


**PUBLIC WORKS DEPARTMENT**  
**MEMORANDUM #2010 – 38**

**DATE:** May 27, 2010  
**TO:** Honorable Mayor Joyce Downing and City Council Members  
**FROM:** William A. Simmons, City Manager  
David H. Willett, Director of Public Works   
**SUBJECT:** CB – 1719, Industrial Pretreatment Program  
Revisions to Chapter 16, Article 15 of the Municipal Code

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**BACKGROUND**

The Environmental Protection Agency (EPA) conducted an audit of the Industrial Pretreatment Program administered by the City of Northglenn from January 6, 2009 through January 7, 2009. The intent of an audit is to evaluate local pretreatment programs and identify areas of improvement, and to build and/or maintain strong and effective local programs in Region 8. The audit focused heavily on the pretreatment building blocks: legal authority, local limits, industrial user characterization, quality of permits and permitting procedures, sampling, inspections, and enforcement.

Included in the “Summary of Required Actions Pretreatment Audit” the EPA required that the City update their legal authority and local limits to implement the Pretreatment Regulations. The legal authority and local limits are found in the City of Northglenn Municipal Code, Chapter 16, Article 15.

Upon receipt of the audit, City staff has been working to address the action items identified by the EPA. At Council Study Session on May 6, 2010, Mr. Curt McCormick of CWA Consulting Services presented an overview of the revisions made to the Municipal Code. The revised chapter of the municipal code is approvable by the EPA and serves to better protect public health, the environment, and the City’s POTW.

**BUDGET/TIME IMPLICATIONS**

The timeline for submittal of the revised Municipal Code and Local Limits to the EPA is June 30, 2010. In order for the EPA to accept the submittal, the revised Municipal Code and Local Limits must go through first reading with City Council.

**RECOMMENDATION**

Staff recommends the adoption of Chapter 16, Article 15 of the Municipal Code.

**STAFF REFERENCE**

David H. Willett, P.E., Director of Public Works

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SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1719  
Series of 2010

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Series of 2010

A BILL FOR AN ORDINANCE REPEALING AND REENACTING CHAPTER 16, ARTICLE 15 OF THE NORTHGLENN MUNICIPAL CODE REGARDING INDUSTRIAL PRETREATMENT STANDARDS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Chapter 16, Article 15 of the Northglenn Municipal Code is hereby repealed and reenacted to read as follows:

CHAPTER 16  
PUBLIC PROPERTY, UTILITIES AND SERVICES  
ARTICLE 15  
PUBLIC SEWERS

**Section 16-15-1.**     Purpose and Policy.

- (a) This Article sets forth uniform requirements for all contributors into the wastewater collection and treatment system for the City of Northglenn and enables the City to comply with all applicable state and federal laws including the Clean Water Act (33 United States Code (U.S.C.) Section 1261 et seq.) and the General Pretreatment Regulations (40 CFR Part 403).

The objectives of this Article are:

- (1) To prevent the introduction of pollutants into the Publicly-Owned Treatment Works (POTW) that will interfere with the operation of the system or contaminate the resulting sludge;
- (2) To prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- (4) To provide for equitable distribution among users of the cost of the POTW;

- (5) To provide for and promote the general health, safety and welfare of the citizens residing within the City and connecting jurisdictions;
  - (6) To enable the City to comply with its Colorado Discharge Permit System (CDPS) permit conditions, sewage sludge use and disposal requirements, and any other applicable federal or state laws or regulations to which the POTW is subject; and
  - (7) To prevent adverse impacts to worker health and safety due to the discharge of pollutants from industrial users.
- (b) This Article shall apply to the residential, business, and industrial wastewater customers within the City of Northglenn and to any persons outside the City who are, by contract or agreement with Northglenn, users of the Northglenn wastewater treatment system.
  - (c) Except as otherwise provided herein, the Northglenn Director of Public Works and Utilities shall administer, implement, and enforce the provisions of this Article.

