the Chief Executive Officer is empowered to obtain, from Municipal, County or State District Court with jurisdiction, a warrant to enter and inspect any property, premises or place. (Ord. 98-173; Ord. 99-162; Ord. 00-204; Ord. 01-42; Ord. 10-82; Ord. 18-42; Ord. 19-34)

12.5.806: ACCIDENTAL DISCHARGE, PROTECTION FROM:

Each user shall provide adequate protection as approved by the Chief Executive Officer from unauthorized discharge of prohibited materials or other wastes regulated by this article. Facilities and procedures to prevent the discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Chief Executive Officer for review, and shall be approved by the Chief Executive Officer before installation of the accidental discharge protection. Review and approval of the plans and operating procedures shall not relieve the user from the responsibility to modify the facilities as necessary to meet the requirements of this article. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 10-82; Ord. 18-42)

12.5.807: SLUG DISCHARGE; REPORT REQUIRED:

If a facility has a slug discharge, or a discharge that could cause problems to the POTW, the owner or user of the facility responsible for the discharge shall immediately notify the Chief Executive Officer so that corrective action may be taken to protect the wastewater treatment system. In addition, a written report addressed to the Chief Executive Officer detailing the date, time and cause of the slug discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future slug discharges, shall be submitted to the Chief Executive Officer by the responsible person within five (5) days of the occurrence of the noncomplying discharge. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.808: PROHIBITED PROCEDURAL ACTIONS OR FAILURE TO ACT:

A. Failure To Report: It shall be unlawful for any person to fail to report within the time periods required by this article, by a control mechanism or expeditiously if not stated, to the Chief Executive Officer, any discharge which violates the requirements, prohibitions and limitations of this article.

B. Prohibited Procedural Actions Or Failure To Act: It is unlawful to not perform the requirements of this article. This includes, but is not limited to, failure to apply for permits or other control mechanisms when required by this article; failure to respond to questionnaires and requests for necessary information to determine application of or compliance with this article; submittal of incomplete questionnaires, reports, applications or plans; untimely submittal or questionnaires, applications, plans or reports; failure to comply with a final order of the Chief Executive Officer; failure to protect against accidental

discharge of prohibited wastes; failure to provide notices to employees; monitoring as required; failure to prevent a slug discharge, failure to conduct sampling when requested in accord with conditions in the user's permit; failure to accurately report noncompliance; missing compliance dates; failure to immediately discontinue the discharge when ordered because of imminent harm or risk of harm; failure to certify per 40 CFR section 403.6(A)(2) when required. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.809: WORKPLACE NOTICES:

A notice or notices approved by the Chief Executive Officer shall be permanently posted in an unobstructed, prominent place or places within the working areas of significant industrial users, or other users as the Chief Executive Officer deems necessary, which advise employees of whom to call in the event of a dangerous chemical discharge or potential discharge. These users shall ensure that all employees who may cause or suffer to cause a discharge to occur are advised of the emergency notification procedures. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.810: pH RECORDING METERS:

A. Significant industrial users which discharge process wastewaters determined by the Chief Executive Officer to contain pollutants necessitating continuous pH adjustment shall, subsequent to notification by the Chief Executive Officer, install a continuous recording pH meter as approved by the Chief Executive Officer. The meter shall be installed, operated and maintained at the user's own cost and expense. The records generated by this meter shall be retained for three (3) years and shall be made available to the Chief Executive Officer upon request.

B. The Chief Executive Officer may order other users of the wastewater treatment system to install and maintain similar equipment as necessary to assure compliance with this article. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.811: HAZARDOUS CHEMICAL HANDLING; SUBMISSION OF PLANS:

Whenever it shall be deemed necessary by the Chief Executive Officer to protect the wastewater system, industrial users may be required to submit documented plans describing the handling of materials regulated by part 7 of this article or other pretreatment standards for the Chief Executive Officer's approval. The plans may include, but not be limited to, description of plant or process closure procedures, procedures to control slug discharges and other nonroutine batch discharges, spill prevention procedures, toxic organic management procedures, hazardous wastes handling, storage and disposal procedures, and Best Management Practice plans. The approval shall not exempt the user from compliance with any applicable code, ordinance, rule, regulations or order of any government authority. The approval shall not be construed as or act as a guarantee or assurance that any discharge or materials handling procedure is or will be in compliance with any applicable code, ordinance, rule, regulations or order of any government authority. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

PART 9 INDUSTRIAL WASTEWATER MONITORING AND REPORTING

SECTION:

12.5.901: Reporting Requirements

12.5.902: Records And Monitoring

12.5.903: Inspection, Sampling And Analysis

12.5.904: Notification

12.5.905: Disclosure, Availability To Public

12.5.906: Trade Secrets, Confidentiality Of

12.5.901: REPORTING REQUIREMENTS:

A. Questionnaire Required: Industrial users shall file an industrial wastewater discharge questionnaire on forms provided by the Chief Executive Officer. Unless otherwise required by the Chief Executive Officer, these forms shall be completed and filed not later than thirty (30) days after receipt of the report forms from the Chief Executive Officer.

B. Information Required: The industrial wastewater discharge questionnaire shall indicate the current status of the user and shall include, but, in the discretion of the Chief Executive Officer, shall not be limited to, nature of process, volume, rates of flow, production quantities, hours of operation, concentrations of substances regulated under part 7 of this article or other information which relates to the generation of waste. The questionnaire may also include the chemical constituents and quantity of liquid materials stored on site even though they are not normally discharged.

C. Baseline Monitoring Report: Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 40 CFR section 403.6(a)(4), whichever is later, existing industrial users subject to such

categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Chief Executive Officer a report which contains the information listed in subsections C1 through C7 of this section. At least ninety (90) days prior to commencement of discharge, new sources subject to categorical standards, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Chief Executive Officer a report which contains the information listed in subsections C1 through C5 of this section, plus report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, may give estimates of the information requested in subsections C4 and C5 of this section:

1. Identifying Information: The user shall submit the name and address of the facility including the name of the operator and owners;
2. Permits: The user shall submit a list of any environmental control permits held by or for the facility;
3. Description Of Operations: The user shall submit a brief description of the nature, average rate of production and standard industrial classification of the operations carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
4. Flow Measurement: The user shall submit information showing the measured average daily and maximum daily flow of the discharge from the user to the POTW, in gallons per day from each of the following:
 - a. Regulated process streams; and
 - b. Other wastestreams as necessary to allow use of the combined wastestream formula of 40 CFR section 403.6(e). The Chief Executive Officer may allow for verifiable estimates of these flows where justified by cost or feasibility considerations;
5. Measurement Of Pollutants:
 - a. The user shall identify the pretreatment standards applicable to each regulated process;
 - b. The user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standards or Chief Executive Officer) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standards require compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Chief Executive Officer or the applicable standards to determine compliance with the standards;
 - c. For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections C and D of this section, 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 Chief Executive Officer may authorize a lower minimum. For the reports required by subsections E1 and E2 of this section, the Chief Executive Officer shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and pretreatment requirements;
 - d. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection C5;
 - e. 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 of 40 CFR section 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accord with 40 CFR section 403.6(e) this adjusted limit along with supporting data shall be submitted to the Chief Executive Officer;
 - f. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR section 136 and amendments thereto. Where 40 CFR section 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the section 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the EPA;
 - g. The Chief Executive Officer 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;
 - h. The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that the sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW;
6. Certification: A statement, reviewed by an authorized representative of the industrial user 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 and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and
7. Compliance Schedule: If additional pretreatment and/or operation and maintenance (O and M) will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment

and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

a. Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR section 403.7), the combined wastestream formula (40 CFR section 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR section 403.13) at the time the User submits the report required by this subsection C, the information required by subsections C6 and C7 of this section shall pertain to the modified limits.

b. If the categorical pretreatment standard is modified by a removal allowance (40 CFR section 403.7), the combined wastestream formula (40 CFR section 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR section 403.13) after the user submits the report required by this subsection C, any necessary amendments to the information requested by subsections C6 and C7 of this section shall be submitted by the user to the control authority within sixty (60) days after the modified limit is approved.

D. Ninety Day Compliance Reports:

1. New Sources: All new sources subject to existing categorical pretreatment standards shall submit a report to the Chief Executive Officer within ninety (90) days from the date of first discharge demonstrating actual and continuing compliance with those standards.

2. Existing Sources: All existing sources required to comply with newly promulgated categorical pretreatment standards shall submit a report to the Chief Executive Officer within ninety (90) days of the date on which compliance is required with those standards demonstrating that actual and continuing compliance with the new standards has been achieved.

3. Minimum Requirements: Any industrial user subject to pretreatment standards and requirements shall submit to the Chief Executive Officer a report containing the information described in subsections C4 through C6 of this section. For industrial users subject to equivalent mass or concentration limits established by the Chief Executive Officer in accordance with the procedures in 40 CFR section 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial 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.

E. Self-Monitoring Compliance Report:

1. Categorical Industrial User: Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge to the POTW, shall submit to the Chief Executive Officer during the months of June and December, unless required more frequently in the pretreatment standard, in the user's permit or control mechanism, or in State or Federal regulations, or by the Chief Executive Officer, a self-monitoring report on forms provided by the Chief Executive Officer indicating the nature and concentration and flow of pollutants in the effluent which are limited by the Chief Executive Officer or the pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in subsection C4 of this section except that the Chief Executive Officer may require more detailed reporting of flows. These reports shall be based on sampling and analysis performed in the period covered by the report, and shall be performed in accord with the techniques described in 40 CFR section 136 and amendments thereto. Effluent monitoring results for any pollutants that are obtained in accord with methods prescribed in 40 CFR section 136 that are in addition to the frequency described in this part or in the user's discharge permit shall be included in the self-monitoring report. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the industrial user must submit documentation required by the Chief Executive Officer or the pretreatment standards to determine the compliance status of the industrial user. At the discretion of the Chief Executive Officer and in consideration of the factors as local high or low flow rates, holidays, budget cycles, etc., the Chief Executive Officer may agree to alter the months during which the above reports are to be submitted.

2. Significant Industrial Users Not Subject To Categorical Pretreatment Standards: Significant noncategorical industrial users must submit to the Chief Executive Officer at least once every six (6) months (on dates specified by the Chief Executive Officer) a description of the nature, concentration, and flow of the pollutants required to be reported by the Chief Executive Officer. In cases where a local limit requires compliance with a BMP or pollution prevention alternative, the user must submit documentation required by the Chief Executive Officer to determine the compliance status of the user. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR section 136 and amendments thereto. This sampling and analysis may be performed by the Chief Executive Officer in lieu of the significant noncategorical industrial user.

3. Industrial Users: The Chief Executive Officer may require the same self-monitoring compliance reports be submitted by any industrial user the Chief Executive Officer deems necessary to assure compliance with this article.

F. Nonresidential User Questionnaire: Should the Chief Executive Officer deem it necessary to assure compliance with provisions of this article, any nonresidential user of the City wastewater treatment system may be required by the Chief Executive Officer to submit a wastewater discharge questionnaire on forms provided by the Chief Executive Officer. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the industrial user must submit documentation required by the Chief Executive Officer or the pretreatment standards to determine the compliance status of the industrial user. Any user subject to this reporting requirement shall submit a completed report no later than thirty (30) days after receipt of the notification and appropriate forms.

G. Additional Reports: Any holder of a significant industrial user wastewater discharge permit or liquid waste hauler

permit shall submit to the Chief Executive Officer the additional reports as specified as conditions of the user's permit or otherwise deemed necessary by the Chief Executive Officer.

H. Authorized Signature; Reports And Records: All reports and questionnaires required to be submitted by the above provisions shall bear the signature of an authorized representative of the discharging entity and shall include the certification statement as set forth in 40 CFR section 403.6(a)(2)(ii). The reports and records shall be retained by the user for a minimum period of three (3) years and shall be made immediately available upon request of the Chief Executive Officer.

I. Violation: If sampling performed by an industrial user indicates a violation, the user shall notify the Chief Executive Officer within twenty four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis for the pollutant that was in violation and submit the results of the repeat analysis to the Chief Executive Officer within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the user is adhering to an approved compliance schedule.

J. Notification Of Change In Discharge: All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR section 403.12(p). Additionally, significant industrial users are required to notify the Chief Executive Officer immediately of any changes in their facilities affecting potential for a slug discharge.

K. Notification Of Hazardous Waste Discharge: Industrial users shall notify the Chief Executive Officer, the EPA Regional Waste Management Division Director, and the State hazardous waste authorities in writing of any discharge into the POTW of any substance which, if otherwise disposed of, would be considered a hazardous waste under 40 CFR section 261. Each industrial user shall notify the Chief Executive Officer in advance of any substantial change to such discharge. This notification requirement does not apply to pollutants already being reported under the reporting requirements contained elsewhere in this section. The specific information required to be reported and the time frames in which it is to be reported are found at 40 CFR section 403.12(p). The industrial user is responsible for ensuring compliance with the Rules and Regulations Pertaining to Hazardous Waste issued by the Colorado Department of Public Health and Environment (Volume 6 of the Code of Colorado Regulations 1007-3, part 260 et seq.).

L. Reporting Of More Frequent Monitoring: If an industrial user subject to the reporting requirements in subsection C, D, E or G of this section monitors any regulated pollutant at the appropriate sampling location more frequently than required using approved procedures, the results of this monitoring shall be included in the report(s). (Ord. 98-173; Ord. 99-162; Ord. 00-204; Ord. 01-42; Ord. 06-195; Ord. 10-82; Ord. 14-66; Ord. 18-42)

12.5.902: RECORDS AND MONITORING:

A. All industrial users who discharge or propose to discharge wastewater to the wastewater treatment system shall maintain the records of production and related factors, effluent flows and amounts or concentrations of substances regulated under part 7 of this article, and documents associated with BMPs, as are necessary to demonstrate compliance with the requirements of this article and any applicable State or Federal pretreatment standards or requirements.

B. All records (including documentation associated with BMPs) shall be retained by the user for a minimum period of three (3) years, shall be made immediately available upon request of the Chief Executive Officer at any time during the three (3) year period or so long as actually retained.

C. Should the Chief Executive Officer deem it necessary to fulfill the purposes of this Code, the owner or operator of any premises or facility discharging industrial wastewater into the wastewater system shall install at owner's or operator's own expense suitable monitoring facilities or equipment which isolates appropriate wastewater discharges into the wastewater system and facilitates accurate observation, sampling and measurement of appropriate discharges. The equipment shall be maintained in proper working order and kept safe and accessible at all times.

D. Where practical, the monitoring equipment shall be located and maintained on the industrial user's premises outside of the building. When a location would be impractical or cause undue hardship to the user, the Chief Executive Officer may allow the facility to be constructed in the public street or easement area, with the approval of the City agency having jurisdiction over the street or easement, and located so that it will not obstruct public utilities, landscaping or parked vehicles.

E. When more than one user is able to discharge into a common service line, the Chief Executive Officer may require installation of separate monitoring equipment for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the Chief Executive Officer may require that separate service lines and connections and monitoring facilities be installed for each separate discharge.

F. Whether constructed on public or private property, the monitoring facilities shall be constructed in accord with the Chief Executive Officer's requirements and all applicable construction standards and specifications.

G. To fulfill the purposes of this Code, the Chief Executive Officer may order other nonresidential users of the City POTW to maintain similar records and/or install and maintain similar facilities or equipment as noted above. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 06-195; Ord. 18-42)

12.5.903: INSPECTION, SAMPLING AND ANALYSIS:

A. Utilities Sampling: Sampling of industrial wastewater for the pollutants determined to be present in the user's process

for the purpose of determining compliance with respect to the prohibitions and limitations of part 7 of this article will be performed by Utilities at intervals as the Chief Executive Officer may designate. However, it is the requirement of this section that the Chief Executive Officer conduct sampling or cause the sampling to be conducted for all significant industrial users in accord with methods contained in 40 CFR section 136, or approved alternative methods, at least once per year.

B. Industrial User Sampling:

1. For Reports Required By Subsections 12.5.901C, D And E Of This Part: The reports required by subsections 12.5.901C, D and E of this part must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Chief Executive Officer shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty four (24) hour composite samples must be obtained through flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Chief Executive Officer. Where time proportional composite sampling or grab sampling is authorized by the Chief Executive Officer, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR section 136 and appropriate EPA guidance, multiple grab samples collected during a twenty four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Chief Executive Officer, as appropriate.

2. For Reports Required By Subsections 12.5.901C And D Of This Part: For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections 12.5.901C and D of this part, 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 Chief Executive Officer may authorize a lower minimum.

3. For Reports Required By Subsections 12.5.901E And F Of This Part: For the reports required by subsections 12.5.901E and F of this part, the Chief Executive Officer shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. If an industrial user subject to the reporting requirement in subsections 12.5.901E and F of this part, monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Chief Executive Officer, using the procedures prescribed in subsection C of this section, the results of this monitoring shall be included in the report.

4. Recordkeeping Requirements: Any industrial user subject to the reporting requirements established herein shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with Best Management Practices. Such records shall include for all samples:

- a. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- b. The dates analyses were performed;
- c. Who performed the analyses;
- d. The analytical techniques/methods used; and
- e. The results of such analyses.

C. Laboratory Analysis: Laboratory analysis of industrial wastewater samples shall be performed in accord with 40 CFR section 136, or other methods approved by the Chief Executive Officer. Analysis of those pollutants not covered by these publications shall be performed in accord with procedures approved by the Chief Executive Officer. The test results of laboratory analysis performed by Utilities in accord with this section shall be presumed to be correct unless shown otherwise by competent evidence. Test methods selected shall be those most representative and precise for the concentrations in the effluent limitations.

D. Compliance Determinations: Compliance determinations with respect to the prohibitions and limitations of part 7 of this article shall be made on the basis of either instantaneous compliance samples or composite samples of wastewater as determined by the Chief Executive Officer. The samples shall be taken at a point or points which the Chief Executive Officer determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty four (24) hour period, or over a longer or shorter time span, as determined by the Chief Executive Officer to meet specific circumstances.

E. Industrial User Extra Monitoring: If effluent self-monitoring performed by an industrial user indicates a violation of limitations contained in the user's permit or contained in applicable categorical pretreatment standards, the users shall repeat the sampling and analysis for the pollutant(s) that was in violation within seven (7) days of becoming aware of the violation. The industrial user is not required to perform this extra monitoring if the user is adhering to an approved compliance schedule. Where the Chief Executive Officer has performed the sampling in lieu of the industrial user, the Chief Executive Officer 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 is not required if:

1. The Chief Executive Officer performs sampling at the industrial user at a frequency of at least once per month; or

2. The Chief Executive Officer performs sampling at the industrial user between the time when the initial sampling was conducted and the time when the user or the Chief Executive Officer receives the results of this sampling.

F. Rules, Regulations And Procedures For Samples: The Chief Executive Officer shall promulgate rules, regulations and procedures as necessary to ensure that any and all samples obtained by Utilities' employees can be accounted for from the time the samples are obtained to the time the samples are disposed.

G. Tampering Unlawful: Tampering with or purposely rendering inaccurate any monitoring device method, or record required to be maintained by this article is unlawful. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 10-82; Ord. 14-66; Ord. 18-42)

12.5.904: NOTIFICATION:

The Chief Executive Officer shall attempt to notify in writing any user whom the Chief Executive Officer has cause to believe is subject to a National categorical pretreatment standard; general pretreatment standards; or other applicable requirement promulgated by the U.S. EPA under the provisions of section 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solid Waste Disposal Act. Failure of the Chief Executive Officer to so notify users shall not relieve the users from the responsibility of complying with applicable requirements. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 18-42)

12.5.905: DISCLOSURE, AVAILABILITY TO PUBLIC:

Except as otherwise provided in section 12.5.906 of this part, all records, reports, data or other information supplied by any person as a result of any disclosure required by this chapter shall be available for public inspection. (Ord. 98-173; Ord. 99-162; Ord. 01-42)

12.5.906: TRADE SECRETS, CONFIDENTIALITY OF:

A. The provisions of section 12.5.905 of this part, shall not be applicable to any information designated as a trade secret by the person supplying the information. Materials designated as a trade secret may include, but shall not be limited to, processes, operations, style of work or apparatus or confidential commercial or statistical data. Effluent data provided to the Chief Executive Officer shall not be deemed a trade secret.