**Section 16-15-2.      Definitions and Abbreviations.**

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated:
  - (1) **Act or "the Act".** The Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. Â§ 1251 to 1387, as amended.
  - (2) **Approval Authority.** The State Director in an NPDES state with an approved State Pretreatment Program or the Regional Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.
  - (3) **Authorized Representative of the Industrial User.**
    - (i) If the industrial user is a corporation:
      - 1) The president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
      - 2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated

facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Industrial Discharge Permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (ii) If the industrial user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - (iii) If the industrial user is a federal, state, or local governmental facility: a city or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - (iv) The individuals described in subsections (i) through (iii) above, may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- (4) **Best Management Practice (BMP).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 16-15-7. BMPs are Pretreatment Standards. BMPs may include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
  - (5) **Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20°C) expressed in milligrams per liter (mg/L).
  - (6) **Building drain.** That part of the lower horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.
  - (7) **Building sewer.** The extension from the building drain to the public sewer. Also called “building lateral” or “building connection”.

- (8) **Bypass.** The intentional diversion of wastestreams from any portion of an industrial user's treatment facility pursuant to 40 CFR Section 403.17.
- (9) **Categorical Industrial User.** All industrial users subject to Categorical Pretreatment Standards under 40 CFR Section 403.6 and 40 CFR chapter I, subchapter N.
- (10) **Categorical Pretreatment Standard or Categorical Standard.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) or the Act (33 U.S.C. Section 1317) that apply to a specific category of industrial users and that appear in 40 CFR chapter I, subchapter N, Parts 405-471.
- (11) **Chemical Oxygen Demand (COD).** The measure of the oxygen equivalent to the portion of organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant under laboratory procedures, expressed in milligrams per liter.
- (12) **City.** The City of Northglenn.
- (13) **Colorado Discharge Permit System (CDPS).** The State of Colorado program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into waters of the State pursuant to Section 25-8-101 et seq., CRS, 1973 as amended and 402 of the Clean Water Act (33 U.S.C. §1342).
- (14) **Composite sample.** A representative flow-proportioned sample generally collected within a twenty-four (24) hour period and combined according to flow. Time-proportional sampling may be approved or used by the City where time-proportional samples are believed representative of the discharge.
- (15) **Control Authority.** The City of Northglenn.
- (16) **Control manhole.** A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.
- (17) **Control Point.** The point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.
- (18) **Cooling water.** The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

- (19) **Direct discharge.** The discharge of wastewater directly to the waters of the State of Colorado.
- (20) **Director.** Unless otherwise specified, the City of Northglenn Director of Public Works/Utilities, who is designated by the City to supervise the operation of the Publicly Owned Treatment Works and who is charged with certain duties and responsibilities of this Article, or his duly authorized representative.
- (21) **Domestic (sanitary) wastes.** Liquid wastes: (a) from the non-commercial preparation, cooking, and handling of food, or (b) containing only human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.
- (22) **Easement.** An acquired legal right for the specific use of land owned by others.
- (23) **Environmental Protection Agency, or EPA.** The U. S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- (24) **Existing Source.** An industrial user which is in operation at the time of promulgation of federal Categorical Pretreatment Standards and any industrial user not included in the definition of "New Source".
- (25) **FOG (Fats, Oil and Grease).** Non-petroleum organic polar compounds derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical procedures established in the 40 CFR Part 136.
- (26) **Grab sample.** A sample which is taken from a waste stream on a one-time basis with no regard to the flow and over a period of time not to exceed fifteen (15) minutes.
- (27) **Gravity grease interceptor.** A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept FOG (fats, oil and grease) from a wastewater discharge and are designed for gravity separation considering calculated retention times and volumes for each facility; such interceptors are at least 750 gallons, include baffle(s) and a minimum of two compartments. This is an in-ground interceptor that is located outside the facility. See Section 16-15-25(b) of this Article.
- (28) **Harmful contribution.** An actual or threatened discharge of water or wastes to the POTW which presents or may present an imminent or

substantial endangerment to the health or welfare of persons, to the environment, causes Pass Through or Interference to the POTW or causes the City to violate any condition of its CDPS permit.