B. Information designated as a trade secret pursuant to subsection A of this section shall remain confidential and shall not be subject to public inspection. The information shall be available only to officers, employees or authorized representatives of the City charged with enforcing the provisions of this chapter.

C. It shall be unlawful for any officer, employee or authorized representative of the City to divulge in any manner or to any extent not authorized by judicial order or other provision of law information supplied pursuant to any requirement of this chapter, when the information has been designated as a trade secret pursuant to subsection A of this section. In addition to any other penalties that may be imposed, any officer, employee or authorized representative of the City who violates the provisions of this subsection shall be subject to discharge from the employ of the City. (Ord. 98-173; Ord. 99-162; Ord. 01-42; Ord. 10-82; Ord. 18-42)

PART 10 LIQUID WASTE HAULER REQUIREMENTS

SECTION:

12.5.1001: Discharge Requirements

12.5.1002: Manifest System

12.5.1003: Reporting Requirements

12.5.1004: Vehicle Requirements

12.5.1005: Financial Assurance Requirements

12.5.1006: Sampling And Records

12.5.1007: Charges

12.5.1008: Access To POTW

12.5.1001: DISCHARGE REQUIREMENTS:

A. Liquid Waste Hauler Requirements For Discharge To The POTW: In addition to permit requirements under part 11 of this article and the prohibited discharge standards that apply to all users, a liquid waste hauler:

1. Shall not discharge domestic wastes at any other point on the wastewater treatment system other than designated disposal facilities.

2. Shall not discharge any wastes to the POTW that are liquid, semiliquid, or solid waste (or combination of wastes), which because of quantity, concentration, physical, or chemical characteristics may:

a. Be toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, explosive, or otherwise capable of causing substantial personal injury; and/or

b. Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, or is identified or listed as a hazardous waste as defined by the Colorado Department of Health in 6 CCR 1007-3, or as may be amended in the future.

3. Shall not discharge domestic wastes to the POTW without a permit and in a manner or location that is other than that authorized by the permit.

B. Mixing Of Wastes: Liquid waste haulers are prohibited from mixing:

1. Permitted wastes with prohibited or nonpermitted wastes in the same tank; and

2. Domestic wastes with nondomestic wastes in the same tank, except that mixing of domestic waste with nondomestic wastes from grease/sand interceptors or grease traps is authorized. (Ord. 99-163; Ord. 01-42; Ord. 10-82)

12.5.1002: MANIFEST SYSTEM:

A. Requirements For Manifest: Any liquid waste hauler must complete a liquid waste hauler manifest if:

1. The liquid waste hauler is pumping wastes from a grease/sand interceptor, grease trap or other appurtenance that is connected to the wastewater treatment system, regardless of whether the wastes are disposed at a designated disposal facility; or

2. The liquid waste hauler is pumping wastes from septic tanks, portable toilets or other sources of wastes that are not connected to the wastewater treatment system and the wastes are disposed at a designated disposal facility. (Ord. 99-163; Ord. 01-42; Ord. 10-82; Ord. 14-66)

12.5.1003: REPORTING REQUIREMENTS:

A. Self-Monitored Reports: The Chief Executive Officer shall establish all sampling and monitoring requirements as deemed necessary for the disposal of hauled liquid wastes to designated disposal facilities. All self-monitored reports shall include the certification specified in 40 CFR section 403.6(a)(2)(ii).

B. Reports Of Changed Conditions: The liquid waste hauler must notify the Chief Executive Officer, in writing, of any planned significant changes to the liquid waste hauler operations or system which might alter the nature of or quality of its wastewater prior to discharge to the POTW's designated disposal system.

1. The Chief Executive Officer may require the liquid waste hauler to submit the information as may be deemed necessary to evaluate the changed condition, including the submission of a new liquid waste hauler permit application.

2. The Chief Executive Officer may issue a liquid waste hauler permit or modify an existing liquid waste hauler permit in response to changed conditions or anticipated changed conditions.

C. Reports Of Potential Problems:

1. In the case of any discharge, including, but not limited to, accidental discharges, spills, discharges that are suspected to be of a waste type, characteristic and/or nature not specifically authorized under the permit, which may cause potential problems for the POTW, the liquid waste hauler shall immediately cease discharge and immediately notify the Chief Executive Officer of the incident. This notification shall include a description of the type of waste, characteristic, or other information that alerted the liquid waste hauler to the potential problem, volume discharged, and corrective actions taken by the liquid waste hauler.

2. Within five (5) days following the discharge, the liquid waste hauler shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the liquid waste hauler to prevent similar future occurrences. The notification shall not relieve the liquid waste hauler of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall the notification relieve the liquid waste hauler of any fines, penalties, or other liability which may be imposed. The Chief Executive Officer may waive this requirement if the liquid waste hauler fully complies with this notification requirement and the Chief Executive Officer determines that the incident is minor. (Ord. 99-163; Ord. 01-42; Ord. 10-82; Ord. 18-42)

12.5.1004: VEHICLE REQUIREMENTS:

A. Liquid waste hauler vehicles used for hauling liquid wastes shall be maintained and operated so as to assure a safe and sanitary condition.

B. Liquid waste haulers shall obtain an inspection report from the El Paso County Department of Health and Environment for all permitted vehicles, when applicable. (Ord. 99-163; Ord. 01-42; Ord. 10-82; Ord. 14-66)

12.5.1005: FINANCIAL ASSURANCE REQUIREMENTS:

A. Liability Insurance: The liquid waste hauler shall maintain liability insurance and any other means of financial assurance as required by the Chief Executive Officer and as otherwise provided by law.

B. Financial Assurance:

1. The Chief Executive Officer may require as a permit condition that the liquid waste hauler maintain financial assurance in an amount sufficient to cover any damage to the wastewater treatment system caused by disposal of liquid wastes into the system. Financial assurance mechanisms may include an irrevocable letter of credit, surety bond, insurance or use of more than one of these mechanisms.

2. The Chief Executive Officer may require financial assurance if the permittee or permit applicant has previously disposed of prohibited or nonpermitted wastes to the POTW, has otherwise violated provisions of this article or an earlier permit, hauls hazardous substances to other disposal locations, or otherwise is a risk to the physical, chemical, or biological condition of the POTW or the POTW's compliance with its permits.

3. The Chief Executive Officer may require financial assurance of an amount necessary to reimburse the costs incurred by Utilities and/or the City to return the wastewater treatment system to proper operation and compliance with regulatory requirements and its permits, and to restore the environment to the condition prior to noncompliance by the permittee. Activities for which financial assurance will be used include, but are not limited to, storage, confinement, perimeter protection, neutralization, recycling, dredging, excavation, collection of leachate or runoff, and on site treatment or incineration. Reimbursable costs may include engineering, administrative, legal, construction costs and interest.

4. Recovery for damage to the wastewater treatment system shall not be limited to the amount of financial assurance. (Ord. 99-163; Ord. 01-42; Ord. 10-82; Ord. 14-66; Ord. 18-42)

12.5.1006: SAMPLING AND RECORDS:

A. Liquid wastes disposed of at the designated disposal facilities of Utilities shall be subject to sampling to determine compliance with all applicable provisions of this article.

Limitations and prohibitions governing these pumpings are contained in section 12.5.702 of this article, except subsection 12.5.702D1 of this article.

B. Liquid waste hauler truck contents shall be subject to sampling and analysis by Utilities' employees at any time.

C. All reports and records required to be retained by this article shall be retained for a minimum of three (3) years and shall be made available immediately upon request by the Chief Executive Officer. Records retention requirements can be extended if the liquid waste hauler is under enforcement proceedings, or if otherwise required by the Chief Executive Officer. (Ord. 99-163; Ord. 01-42; Ord. 10-82; Ord. 18-42)

12.5.1007: CHARGES:

A. There shall be a disposal charge as provided in the wastewater tariffs (section 12.1.108 of this chapter) for permitted wastes discharged into the designated disposal facility. The charge shall be payable as provided in the tariffs subject to any rules for user charges for utility services, as provided in section 12.1.112 of this chapter.

1. Accounting and billing of each load discharged will be accomplished by use of an electronic card reading and printing device located at Utilities or by other means deemed appropriate by the Chief Executive Officer.

2. Each vehicle using the designated disposal facility must have an authorization document issued by Utilities, which document shall identify the company, permit number, identification of vehicles and other items as appropriate or otherwise indicated in the liquid waste hauler permit.

3. A charge for replacement of lost electronic pass cards shall be assessed as provided in the wastewater tariffs. Damaged or otherwise unusable pass cards shall be replaced free of charge.

B. Permits to use the disposal facilities of the Utilities are subject to all the provisions of this article, excepting section 12.5.703 and subsection 12.5.702D1 of this article, and all other regulations, charges and fees deemed applicable by the Chief Executive Officer.

C. Immediate suspension may occur upon failure to pay charges greater than deposit. Permit termination may occur for five (5) or more repeated late payments. (Ord. 99-163; Ord. 01-42; Ord. 18-42)

12.5.1008: ACCESS TO POTW:

A. Electronic cards shall be issued for each truck utilizing the designated disposal facilities of Utilities. Properly issued cards shall be designated in the liquid waste hauler permit identifying the specific truck issued to, card number and date issued. The authorization document issued by Utilities in accord with subsection 12.5.1007A2 of this part shall accompany each vehicle and made available upon request of any Utilities' employee.

B. Any Utilities' employee shall have the authority to order the immediate discontinuance of the discharge from any liquid waste hauler truck into the designated disposal facilities of Utilities. The order shall be based on the employee's best professional judgment that the discharge may be in violation of any applicable condition of the Wastewater Treatment Code

or may otherwise be deleterious to the operation of Utilities wastewater treatment plant or the safety of its workers. (Ord. 99-163; Ord. 01-42)

PART 11 PERMIT AND CONTROL MECHANISM SYSTEM

SECTION:

12.5.1101: Significant Industrial User; Discharge Permit Required

12.5.1102: Discharge Permit; Application For

12.5.1103: Discharge Permit; Issuance Of

12.5.1104: Significant Industrial User Discharge Permit; Conditions

12.5.1105: Applicant To Be Notified Of Proposed Permit Conditions; Right To Object

12.5.1106: Discharge Permit; Duration

12.5.1107: Liquid Waste Haulers; Permit Required

12.5.1108: Liquid Waste Hauler Permit; Application For

12.5.1109: Liquid Waste Hauler Permit; Conditions

12.5.1110: Liquid Waste Hauler Permit; Duration

12.5.1111: Industrial User Control Mechanisms (Individual Or General)

12.5.1112: Modification Of Permits And Control Mechanisms

12.5.1113: Denial Of Permits And Control Mechanisms

12.5.1101: SIGNIFICANT INDUSTRIAL USER; DISCHARGE PERMIT REQUIRED:

A. All significant industrial users proposing to connect to or discharge into any part of the wastewater treatment system shall obtain a significant industrial user discharge permit. All existing significant industrial users shall obtain a significant industrial user wastewater discharge permit within ninety (90) days from notification by the Chief Executive Officer that a permit is required. If a discharge permit is required, a separate permit is required for each building or complex of buildings as required by the Chief Executive Officer. It shall be unlawful for a significant industrial user to discharge without a significant industrial user wastewater discharge permit when required in accord with this section.

B. All users who are designated by the Chief Executive Officer as significant industrial users, as provided in section 12.5.201 of this article, who do not discharge or propose to discharge wastewaters containing industrial waste to the wastewater treatment system, shall obtain a significant industrial user discharge permit requiring zero discharge. (Ord. 99-163; Ord. 00-204; Ord. 01-42; Ord. 06-195; Ord. 10-82; Ord. 18-42)

12.5.1102: DISCHARGE PERMIT; APPLICATION FOR:

A. Application: Users seeking a significant industrial user wastewater discharge permit shall complete and file with the Chief Executive Officer an application on the form prescribed by the Chief Executive Officer. In support of this application, the user shall be required to submit the following information:

1. Name, address and user classification number of the applicant;
2. Average daily discharge rate of wastewater;
3. Wastewater constituents and characteristics, including, but not limited to, those set forth in part 7 of this article, as determined by an analytical laboratory approved by the Chief Executive Officer;
4. Time and duration of discharge;
5. Average and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
6. Site plans, floor plans, mechanical and plumbing plans and details to show all service lines and appurtenances by size, location and elevation;
7. Description of activities, facilities and plant processes on the premises, including all materials and types of materials, which are, or could be, discharged into the wastewater system;
8. Each product produced by type, amount and rate of production;
9. Number and type of employees, and hours of work;
10. A certification statement as set forth in 40 CFR section 403.6(a)(2)(ii);

11. The signature of the authorized representative of the user; and

12. Any other information deemed by the Chief Executive Officer to be necessary to evaluate the permit application.

B. Charge: A wastewater discharge permit application charge, as provided in the wastewater tariffs, shall be payable by the applicant at the time the application is submitted. Checks shall be made payable to the order of Colorado Springs Utilities.

C. Additional Information: The Chief Executive Officer shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Chief Executive Officer may issue a significant industrial user wastewater discharge permit subject to the terms and conditions provided herein.

D. Amended Application: Permitted industrial users who have filed industrial wastewater discharge applications previously shall file an amended industrial wastewater discharge application two (2) weeks prior to any planned significant change in operations or wastewater characteristics. If a significant change occurs unknowingly or is unplanned, an amended industrial wastewater discharge application shall be filed within seven (7) days after the change becomes known. A "significant change" shall mean a change which will be in effect for a period of fourteen (14) days or more and shall include, but is not limited to:

1. Change in number of shifts, an additional processing operation, any new substances regulated under part 7 of this article which may be discharged.

2. A twenty five percent (25%) increase or decrease in the wastewater flow or production volume.

3. Any other change which may alter the average normal wastewater characteristics by a factor of 1.5 or more.

4. Any other change that triggers the applicability of a categorical pretreatment standard that had not previously applied to the user.

5. Any other change affecting the potential for a slug discharge. (Ord. 99-163; Ord. 01-42; Ord. 14-66; Ord. 18-42)

12.5.1103: DISCHARGE PERMIT; ISSUANCE OF:

A. Unless otherwise indicated by section 12.5.301 of this article and section 12.5.1110 of this part, the Chief Executive Officer shall issue a significant industrial user wastewater discharge permit to the applicant if the Chief Executive Officer finds that all of the following conditions are met:

1. The proposed discharge of the applicant is in compliance with the prohibitions and limitations of part 7 of this article;

2. The proposed operation and discharge of the applicant would permit the normal and efficient operation of the wastewater treatment system; and

3. The proposed discharge of the applicant would not result in a violation by the City or Utilities of the terms and conditions of its CDPS permit or pass-through of any toxic materials to the environment.

B. If the Chief Executive Officer finds that the condition set out in subsection A1 of this section is not met and that it is not a categorical standard that must be immediately attained, the Chief Executive Officer may issue a significant industrial user wastewater discharge permit to the applicant if the conditions set out in subsections A2 and A3 of this section are met and if the applicant submits, and the Chief Executive Officer approves, a compliance schedule, setting out the measures to be taken by the applicant and the dates that the measures will be implemented to ensure compliance with the provisions of this article. (Ord. 99-163; Ord. 01-42; Ord. 18-42)

12.5.1104: SIGNIFICANT INDUSTRIAL USER DISCHARGE PERMIT; CONDITIONS:

Significant industrial user wastewater discharge permits shall be expressly subject to all provisions of this Code, all other regulations, and user charges and fees established by Utilities. The conditions of significant industrial user wastewater discharge permits shall be uniformly enforced in accord with this article and applicable State and Federal regulations. Permit conditions and requirements may be modified by the Chief Executive Officer to ensure compliance with this article. It is unlawful to discharge or otherwise fail to comply with the conditions, terms, limits or requirements of the permit. Permit conditions may include, but not be limited to, the following:

A. The unit charge or schedule of charges and fees for the wastewater to be discharged to the system.

B. Reporting requirements to indicate chemical materials purchased, used, disposed and method of disposal, including a description of and limitations placed upon the discharge point.

C. Limits on rate, time, and characteristics, including average and maximum wastewater constituents and characteristics, of discharge or requirements for flow regulation and equalization.

D. Requirements for installation of inspection and sampling facilities and specifications for monitoring programs and/or recordkeeping.

E. Requirements for maintaining and submitting technical reports and records relating to wastewater discharges, quantities or general characteristics of process tank contents; and/or information concerning hazardous or toxic waste materials generation and disposal.

F. Compliance schedules; the schedules may not extend the compliance dates beyond applicable Federal deadlines.

G. Requirements for the installation of facilities or implementation of procedures and plans to prevent and control slug discharges of regulated materials at the user's premises; the procedures and plans shall include a description of discharge practices including nonroutine batch discharges, a description of stored chemicals, notification procedures to notify the Chief Executive Officer of slug discharges, accidental spills, dangerous chemical spills or discharge violations, and procedures to prevent adverse impact from accidental spills including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structure, and/or equipment for emergency response.

H. Statement of duration (in no case more than 5 years).

I. Statement of nontransferability without, at a minimum, ten (10) days' prior notification to the POTW and provision of a copy of the existing discharge permit to the new owner or operator.

J. Effluent limits and BMPs based on applicable general pretreatment standards in 40 CFR section 403, categorical pretreatment standards, local limits, and State and local law.

K. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR section 403, categorical pretreatment standards, local limits, and State and local law.

L. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.

M. Documented plans, and requirements to submit the plans, describing the handling of materials regulated by part 7 of this article and 40 CFR section 403 for the Chief Executive Officer's approval. The plans may include, but not be limited to, toxic organic management plans, slug management control plans, and pretreatment system operation and management plans.

N. Documented plans, and requirements to submit the plans, describing how the user's pretreatment equipment will be operated and maintained.

O. A consent to entry onto the user's property to assess compliance by inspection, sampling, and monitoring.

P. Statement that upon request by the Chief Executive Officer, all records kept pursuant to this part shall be submitted to the Chief Executive Officer for review.

Q. Statement that renewal of a significant industrial user wastewater discharge permit shall be applied for and an updated permit application submitted to the Chief Executive Officer at least sixty (60) days prior to the expiration date contained in the permit.

R. Requirements for reporting significant changes, as indicated in subsection 12.5.1102D of this part, shall be included in the permit.

S. General and specific prohibitions, or other conditions to ensure compliance with this article. (Ord. 99-163; Ord. 01-42; Ord. 06-195; Ord. 10-82; Ord. 14-66; Ord. 18-42)

12.5.1105: APPLICANT TO BE NOTIFIED OF PROPOSED PERMIT CONDITIONS; RIGHT TO OBJECT:

A. Upon completion of the Chief Executive Officer's evaluation the Chief Executive Officer shall notify the applicant of any permit conditions.

B. The applicant shall have fifteen (15) days from the date of the notification to file written objections with the Chief Executive Officer to any proposed permit conditions. The Chief Executive Officer may, but shall not be required to, schedule a meeting with the authorized representative of the industrial user within fifteen (15) days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning permit conditions.

C. If applicant files no objection to permit conditions proposed or if a subsequent agreement is reached concerning same, the Chief Executive Officer shall issue a wastewater discharge permit to applicant with the conditions incorporated.

D. If the Chief Executive Officer denies a discharge permit or imposes conditions upon the issuance of a discharge permit, which are contested by the user, the user may request a hearing. The user must have used the procedure in subsection B of this section in order to request a hearing. Any request for a hearing must be submitted in writing to the Chief Executive Officer within fifteen (15) calendar days after receipt of denial of a discharge permit or receipt of the permit containing the objectionable conditions. The hearing and judicial review shall be held in accord with subsections 12.5.1204D and E of this article. The Hearing Officer may, after review of the evidence presented at the hearing, affirm, reverse, or modify the decision of the Chief Executive Officer, but shall, in any event, assure that all the requirements of section 12.5.1103 of this part are met. (Ord. 99-163; Ord. 00-204; Ord. 01-42; Ord. 10-82; Ord. 18-42)

12.5.1106: DISCHARGE PERMIT; DURATION:

A. Significant industrial user wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than one year, or may be stated to expire on a specific date. Filing a complete application prior to expiration automatically extends the permit until renewed or terminated. Permits issued for a

term of less than five (5) years may be administratively extended at the discretion of the Chief Executive Officer; however, the entire term of the permit may not exceed five (5) years.