- (29) **Holding tank waste.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (30) **Indirect Discharge.** The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act (including holding tank waste discharged into the system).
- (31) **Industrial.** Of or pertaining to industry, manufacturing, commerce, trade, or business as distinguished from domestic or residential.
- (32) **Industrial Discharge Permit.** The document or documents issued to an industrial user by the City in accordance with the terms of this Article that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW as set forth in Section 16-15-10 of this Article.
- (33) **Industrial user.** A source of Indirect Discharge.
- (34) **Industrial wastes or non-domestic wastes.** The liquid or solid wastes from industrial manufacturing processes, trade or business activities producing non-domestic or non-residential sewage as distinct from domestic wastewater.
- (35) **Instantaneous limit.** The maximum concentration of a pollutant or measurement of a pollutant property allowed to be discharged at any time. For pollutants, compliance is typically determined by use of a grab sample.
- (36) **Interference.** A discharge, which alone or in conjunction with a discharge or discharges from other sources, both:
  - (i) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and
  - (ii) Therefore, is a cause of violation of any requirement of the POTW's CDPS permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act

(RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

- (37) **Local limit.** Specific discharge limits and BMPs developed, applied, and enforced upon industrial users to implement the general and specific discharge prohibitions listed in Section 16-15-7. Local limits are Pretreatment Standards.
- (38) **Natural outlet.** Any outlet, including storm sewers and combined sewer overflows, into a water course, pond, ditch, lake or other body of surface or ground water.
- (39) **New Source.** (i) The term *New Source* means any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
  - (A) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - (B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
  - (C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source should be considered.
- (ii) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (i)(B) or (i)(C) of this Section, but otherwise alters, replaces, or adds to existing process or production equipment.
- (iii) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:



- (A) Begun, or caused to begin as part of a continuous onsite construction program:
  - 1) Any placement, assembly, or installation of facilities or equipment; or
  - 2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
- (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- (40) **Normal domestic strength wastewater.** Wastewater, when analyzed in accordance with procedures established by the EPA pursuant to 40 CFR Part 136, as amended, contains no more than two hundred fifty (250) mg/l of TSS and/or three hundred (300) mg/l of BOD.
- (41) **Non-contact cooling water.** Cooling Water that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (42) **Non-Significant Industrial User.** Any industrial user which does not meet the definition of a Significant Industrial User, but is otherwise required by the City through permit, order or notice to comply with specific provisions of this Article and is so notified by the City.
- (43) **Overload.** The imposition of organic or hydraulic loading on the POTW in excess of its engineered design capacity.
- (44) **Pass Through.** A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's CDPS permit (including an increase in the magnitude or duration of a violation).
- (45) **Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

- (46) **Petroleum Oil, Grease and Sand (POGS).** Any hydrocarbon or petroleum product including oils and greases, and/or sand, grit, gravel or any other aggregate.
- (47) **pH.** The intensity of acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution and reported as Standard Units (SU).
- (48) **Pollution.** The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water or the environment.
- (49) **Pollutant.** Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance, biological material, biological nutrient, toxic substance, radioactive material, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or agricultural wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor) discharged into or with water.
- (50) **POTW treatment plant.** That portion of the POTW designed to provide treatment to wastewater.
- (51) **Pretreatment or treatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).
- (52) **Pretreatment Requirement.** Any substantive or procedural requirement related to Pretreatment, other than a Pretreatment Standard imposed on an industrial user.
- (53) **Pretreatment Standard, National Pretreatment Standard or Standard.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307 (b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to Section 16-15-7 and includes the Specific Prohibitions, local limits and Best Management Practices that are or may be established by the City. In cases of differing Standards or regulations, the more stringent shall apply.

- (54) **Process wastewater.** Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
- (55) **Publicly Owned Treatment Works (POTW).** A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are by contract or agreement with the City, users of the City's POTW.
- (56) **Sand/oil separator.** A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept sand (or other aggregate) and petroleum-based oil and grease from a wastewater discharge and are designed considering retention times, volumes in gallons calculated for each facility, and gravity separation; such interceptors include baffle(s) and a minimum of two compartments. See Section 16-15-25(b) of this Article.
- (57) **Sanitary sewer.** A sewer that carries liquid and water-carried wastes from the residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally. This definition shall also include, but not be limited to the terms "public sewer," "sewer system," "sewer," and "collection line."
- (58) **Sector control program.** A program to control specific pollutants from industrial users with similar waste generation or treatment through the implementation of Pretreatment Standards and Requirements, including Best Management Practices. These sector control program requirements may be found at Section 16-15-25 of this Article.
- (59) **Severe property damage.** Any substantial physical damage to property, any damage to the treatment facilities which causes them to become inoperable, or any substantial and permanent loss of natural resources. Severe property damage does not include economic losses caused by delays in production.
- (60) **Shall, will, may.** "Shall" and "will" are mandatory; "may" is permissive.
- (61) **Significant Industrial User.** Any industrial user which:

- (i) Is subject to Categorical Pretreatment Standards under 40 CFR Section 403.6 and 40 CFR chapter I, subchapter N; or
- (ii) Discharges an average of 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 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Director 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.