B. Annual permit renewal charges shall be paid as required by the wastewater tariffs by the due date set forth by the Chief Executive Officer.

C. Significant industrial users shall apply for renewal of the discharge permit at least sixty (60) days prior to the expiration date contained in the permit. (Ord. 99-163; Ord. 01-42; Ord. 10-82; Ord. 14-66; Ord. 18-42)

12.5.1107: LIQUID WASTE HAULERS; PERMIT REQUIRED:

Liquid waste haulers are subject to this article excepting section 12.5.703 and subsection 12.5.702D1 of this article, and as otherwise noted herein.

A. Any liquid waste hauler must obtain a liquid waste hauler permit if:

1. The liquid waste hauler is pumping wastes from a grease/sand interceptor, grease trap or other appurtenance that is connected to the wastewater treatment system, regardless of whether the wastes are disposed at a designated disposal facility; or

2. The liquid waste hauler is pumping wastes from septic tanks, portable toilets or other sources of wastes that are not connected to the wastewater treatment system and the wastes are disposed at a designated disposal facility. (Ord. 99-163; Ord. 01-42)

12.5.1108: LIQUID WASTE HAULER PERMIT; APPLICATION FOR:

A. A liquid waste hauler permit charge including deposit, as required by the wastewater tariffs per section 12.1.108 of this chapter, shall be payable by the applicant.

B. Liquid waste haulers seeking a permit shall complete and file with the Chief Executive Officer a complete application on the form prescribed by the Chief Executive Officer. The application shall be certified as true, complete and accurate as provided in 40 CFR section 403.6(a)(2)(ii). Any supplemental information deemed necessary in order to evaluate the application shall be provided by the liquid waste hauler upon request by the Chief Executive Officer. (Ord. 99-163; Ord. 01-42; Ord. 14-66; Ord. 18-42)

12.5.1109: LIQUID WASTE HAULER PERMIT; CONDITIONS:

A. Conditions contained in the liquid waste hauler permit may include, but are not limited to:

1. Firm name and address.
2. Authorized representative information and signature.
3. Certification of permittee of knowledge and acceptance of the permit conditions.
4. Effective and expiration dates.
5. Statement of nontransferability of the permit.
6. Listing of authorized vehicles to transport and dispose of waste at the POTW.
7. Listing of authorized waste types that the permittee may discharge.
8. Permit number, card number(s).

9. A statement regarding the obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

10. Other conditions, limitations or prohibitions deemed appropriate by the Chief Executive Officer. (Ord. 99-163; Ord. 01-42; Ord. 14-66; Ord. 18-42)

12.5.1110: LIQUID WASTE HAULER PERMIT; DURATION:

A. Liquid waste hauler permits shall be issued for no longer than three (3) years. All terms and conditions of the permit may be subject to modification and change by the Chief Executive Officer at any time during the life of the permit.

B. A liquid waste hauler permit may not be transferred, reassigned, or sold.

C. Liquid waste hauler permit renewal must be applied for and an updated permit application submitted to the Chief Executive Officer at least thirty (30) days prior to the expiration date contained in the permit. Filing a complete application at least thirty (30) days prior to expiration extends the expiring permit until a new permit is renewed or denied. Operation with an expired permit, which is not extended or renewed, is prohibited. (Ord. 99-163; Ord. 01-42; Ord. 18-42)

12.5.1111: INDUSTRIAL USER CONTROL MECHANISMS (INDIVIDUAL OR GENERAL):

A. The Chief Executive Officer may issue a control mechanism to any industrial user (who is not otherwise a significant industrial user) who is discharging or proposes to discharge wastewater containing substances regulated under part 7 of this article, upon finding that all of the following conditions are met:

1. The actual or proposed discharge of the applicant is in compliance with the prohibitions and limitations of part 7 of this article;
2. The actual or proposed operation and discharge of the applicant would permit the normal and efficient operation of the wastewater treatment system; and
3. The actual or proposed discharge of the applicant would not result in a violation by the City of the terms and conditions of its CDPS permit or pass-through of any toxic materials to the environment.

B. If the Chief Executive Officer finds that the condition set out in subsection A1 of this section is not met, the Chief Executive Officer may issue a control mechanism to the applicant if the conditions set out in subsections A2 and A3 of this section are met and if the applicant submits, and the Chief Executive Officer approves, an expeditious compliance schedule setting out the measures to be taken by the applicant and the dates that the measures will be implemented to ensure compliance with the provisions of this article.

C. The control mechanism may contain conditions for discharging as requirements for treatment, limitations and prohibitions, BMPs, monitoring, sampling and analysis requirements, reporting and recordkeeping requirements, conditions for accessible inspections and other conditions to ensure compliance with this article.

D. The Chief Executive Officer may issue industrial users (who are not otherwise significant industrial users) general control mechanisms when all of the industrial users covered by the general control mechanism involve the same or substantially similar types of operations, discharge the same types of wastes, require the same effluent limitations or BMPs, require the same or similar monitoring (if any) and in the opinion of the Chief Executive Officer are more appropriately controlled under a general control mechanism.

E. General control mechanisms may contain conditions for discharging as requirements for treatment, limitations and prohibitions, BMPs, monitoring, sampling and analysis requirements, reporting and recordkeeping requirements, conditions for accessible inspections, requirements to control slug discharges if determined by the Chief Executive Officer to be necessary, and other conditions to ensure compliance with this article and Federal pretreatment standards.

F. Adoption of general control mechanisms shall be in accord with subsection 12.1.110B of this chapter.

G. The duration of general control mechanisms is as provided in the general control mechanism. General control mechanisms issued for a term of less than five (5) years may be administratively extended at the discretion of the Chief Executive Officer; however, the entire term of the general control mechanism may not exceed five (5) years. (Ord. 99-163; Ord. 01-42; Ord. 06-195; Ord. 10-82; Ord. 18-42)

12.5.1112: MODIFICATION OF PERMITS AND CONTROL MECHANISMS:

The terms and conditions of a permit or control mechanism may be subject to modification and change by the Chief Executive Officer during the life of the permit or control mechanism, as limitations or requirements as identified in this article are modified and changed. The user shall be informed of any proposed changes in the permit or individual control mechanism at least thirty (30) days prior to the effective date of change unless the change is initiated by a violation of this Wastewater Treatment Code. Any change or new condition in the permit shall include a reasonable time schedule for compliance. The Chief Executive Officer may provide relief from permit requirements in writing, provided the relief does not conflict with Federal requirements. Modification of general control mechanisms must be in accord with subsection 12.1.110B of this chapter. (Ord. 99-163; Ord. 01-42; Ord. 06-195; Ord. 10-82; Ord. 14-66; Ord. 18-42)

12.5.1113: DENIAL OF PERMITS AND CONTROL MECHANISMS:

A. The Chief Executive Officer may deny the issuance of a discharge or liquid waste hauler permit on the following grounds:

1. The applicant knowingly falsified information on the permit applications, manifests, or other reports; or
2. The applicant's previous or other discharge or liquid waste hauler permit is under suspension or probation or has been otherwise revoked and the condition upon which action was taken still exists; or
3. The applicant is not current on all disposal and permit related reports and/or is deemed delinquent on tariffs and/or user charges; or
4. The applicant has discharged to the POTW nonpermitted or otherwise prohibited wastes; or
5. Compliance history of the user demonstrates a pattern of violations of permit requirements or late payments; or
6. Failure to maintain financial assurance as required by permit conditions; or
7. Past environmental convictions of the user relevant to the future compliance with permit requirements; or
8. Considerations relevant to permit revocation; or

9. Other items as the Chief Executive Officer considers significant.

B. In the event an application for an SIU wastewater discharge or liquid waste hauler permit is denied, the Chief Executive Officer shall notify the applicant in writing of the denial. The notification shall state the grounds for denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.

C. Upon receipt of notification of denial of a permit application or individual control mechanism or coverage under a general control mechanism, the applicant may request and shall be granted within a reasonable time a hearing to be held by the Chief Executive Officer or a Hearing Officer designated by the Chief Executive Officer, if the request is submitted to the Chief Executive Officer within fifteen (15) days of receipt of notification. At the hearing the applicant shall have the burden of establishing that the conditions set out in this article have been met and that a permit or individual control mechanism should be issued or coverage under a general control mechanism should be granted. The Chief Executive Officer shall bear the burden of establishing that the conditions of section 12.5.301 of this article or section 12.5.1110 of this part have been met. The hearing shall be conducted in accord with the procedures provided in subsection 12.5.1204D of this article. (Ord. 99-163; Ord. 01-42; Ord. 06-195; Ord. 10-82; Ord. 18-42)

PART 12 ENFORCEMENT

SECTION:

12.5.1201: Enforcement Generally; Remedies Cumulative

12.5.1202: Administrative Enforcement Remedies; Informal

12.5.1203: Administrative Enforcement Remedies; Formal

12.5.1204: Administrative Hearing Procedures

12.5.1205: Judicial Enforcement Remedies

12.5.1206: Supplemental Enforcement Remedies

12.5.1207: Affirmative Defenses

12.5.1208: Disposition Of Fines And Penalties

12.5.1201: ENFORCEMENT GENERALLY; REMEDIES CUMULATIVE:

A. Consistent with the Federal Clean Water Act section 309, 33 USC section 1319, strict liability for noncompliance with the requirements of this article, any regulation, control mechanism or permit thereunder shall constitute a violation, regardless of fault, negligence or intent. The discretion to pursue enforcement shall be upon consideration of the magnitude of the violation; its duration; its effect on the receiving water, collection or treatment facilities, City employees and contractors, and the public health, safety and welfare; the user's compliance history; the good faith of the user; and the resources available to support the enforcement action. Enforcement shall be in accord with this part and this chapter, including subsections 12.1.115A and C of this chapter, but to the exclusion of the dispute resolution procedure of other Utilities matters provided in the Utilities tariffs or the restitution provided at subsection 12.1.115B of this chapter. These enforcement remedies apply to any violation of this article.