(62) **Significant Noncompliance.**

A Significant Industrial User that meet any of the following criteria or any industrial user that meets paragraphs (iii), (iv), or (viii) shall be in Significant Noncompliance:

- (i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits.
- (ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).
- (iii) Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public).
- (iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

- (v) 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.
  - (vi) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (vii) Failure to accurately report noncompliance.
  - (viii) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.
- (63) **Slug discharge.** A non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate this Article, including a discharge which exceeds the hydraulic or design capacity of an industrial users treatment system or any part of the treatment unit.
- (64) **Standard Industrial Classification (SIC).** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, as amended.
- (65) **State.** State of Colorado.
- (66) **Storm drain.** Every pipe, culvert, flume, ditch, gutter, storm sewer, cistern, tank, drain, lake, pond, stream, ravine, gully or other facility or natural feature, that contains, holds, transports, diverts, channels, impounds, or drains water, into which any naturally occurring stormwater runoff within the City may seep, percolate or flow; and every street, sidewalk, alley, gutter, roof, parking lot, yard, field, driveway, patio and other surface within the City across which any naturally occurring stormwater runoff may seep, percolate or flow.
- (67) **Stormwater.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation, including snowmelt.
- (68) **Total Suspended Solids (TSS).** The total suspended matter, expressed in milligrams per liter, that floats on the surface of, or is suspended in water,

wastewater, or other liquids, and that is removable by laboratory filtering in accordance with procedures approved in 40 CFR Part 136, as amended.

- (69) **Toxic pollutant.** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of Section 307(a) of the Act (33 U.S.C. §1317(a)) or as otherwise listed at 40 CFR Part 122, Appendix D.
- (70) **Wastewater.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (71) **Watercourse.** A natural or artificial channel for the passage of water either continuously or intermittently.
- (72) **Waters of the State.** Any and all surface and subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

(b) Abbreviations. The following abbreviations shall have the designated meanings:

ASTM	American Society Testing Materials
BMP	Best Management Practices
BOD	Biochemical Oxygen Demand
°C	degrees Celsius
CDPHE	Colorado Department of Public Health and Environment
CDPS	Colorado Discharge Permit System
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
CWA	Clean Water Act
EPA	Environmental Protection Agency
FOG	Fats, Oils and Grease
mg/L	milligrams per Liter
POGS	Petroleum, Oil, Grease and Sand
POTW	Publicly Owned Treatment Works
§	Section
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
USC	United States Code

TSS  
WPCF

Total Suspended Solids  
Water Pollution Control Federation

**Section 16-15-3.      Connection to Sewer.**

The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other related 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 public sanitary or combined sewer of the City, is hereby required to install suitable toilet facilities therein. In addition, the owner must also connect such facilities directly with the proper public sanitary sewer in accordance with the provisions of this Article and with Northglenn Municipal Code, Section 16-11-3 within one hundred twenty (120) days after date of official notice to do so. All facilities and connections required by this Article will be at owner's expense.

**Section 16-15-4.      Sanitary Sewers, Building Sewers, Connections and Stormwater.**

- (a)      Disturbance of Public Sewer. No unauthorized person shall uncover, enter, make any connections with or opening into, use, alter, or disturb any public sewer or sanitary sewer or appurtenance thereof, without first obtaining a written permit from the Director.
- (b)      Owner Cost. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of any building sewer.
- (c)      Separate and Multiple Sewers. A separate and independent building sewer shall be provided for every building; except, with the approval of the Director where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In that case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection. In case two or more users are supplied by the same service lines, if any one of the parties fail to pay the water or sewer charges, when due, the City reserves the right to turn off the water until such charges are paid.
- (d)      Tenant Responsibility. Where an owner of a property leases a premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible, jointly or severally, for compliance with the provisions of this Article.

- (e) Old Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director, to meet all requirements of this Article.
- (f) Specifications. The size, slope, alignment and materials of construction of all sanitary sewers including building sewers, 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 code or other applicable rules and regulations of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- (g) Building Sewer Level. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity to flow to the public sanitary sewer, sanitary sewage by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (h) Runoff Connections Prohibited. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is specifically approved by the Director for purposes of disposal of polluted surface drainage.
- (i) Connection of Buildings to Public Sewers. The connection of the building sewer into the public sanitary sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing by a plumber approved by the City. Any deviation from the described procedures and materials must be approved by the Director before installation.
- (j) Inspection Prior to Connection. The applicant for the building sewer permit shall notify the Director when the building sewer is ready for inspection and connection to the public sanitary sewer. The connection and testing shall be made under the supervision of the Director.
- (k) Protection and Restoration. All excavations for building sewer installation shall be adequately guarded with barricades, lights, and steel plates so as to protect the public from hazard. Street, sidewalks, parkways and other public property disturbed with the course of the work shall be restored in a manner satisfactory to the City.



- (l) Independent Disposal Facilities. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (m) Stormwater Discharge. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any public sanitary sewer, including Infiltration and Inflow (I&I) through the service line. Specific stormwater prohibitions for industrial users are established at Section 16-15-7. Such stormwater may be discharged to the sanitary sewer only by permission of the Director. Stormwater other than that exempted herein, and all other drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Director.
- (n) Maintenance of Equipment. Any equipment or facilities necessitated by this Article, either expressly or implied, shall be maintained continuously in satisfactory condition and be effectively operated by the owner at his expense.

**Section 16-15-5.       RESERVED**

**Section 16-15-6.       Industrial Pretreatment Program.**

- (a) Applicability.

The provisions herein provide for the regulation of Indirect Discharges to the POTW. The provisions herein shall apply to industrial users of the POTW and to persons outside the POTW who are, by contract or agreement with the POTW, industrial users of the POTW.

- (b) Non-Domestic Industrial Users.

It shall be unlawful for any Industrial user to discharge any domestic or non-domestic wastewater into any natural waterway, any surface drainage, or in any area under the jurisdiction of the City. No industrial wastewater shall be discharged to the POTW unless done so in compliance with the provisions of this Article.

- (c) Regulation of Industrial Users from Outside Jurisdictions.

- (1) In order for the City to effectively implement and enforce Pretreatment Standards and Requirements for all industrial users discharging to the POTW and as required by 40 CFR Section 403.8(f), the City shall enter into Intergovernmental Agreements (IGA) with contributing jurisdictions. Prior agreements shall be unaffected by these requirements until such time as the City determines that modifications are necessary.

- (2) Prior to entering into an IGA, the City shall be provided the following information from the contributing jurisdiction:
  - (i) A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;
  - (ii) An inventory of all sources of Indirect Discharge located within the contributing jurisdiction that are discharging to the POTW; and
  - (iii) Such other information as the City may deem necessary.
- (3) The IGA may contain the following conditions:
  - (i) A requirement for the contributing jurisdiction to adopt a sewer use ordinance or rules which specifically require that all non-domestic users shall be under the jurisdiction of this Article for the purposes of implementation and enforcement of Pretreatment Standards and Requirements;
  - (ii) A requirement for the contributing jurisdiction to submit an updated user inventory on at least an annual basis;
  - (iii) A provision specifying that the City shall be delegated full responsibility for implementation and enforcement of the pretreatment program unless otherwise agreed to and specified in the IGA;
  - (iv) A requirement for the contributing jurisdiction to provide the City with access to all information that the contributing jurisdiction obtains regarding effluent quantity and quality from non-domestic users;
  - (v) Requirements for monitoring the contributing jurisdiction's discharge; and
  - (vi) A provision specifying remedies available for breach of the terms of the IGA.
- (d) Responsibility of the City.
  - (1) The City shall attempt to notify in writing any industrial user whom he/she has cause to believe is subject to a National Categorical Pretreatment Standard or Requirements, or other applicable requirements promulgated by the EPA under the provisions of Section 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solid Waste Disposal Act. Failure of the City to so notify industrial users shall not relieve said

industrial users from the responsibility of complying with applicable requirements. It is the responsibility of Significant Industrial Users to apply for and receive a permit prior to discharge, whether or not the industrial user has been identified and formally requested to do so.