B. It is the purpose of this section to provide additional and cumulative remedies. The Chief Executive Officer may use the following remedies either individually, sequentially, concurrently, or in any order. (Ord. 99-163; Ord. 01-42; Ord. 06-195; Ord. 14-66; Ord. 18-42)

12.5.1202: ADMINISTRATIVE ENFORCEMENT REMEDIES; INFORMAL:

A. Authority: The Chief Executive Officer may use the following informal remedies for one or collective violations as appropriate for the circumstances:

1. Verbal Notice: For any noncompliance, verbal warnings such as telephone calls and other verbal communications may be given by the Chief Executive Officer or designated agent.

2. Information Production/Compliance Review Meeting: When there is some reason to believe a violation of this article has occurred, the Chief Executive Officer or designated agent may require production of information such as records, reports, noncompliance explanations, installation of monitoring equipment or methods (including where appropriate, biological monitoring methods), or other information as may reasonably be required, including meetings for such purposes.

3. Demand Inspections: In accord with section 12.5.805 of this article, including the permit's consent to search, an inspection of a site or relevant files and documents at or related to the site may occur to evaluate compliance status or efforts to return to compliance.

4. Field Notice Of Observed Violation (FNOV): During an inspection or a sampling of a user, if the Chief Executive Officer finds a violation of this article or applicable requirements which has or is occurring, the Chief Executive Officer may

serve upon the user a field notice of observed violation identifying the specific violation, and the date for corrective action to be completed, or other compliance actions required. An FNOV will contain at a minimum, the name of the person receiving the FNOV, the user and its address, date and time, corrective action required, and signatures of industry representative and City official.

5. Notification Of Violation (NOV): Whenever the Chief Executive Officer finds that any user has violated or is violating this article, a wastewater discharge permit, control mechanism, or order issued hereunder, the Chief Executive Officer may serve, personally or by certified mail, upon the user written notice of the violation. The written notice shall state the provision violated, the facts alleged to constitute the violation, and it may include the nature of any corrective action proposed to be required or monitoring to be conducted. Within ten (10) days of the receipt date of this notice, a written explanation of or response to the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Chief Executive Officer. The plan may be waived by the Chief Executive Officer. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

B. Appeal Procedure For FNOVs And NOV: After receipt of an FNOV or NOV, the user may appeal to the Chief Executive Officer to reconsider items contained in the notice. No later than five (5) working days after receipt of the notice or prior to the date upon which corrective action has been ordered, whichever comes first, the user may request an informal conference to resolve items contained in the notice. The informal conference shall be conducted as provided in subsection 12.5.1204A of this part. A user may not request a hearing on an FNOV or NOV without first requesting and participating in an informal conference. (Ord. 99-163; Ord. 01-42; Ord. 06-195; Ord. 18-42)

12.5.1203: ADMINISTRATIVE ENFORCEMENT REMEDIES; FORMAL:

A. Formal Remedies: The Chief Executive Officer may use the following formal remedies for one or collective violations as appropriate for the circumstances. The remedies shall be contained in a unilateral administrative order or consent administrative order, as appropriate. A unilateral administrative order may be used without an initial hearing. A consent administrative order is an agreement between the alleged violator and the Chief Executive Officer and may be issued without a hearing or following a hearing. A consent administrative order shall have the same force and effect as any other administrative order issued pursuant to this article. Any order shall be in writing, shall state the provision violated, the facts alleged or supporting the violation and any of the following elements singularly or together:

1. Cease And Desist Order: When the Chief Executive Officer finds that the user has violated or continues to violate this article or any permit, control mechanism, BMP or order issued thereunder, the Chief Executive Officer may require the user to cease and desist all violations and direct those persons in noncompliance to take the appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. The time by which the acts or practices complained of must be terminated must be specified.

2. Compliance Schedule: An administrative order may contain a "compliance schedule" as defined in section 12.5.201 of this article. Compliance schedule progress reports are due fourteen (14) days following each milestone date.

3. Administrative Fines: Not as a criminal penalty and only as an administrative measure (civil penalty), administrative fines encourage compliance and offset unquantifiable damage to the POTW and the environment from noncompliance. Any user who is found to have violated any provision of this article, permits, control mechanisms, BMPs or orders issued hereunder, may be assessed an amount not to exceed one thousand dollars (\$1,000.00) per violation per day. Each day on which noncompliance shall occur or continue may be deemed a separate and distinct violation. Instances when a violation continues (for which fines may be assessed for each day) include, but are not limited to, each day of failure to provide required submittals after the due date; following a sampling event showing noncompliance until a sampling event demonstrating compliance; and failure to rectify the damage to the wastewater treatment system or to the environment resulting from an initial violation. Fine assessments shall be based upon nature, circumstances, extent and gravity of the violation(s), and with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any), and such other matters as justice may require.

4. Extra Costs Charges:

a. The Chief Executive Officer may assess a charge to recover costs incurred by the POTW for extra monitoring, investigation or quantifiable damages attributable to any user who is found to have:

(1) Discharged a waste which causes an obstruction, damage, interference, pass-through or other impairment to the POTW or damage to other users as a result of the discharge;

(2) Committed a violation of this article; or

(3) Failed to comply with provisions of the user's discharge permit, control mechanism, BMP or order.

b. The amount of this charge shall be determined by the Chief Executive Officer and may include:

(1) Sampling and analysis costs;

(2) Time, material and equipment costs incurred as a result of inspection procedures;

(3) Costs incurred in the administrative analysis of all pertinent information, or extraordinary costs incurred by the POTW as a result of discharge or other noncompliance such as time (including legal services), material and equipment

costs including chemical usage, detecting and preventing or correcting interference or pass-through of the POTW or repairing damage to the POTW; and

(4) Other associated costs as the Chief Executive Officer may deem necessary.

5. Suspension Or Revocation Of Permit Or Control Mechanism:

a. Any violation of the conditions of an SIU wastewater discharge permit, liquid waste hauler permit, control mechanism, BMP, order or of this article or of applicable State and Federal regulations shall be reason for suspension or revocation of the permit, individual control mechanism, notice of coverage under a general control mechanism or BMP. Upon suspension or revocation, any wastewater discharge from the affected user shall be prohibited. Grounds for suspension and revocation include, but are not limited to, the following:

(1) A user has falsified information or records submitted or retained in accord with this article or in connection with any permit, control mechanism, or BMP issued pursuant to this article;

(2) A user has failed to report significant changes in operations or wastewater constituents or characteristics;

(3) A user has violated the conditions of a permit, control mechanism or BMP;

(4) A user has refused right of entry;

(5) A user has tampered with monitoring equipment;

(6) A user has failed to reapply for a permit, individual control mechanism, or request a required permit modification;

(7) A user has discharged into the POTW in violation of this article;

(8) A temporary or permanent reduction or elimination of the permitted discharge is required due to changed circumstance(s), as may be discovered in a toxicity reduction evaluation or other investigation to assure compliance with the requirements of this article;

(9) A temporary or permanent reduction or elimination of the permitted discharge is required due to changes in design or capability of the POTW to treat the discharged wastes or hauled liquid wastes; or

(10) A temporary or permanent reduction or elimination of the discharge due to promulgation of a more stringent pretreatment standard by State or Federal agencies having jurisdiction over receiving waters.

b. In regards to liquid waste haulers, additional grounds for suspension or revocation of a liquid waste hauler permit, include, but are not limited to:

(1) The liquid waste hauler has failed to pay disposal charges in accord with permit or tariff and Code requirements;

(2) The liquid waste hauler has improperly used and/or maintained the designated disposal facilities in violation of requirements established by the Chief Executive Officer;

(3) The liquid waste hauler or representative failed to display the authorization document upon request by a representative or employee of Utilities;

(4) The liquid waste hauler or representative changed, altered or otherwise modified the face of a permit or authorization document without the permission of the Chief Executive Officer;

(5) The liquid waste hauler or representative failed to immediately halt the discharge from the truck into the designated disposal facilities upon order of any Utilities employee;

(6) The liquid waste hauler or representative tampered with POTW monitoring or sampling equipment or access gates at the designated disposal facilities; or

(7) The liquid waste hauler or representative failed to comply with manifest requirements contained in section 12.5.1002 of this article.

c. Any permit, individual control mechanism, notice of coverage under a general control mechanism or BMP, which has been suspended or revoked pursuant to this part, may be reinstated upon a finding by the Chief Executive Officer that the condition, which resulted in the suspension or revocation, no longer exists.

d. Suspensions may be effected by the Chief Executive Officer for any length of time up to one year.

B. Emergency Suspension Order:

1. The Chief Executive Officer may suspend the wastewater treatment service of any user, or a permit, individual control mechanism, notice of coverage under a general control mechanism or BMP, or disconnect the sewer connection when the suspension or disconnect is necessary in the opinion of the Chief Executive Officer in order to stop an actual or threatened discharge which:

a. Presents or may present an imminent or substantial endangerment to the health, safety or welfare of persons or property;

b. Presents or may present an imminent or substantial endangerment to the environment;

c. May cause or actually causes interference to the POTW or pass through of contaminants causing violation of the POTW's permit; or

d. Causes the POTW to violate any condition of its CDPS or NPDES permit, certificate of designation or other Federal or State laws.

2. In the event of a suspension or disconnect under this part, within fifteen (15) days the user shall submit a written report describing the event that caused the suspension, its compliance status and the measures necessary to prevent a recurrence. In no event shall the appeal of an emergency suspension order in any way stay or suspend the same.

3. The Chief Executive Officer may reinstate the wastewater discharge permit, individual control mechanism, notice of coverage under a general control mechanism or sewer connection upon proof of compliance.

C. Imminent Hazard Order: The Chief Executive Officer may issue an imminent hazard order as provided in subsection 12.1.115C of this chapter. (Ord. 99-163; Ord. 00-204; Ord. 01-42; Ord. 06-195; Ord. 10-82; Ord. 18-42)

12.5.1204: ADMINISTRATIVE HEARING PROCEDURES:

A. Request For Informal Conference By User: After issuance of an FNOV or NOV or a unilateral administrative order, the user may request an informal conference with the Chief Executive Officer to resolve issues in the notice or order. The request must be submitted to the Chief Executive Officer in writing within five (5) calendar days of receipt of the notice or order or prior to the date upon which corrective action has been ordered, whichever comes first. The Chief Executive Officer shall hold the informal conference within ten (10) calendar days of receipt of the request for the informal conference. The notice or unilateral administrative order may be modified or reissued as a consent administrative order after resolution of issues in the informal conference, within fifteen (15) calendar days of the informal conference.

B. Request For Hearing By User:

1. The user may request a hearing after receipt of a unilateral administrative order, emergency suspension order, or imminent hazard order within the following time periods:

a. Any request for hearing must be submitted in writing to the Chief Executive Officer within fifteen (15) calendar days after receipt of a unilateral administrative order (if no hearing has been previously held). If an informal conference is requested and held, the time period for requesting a hearing is extended to within five (5) calendar days of the informal conference. In no event may a written request for a hearing be submitted beyond thirty (30) calendar days following receipt of a unilateral administrative order.

b. Any request for hearing must be submitted in writing to the Chief Executive Officer within five (5) calendar days after receipt of an emergency suspension order or imminent hazard order.

2. The user may request a stay of requirements (including payment of administrative fines) in a written request for hearing regarding a unilateral administrative order. A stay of the requirements may be granted at the discretion of the Hearing Officer considering hardship on user, whether an ongoing violation is occurring, potential adverse effects of ongoing violation, and certainty of violation. No stay of requirements is available regarding an emergency suspension order or imminent hazard order.

3. If a request for a hearing is filed, a hearing shall be held within a reasonable time.

4. If the hearing is not requested within the specified time periods, the FNOV, NOV, unilateral administrative order, or emergency suspension order is final.

5. Submission of a request for a hearing in no way relieves the user of liability for any violations occurring before or after receipt of the FNOV, NOV or order.

C. Hearing Initiated By Chief Executive Officer: Prior to any NOV or formal order, the Chief Executive Officer may order to appear at a public hearing any user which causes or contributes to violation of this article, control mechanism, BMP or order issued hereunder, to show cause to the Chief Executive Officer, why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the public hearing; the proposed enforcement action and the reasons for the action, including any alleged violation and the facts constituting the violation, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing; except that the Chief Executive Officer may set an earlier date for hearing if it is requested by the alleged violator. The notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

D. Hearing Procedures:

1. Hearing Officer:

a. Upon request for a hearing, the Chief Executive Officer may act as Hearing Officer or may designate, in writing and/or by administrative regulation, employees of the City and Utilities or third parties as Hearing Officers. No Hearing Officer shall be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance or investigatory or prosecuting functions for the Chief Executive Officer.

b. Upon the filing in good faith by a party of a timely and sufficient affidavit of personal bias by a Hearing Officer, the

Hearing Officer shall rule upon the allegations as part of the record in the administrative proceedings. A Hearing Officer may at any time withdraw if he/she deems him/herself disqualified or for any other good reason, in which case the Chief Executive Officer promptly shall designate a new Hearing Officer.

2. Representation: Utilities or the City shall be represented by an attorney from the Utilities general counsel's office, Office of the City Attorney or outside counsel hired by either office. The alleged violator may be represented by counsel or may proceed pro se. At the Hearing Officer's discretion, an attorney who is from the Utilities general counsel's office, Office of the City Attorney or outside counsel hired by either office and who is different from the Attorney representing Utilities or the City, may advise the Hearing Officer regarding any procedural questions during the hearing.

3. Prehearing And Hearing Procedures:

a. Hearing Officer Authority: The Hearing Officer shall have authority to administer oaths and affirmations; sign and issue subpoenas; rule upon evidentiary objections and offers of proof; dispose of motions, including, without limitation, motions pertaining to discovery, jurisdiction, dismissal, procedure, consolidation and intervention; regulate prehearing proceedings and schedule; regulate the conduct and timing of the hearing; exclude from the hearing any person for any improper conduct; and award attorney fees for abuses of discovery or as otherwise provided in the Colorado Rules of Civil Procedure.

b. Prehearing Scheduling Order: The Hearing Officer shall timely issue a prehearing scheduling order to the parties. The order shall contain a discovery schedule; prehearing motion schedule; date by which persons, experts, documents, expert reports and tangible things will be identified; date for prehearing conference, if any; date for hearing management order, if any, and hearing date.

c. Discovery: To the extent practicable, Colorado Rules of Civil Procedure 29 and 30, regarding depositions, apply to hearings conducted under this article. The parties retain their rights under the Colorado Open Records Act and the Chief Executive Officer retains its inspection and enforcement authorities under this article during the pendency of the proceedings and the Hearing Officer shall not abridge these rights.

d. Subpoenas: Upon oral or written request of any party, a Hearing Officer shall sign a subpoena or subpoena duces tecum requiring the attendance of a witness or the production of documentary evidence, or both at a deposition or hearing. Compliance with any subpoena issued may be enforced by application of the Hearing Officer to the Municipal Court of the City, where enforcement may be in the same manner as contempt of court is enforced pursuant to section 11.3.113 of this Code.

e. Settlement Conferences: At any time after a proceeding is initiated, any party may request a settlement conference. If the Hearing Officer grants the request, the conference shall be conducted by a third party, paid for equally by all parties. All discussions at the settlement conference shall not be disclosed to the Hearing Officer and are governed by Colorado Rule of Evidence 408. A Hearing Officer may require a settlement conference on his/her own motion.

f. Settlements: The Hearing Officer shall be notified promptly of all settlements, stipulations, Chief Executive Officer orders or any other action terminating the matter. Approval by the Hearing Officer is not required.

g. Ex Parte Communications: No ex parte material representation of any kind offered without notice shall be received or considered by the Hearing Officer. Copies of all pleadings or correspondence filed with, or directed to, the Hearing Officer by any party shall be served upon all other parties.

h. Evidence: Except with respect to rule 408, the Hearing Officer shall not be bound by the Colorado Rules of Evidence. The Hearing Officer may exclude evidence if such evidence does not possess the probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. The Hearing Officer shall give effect to the rules of privilege recognized by law. The Hearing Officer may exclude incompetent and repetitious evidence. Upon request, a party shall be given the opportunity to compare a copy of documentary evidence with the original.

i. Continuances: Continuances are discouraged and shall be granted only upon a showing of good cause. Motions for continuance must be filed in a timely manner. Stipulations for a continuance shall not be effective unless and until approved by the Hearing Officer.

j. Prehearing Conference And Hearing Management Order: The Hearing Officer may request that the parties provide a hearing management order in the form provided by CRCP 16(C)(1). The Hearing Officer may enter the hearing management order with or without a prehearing conference.

k. Conduct Of Hearing: The Hearing Officer may request that the parties, prior to the hearing, identify witnesses and submit any documentary or demonstrative evidence or expert reports, which may be presented at the hearing. The Hearing Officer shall establish a procedure for conduct of the hearing, which shall allow for an orderly presentation by all parties. The Hearing Officer shall permit all parties to respond to the request for hearing, to present evidence and argument on all issues, and to conduct cross examination required for full disclosure of the facts.

l. File And Hearings Open To The Public: If a hearing is held pursuant to this article, all items filed with the Hearing Officer and the hearing shall be open to the public.

4. Evidence: A verbatim record of the proceedings shall be made by electronic recording device or other more appropriate method. The Hearing Officer shall mark any documentation or demonstrative evidence received and shall maintain the evidence. The transcript, if prepared, and other evidence will be made available to any person upon payment of charges.

5. Hearing Record: For purposes of the decision, the record shall include all pleadings, applications, testimony, exhibits and other evidence presented or considered, matters officially noticed, any findings of fact and conclusions of law proposed by any party, and any written brief filed.

6. Decision: Unless the designation of the Hearing Officer by the Chief Executive Officer provides otherwise, upon review of the record, the Hearing Officer shall prepare, file and serve upon each party his or her decision. Each decision shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate order, sanction, relief, or denial.

E. Judicial Review: If a timely request for hearing is made, the decision of the Hearing Officer shall be a final order. Any party adversely affected by the decision of a Hearing Officer may appeal it to the District Court in and for the County of El Paso pursuant to rule 106(a)(4) of the Colorado Rules of Civil Procedure. If the alleged violator fails to submit a timely written request for a hearing, the alleged violator has failed to exhaust administrative remedies and may not appeal the notice or order to District Court.

F. Judicial Collection: After the order assessing administrative fines has become final, or after a court in an action brought under subsection E of this section has entered a final judgment in favor of Utilities, the Chief Executive Officer may request the City Attorney to bring a civil action, if not earlier filed as a part of the judicial review, in the District Court to recover the amount assessed (plus postjudgment interest at the legal rate of interest, as defined at Colorado Revised Statutes section 5-12-101). In such an action, the validity, amount, and appropriateness of the penalty shall not be subject to review. (Ord. 99-163; Ord. 00-204; Ord. 01-42; Ord. 10-82; Ord. 18-42; Ord. 19-34)

12.5.1205: JUDICIAL ENFORCEMENT REMEDIES:

A. Legal Action: If any person violates the provisions of this article or any order, permit, control mechanism, or BMP issued hereunder, the Chief Executive Officer, through the City Attorney, may commence an action for injunctive relief in the District Court, and/or for appropriate legal relief in the Municipal Court or other proper jurisdiction.

B. Injunctive Relief: Whenever a person has violated or continues to violate the provisions of this article or permit, control mechanism, BMP or order issued hereunder, the Chief Executive Officer, through counsel, may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the person. Any injunction, restraining order or other equitable remedy may be granted by the court regardless of the existence of another legal or equitable remedy.

C. Civil Penalties:

1. Any person who has violated or continues to violate this article or any order or permit, control mechanism or BMP issued hereunder, may be liable to the City or Utilities for a civil penalty of not more than one thousand dollars (\$1,000.00), plus actual damages incurred by the POTW, per violation per day for as long as the violation continues. Each day on which noncompliance shall occur or continue may be deemed a separate and distinct violation. Instances when a violation continues (for which fines may be assessed for each day) include, but are not limited to, each day of failure to provide required submittals after the due date; following a sampling event showing noncompliance until a sampling event demonstrating compliance; and failure to rectify the damage to the wastewater treatment system or to the environment resulting from an initial violation. In addition to the above described penalty and damages, the Chief Executive Officer may recover reasonable attorney fees, court costs, and other expenses associated with the enforcement activities, including, but not limited to, sampling and monitoring expenses.