- (2) If wastewaters containing any pollutant, including excess flow, or as otherwise defined in this Article, are discharged or proposed to be discharged to the POTW, the City may take any action necessary to:
  - (i) Prohibit the discharge of such wastewater;
  - (ii) Require an industrial user to demonstrate that in-plant facility modifications will reduce or eliminate the discharge of such substances in conformity with this Article;
  - (iii) Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the potential for a discharge to violate this Article;
  - (iv) Require the industrial user making, causing or allowing the discharge to pay any additional cost or expense incurred by the City for handling, treating, disposing or remediation costs as a result of wastes discharged to the wastewater treatment system;
  - (v) Require the industrial user to apply for and obtain a permit;
  - (vi) Require timely and factual reports from the industrial user responsible for such discharge; or
  - (vii) Take such other action as may be necessary to meet the objectives of this Article.

(e) Additional City Authorities.

In addition to the overall authority to control the discharge of wastewater to the POTW, the City shall have the following authorities:

- (1) Take enforcement and issue fines and penalties for violations of this Article, including the failure of an industrial user to apply for a permit.
- (2) Endangerment to Health or Welfare of the Community: The City, through other than a formal notice to the affected industrial user, may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW of the City or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the

wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.

- (3) **Endangerment to Environment or Treatment Works:** The City, after written notice to the discharger may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW, wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.
- (4) The discharges referred to above may be halted or prevented without regard to the compliance of the discharge with other provisions of this Article.

**Section 16-15-7.     Prohibited Discharges and Limitations.**

(a)     General Prohibitions.

An industrial user may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph (b) of this Section apply to each industrial user introducing pollutants into a POTW whether or not the industrial user is subject to other Pretreatment Standards or Requirements.

(b)     Specific Prohibitions.

It shall be unlawful for any industrial user to discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system of the City any wastewater which contains the following:

- (1) Pollutants which create a fire or explosion hazard in the POTW. More specifically, no industrial user shall discharge any wastestream with a closed cup flashpoint of less than sixty (60) degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR Section 261.21. The Director may require industrial users with the potential to discharge flammable, combustible or explosive substances to install and maintain an approved combustible gas detection meter or explosion hazard meter. No two successive readings on an explosion hazard meter at the point of discharge shall be more than five percent (5%), nor any one reading more than ten percent (10%), of the Lower Explosive Limit (LEL) of the meter.
- (2) Pollutants which will cause corrosive structural damage to the POTW but in no case Discharges with pH lower than pH 5.5.

- (3) Solid or viscous substances which may cause obstruction in the sewage system or otherwise cause Interference to the POTW.
- (4) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Pass Through or Interference with the POTW.
- (5) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 °C (104 °F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.
- (6) Any radioactive substance, the discharge of which, does not comply with limits established by the City or other regulations set forth by the Colorado Department of Public Health and Environment, State of Colorado or that violates any federal Standards.
- (7) Stormwater drainage from ground resulting in Infiltration and Inflow (I&I) through the industrial user's service line(s), surface, roof drains, catch basins, unroofed area drains (e.g. commercial car washing facilities) or any other source unless otherwise approved by the Director. Specifically prohibited is the connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to the City's wastewater collection system. No person shall connect or discharge water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction activities.
- (8) Any substance which may cause the POTW's effluent, sludge, or residue to be unsuitable for, or interfere with, the reclamation or reuse process.
- (9) Suspended solids or total solids such that unusual expense or attention is required to treat or handle the material.
- (10) A Slug Discharge as defined in Section 16-15-2(a)(63).
- (11) Waste containing dye waste, paint pigments, tanning solutions or any objectionable color not removable by the treatment process.
- (12) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.

- (13) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute health and safety hazards for employees of the City employed at the POTW.
- (14) Trucked or hauled pollutants except as authorized by the Director and only at discharge points designated by the Director.
- (15) Any substance which will cause the POTW to violate its CDPS permit or the receiving water quality standards.
- (16) Any water or waste which contains grease or oil or any other substances that will solidify or become discernibly viscous at temperatures between thirty-two degrees (32°) Fahrenheit (0° Celsius) and one hundred fifty degrees (150°) Fahrenheit (65.5° Celsius).
- (17) Any water or waste containing free or floating oil and grease, or any discharge containing animal fat or grease by-product in excess of 200 mg/L.
- (18) Any pollutant directly into a manhole or other opening in the POTW unless specifically authorized by the City or as otherwise permitted under this Article. Prohibited is the opening of a manhole or discharging into any opening in violation of this Article.
- (19) Liquid wastes from chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the POTW except at locations authorized by the City to collect such wastes.