2. The City or Utilities may petition the court to impose, assess and recover the sums as described in subsection C1 of this section. In determining the amount of liability, the court shall consider the seriousness of the violation(s), the economic benefit (if any) resulting from the violation(s), any history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and any other factor as justice requires. The purpose of any civil penalty is to encourage compliance, to remedy unquantified damage to the POTW or environment and not to impose criminal sanctions nor retribution.

D. Criminal Prosecution:

1. Any person who wilfully, knowingly, or negligently violates any provision of this article or any orders or permits, control mechanisms, or BMPs issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than six (6) months, or both. This penalty is to be consistent with the Federal Clean Water Act, 33 USC section 1251 et seq., and shall apply to the exclusion of subsection 12.1.115B of this chapter or any other Code provision more lenient.

2. Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than six (6) months, or both. This penalty is to be consistent with the Federal Clean Water Act, 33 USC section 1251 et seq., and shall apply to the exclusion of subsection 12.1.115B of this chapter or any other Code provision more lenient.

E. Public Nuisance: The Chief Executive Officer may pursue a public nuisance action as provided in subsection 12.1.115A of this chapter and chapter 9, article 6 of this Code. (Ord. 99-163; Ord. 00-204; Ord. 01-42; Ord. 10-82; Ord. 18-

12.5.1206: SUPPLEMENTAL ENFORCEMENT REMEDIES:

A. Annual Publication Of Significant Noncompliance: The Chief Executive Officer shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those users which are found to be in "significant noncompliance", as defined in section 12.5.201 of this article, with any provisions of this article or any permit or order issued hereunder during the annual reporting period since the previous publication. The annual notice shall include, but is not limited to, the name of the violator, date of violation, and general nature of the violation. Prior to the publication, the Chief Executive Officer shall notify in writing each affected user of the intended publication and shall give the user fifteen (15) days to request a hearing in writing regarding the significant noncompliance status, if the user so desires.

B. Financial Assurance: The Chief Executive Officer may decline to reissue a permit or control mechanism to any user which has failed to comply with the provisions of this article or any order or previous permit or control mechanism issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

C. Federal-State Enforcement: In addition to other remedies for enforcement provided herein, the Chief Executive Officer may petition other entities and agencies including, but not limited to, the State of Colorado and/or the U.S. Environmental Protection Agency, as appropriate, to exercise such methods of enforcement or remedies as are available to those entities. The petition can include the filing of a citizen suit as authorized by Clean Water Act section 505 (33 USC section 1365).

D. Lien Assessment:

1. Lien For Costs Incurred: When the owner, operator or occupant of the property fails to comply with any final order issued pursuant to the Wastewater Code, which requires abatement of an imminent hazard or public nuisance and the Chief Executive Officer causes abatement of the imminent hazard or public nuisance, the Chief Executive Officer is hereby authorized to commence lien assessment proceedings against the property for costs of the abatement, in accord with the procedures of chapter 2, article 6 of this Code.

2. Lien For Administrative Fines: When the owner, operator or occupant of the property is subject to a final administrative order assessing administrative fines and has not fully paid the fines or completely performed the supplemental environmental project within the time frames provided for in the final administrative order, the Chief Executive Officer is hereby authorized to commence lien assessment proceedings against the property, in accord with the procedures of chapter 2 of this Code as amended by this subsection.

a. Notice Of Assessment: No earlier than thirty (30) days following a final administrative order assessing administrative fines, the Chief Executive Officer shall provide a notice of assessment:

(1) Attaching the relevant administrative order, and

(2) Specifying the amount of the administrative fines that remain unpaid and/or the portion of the supplemental environmental project that remains incomplete and the cost of the incomplete project and the requirements of chapter 2 of this Code.

b. Assessment Hearing: In lieu of the requirements of section 2.6.103 of this Code, the provisions of this subsection apply. At the time and place specified in the notice of assessment, or at some adjourned time, the City Council shall hear and determine all complaints and objections and may confirm the unpaid portion of the administrative fines and/or the costs of the incomplete portion of the supplemental environmental project. The City Council will not hear complaints and objections regarding the final administrative order including the violations for which the administrative order was issued, the amount of the original administrative fine, or the original costs or requirements pertaining to the supplemental environmental project. The unpaid portion of the administrative fines and/or the costs of the incomplete portion of the supplemental environmental project, together with the surcharge, shall be levied, assessed, and charged by ordinance against the property to which the final administrative order pertains and shall become a perpetual lien thereon, to be collected in the same manner as provided in chapter 2, article 6 of this Code.

c. Payment Of Assessments: In lieu of the requirements of section 2.6.201 of this Code, the provisions of this subsection apply. All assessments for unpaid administrative fines and incomplete supplemental environmental projects shall be due and payable without demand thirty (30) days after final approval of the assessing ordinance. (Ord. 99-163; Ord. 01-42; Ord. 10-82; Ord. 18-42)

12.5.1207: AFFIRMATIVE DEFENSES:

A. Upsets:

1. Defined: An "upset" is defined as an exceptional incident which causes temporary and unintentional noncompliance with the discharger's categorical pretreatment standards because of actions beyond the reasonable control of the user. Upsets do not include incidents or noncompliance caused by:

a. Operational error;

b. Improperly designed treatment facilities;

- c. Inadequate treatment facilities;
- d. Lack of adequate preventative maintenance;
- e. Careless or improper operation of processes and treatment facilities; or
- f. A reduction, loss or failure of the user's treatment facility including, but not limited to, a power outage.

2. Claims: Claims of an upset shall constitute an affirmative defense to a charge that a user has violated a categorical pretreatment standard if and only if the following requirements are satisfied:

- a. The user must be able to identify the specific cause of the claimed upset;
- b. The user must establish prudent operation and maintenance of the facility at the time of the claimed upset;
- c. The user must demonstrate compliance with operation and maintenance procedures at the time of the claimed upset;
- d. The industrial user has submitted the following information to the POTW and Chief Executive Officer within twenty four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within 5 days):
 - (1) A description of the indirect discharge and cause of noncompliance;
 - (2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (3) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

3. Burden Of Proof: The burden of proving that an upset has occurred shall be on the user.

4. Reviewability Of Agency Consideration Of Claims Of Upset: In the usual exercise of prosecutorial discretion, enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final action subject to judicial review. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

5. User Responsibility In Case Of Upset: The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

B. Bypass:

1. Prohibition Of Bypass: Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass, unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
- c. The industrial user submitted notices as required under subsection B4 of this section.

2. Approval Of Bypass By Control Authority: The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three (3) conditions listed in subsection B1 of this section.

3. Bypass Not Violating Applicable Pretreatment Standards Or Requirements: An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections B1 and B4 of this section.

4. Notice:

a. Anticipated Bypass: If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Chief Executive Officer, if possible at least ten (10) days before the date of the bypass.

b. Unanticipated Bypass: An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Chief Executive Officer within twenty four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Chief Executive Officer may waive the written report on a case by case basis if the oral report has been received within twenty four

(24) hours.

C. General And Specific Violation Defenses: A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions in subsections 12.5.702H, I, and P of this article where the user can demonstrate that:

1. It did not know or have reason to know that its discharge, alone or in conjunction with an indirect discharge or indirect discharges from other sources, would cause pass-through or interference. The industrial user will need to submit data which supports this claim. Establishment of a prohibition, local limit or categorical standard for a parameter is considered notification to the industrial user that pass-through or interference is possible; and

2. A local limit designed to prevent pass-through and/or interference, as the case may be, was developed in accord with section 12.5.703 of this article for each pollutant in the user's discharge that caused pass-through or interference, and the user was in compliance with each local limit directly prior to and during pass-through or interference; or

3. If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed in accord with section 12.5.703 of this article for the pollutant(s) that caused the pass-through or interference, and if the user's discharge directly prior to and during the pass-through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal. (Ord. 99-163; Ord. 01-42; Ord. 14-66; Ord. 18-42)

12.5.1208: DISPOSITION OF FINES AND PENALTIES:

A. Authorization To Use Monies: The Chief Executive Officer is authorized to use administrative fines and civil penalties collected for the following purposes:

1. Money, awarded as damages to repair or replace damaged portions of the wastewater treatment system, shall be used to accomplish the measures for which the award was made.

2. Money awarded to reimburse the Chief Executive Officer for costs associated with any enforcement action, such as extra costs charges, attorney fees, court costs and expenses shall be returned to the Chief Executive Officer.

3. Money not awarded pursuant to subsections B1 and B2 of this section, shall be used for purposes determined at the discretion of the Chief Executive Officer. The purposes may include, but are not limited to, supplemental environmental projects and payments of fines and penalties paid by Utilities due to specific violations by the user(s).

B. Supplemental Environmental Projects (SEP): Subject to subsection A of this section, in the discretion of the Chief Executive Officer or any court when enforcement of this article results in administrative fines or civil penalties, some or all of the fine or penalty may be contributed to supplemental environmental projects meeting the following criteria:

1. The project is environmentally beneficial by improving, protecting, or reducing risks to the public health, or the environment at large.

2. The project is not otherwise legally required to be performed by any Federal, State or local law or requirement, or likely to be required as a result of the enforcement action to achieve compliance.

3. The project is not inconsistent with any environmental statute or regulation.

4. The project advances at least one of the objectives of the environmental statute that is the basis of the enforcement action. This can include projects which reduce the likelihood of similar violations in the future; or reduces the adverse impacts to the public health or the environment to which the violation at issue contributes; or the project reduces the overall risk to the public health or the environment potentially affected by the violation at issue.

5. The project is defined in the administrative or judicial order to specify the amount to be spent, by whom, by a date.

6. Utilities and the City may not play a role in managing or controlling funds used for performance of SEP, nor manage or administer the SEP. Utilities may perform oversight to ensure the SEP is implemented pursuant to the provisions of the administrative or judicial order and have legal recourse if the SEP is not adequately performed.

7. An SEP cannot be used to satisfy Utilities' legal obligations to perform a particular activity. (Ord. 99-163; Ord. 01-42; Ord. 10-82; Ord. 18-42)