(c) Specific Discharge Limitations.

It shall be unlawful for any Significant Industrial User or other permitted non-significant industrial user to discharge, deposit, cause, or allow to be discharged any waste or wastewater which fails to comply with the limitations imposed by this Section.

- (1) Dilution is prohibited as a substitute for treatment and shall be a violation of this Article. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no industrial user shall ever increase the use of process water, or in any other way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The City may impose mass limitations on industrial users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the imposition of mass limitations is appropriate.

- (2) No Significant Industrial User or other permitted non-significant industrial user shall discharge wastewater that exceeds the following limits:

MAXIMUM CONTRIBUTION <sup>(a)</sup>

POLLUTANT	SYMBOL	Daily Maximum mg/L
Arsenic	As	0.25
Cadmium	Cd	0.17
Chromium	Cr	4.09
Chromium(VI)	Cr(VI)	0.68
Copper	Cu	0.86
Lead	Pb	5.82
Mercury	Hg	0.0007
Molybdenum	Mo	0.62
Nickel	Ni	3.64
Selenium	Se	0.076
Silver	Ag	0.26
Zinc	Zn	8.07

(a) All pollutants shown in the Table are total.

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

**Section 16-15-8. RESERVED**

**Section 16-15-9. Pretreatment and Monitoring Facilities.**

- (a) An industrial user shall provide necessary wastewater treatment as required to comply with this Article and shall achieve compliance with all Pretreatment Standards and Requirements within the time limitations specified by the EPA, the state, or the City, whichever is more stringent. Any facilities required to pretreat

wastewater to a level acceptable to the Director shall be provided, operated and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director for review and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Director prior to the industrial user's initiation of the changes.

- (b) The City may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specified sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and demonstrate the industrial user's compliance with the requirements of this Article.
- (c) The City may require any industrial user discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An Industrial Discharge Permit may be issued solely for flow equalization.
- (d) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (e) The City may require an industrial user to install at the industrial user's expense, suitable monitoring facilities or equipment that allows for the representative sampling and accurate observation of wastewater discharges. Such equipment shall be maintained in proper working order and kept safe and accessible at all times to City personnel.
- (f) The monitoring equipment shall be located and maintained on the industrial user's premises outside of the building unless otherwise approved by the City. When such a location would be impractical, the City may allow such facility to be constructed in the public street or easement area, with the approval of the agency having jurisdiction over such street or easement, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.
- (g) When more than one industrial user is able to discharge into a common service line, the City may require installation of separate monitoring equipment for each industrial user.
- (h) Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the City's requirements and all applicable construction standards and specifications.



- (i) Industrial users who discharge process wastewaters determined by the City to contain pollutants necessitating continuous pH measurement to demonstrate compliance shall, subsequent to notification by the City, install a continuous recording pH meter as approved by the City. Such meter shall be installed, operated and maintained at the industrial user's own cost and expense.
- (j) If the City determines that an industrial user needs to measure and report wastewater flow, the industrial user shall install an approved flow meter. Such meter shall be installed, operated and maintained at the industrial user's own cost and expense.

**Section 16-15-10. Industrial Discharge Permits.**

(a) Permits Required.

All Significant Industrial Users proposing to connect to, or discharge into, any part of the wastewater system shall apply for and obtain an Industrial Discharge Permit prior to commencing discharge to the POTW. A separate permit may be required for each industrial user, building or complex of buildings. The discharge of wastewater to the POTW without a valid permit from a Significant Industrial User shall be a violation of this Article. Such Significant Industrial Users shall immediately contact the City and obtain a permit for discharge.

(b) New Industrial User s: Applying for an Industrial Discharge Permit.

Any industrial user required to obtain an Industrial Discharge Permit who proposes to begin or recommence discharging into the POTW must apply for and obtain such permit prior to the beginning or recommencing of such discharge. The industrial user shall file a permit application on forms provided by the City containing the information specified in 16-15-10(e) below. The completed application for the Industrial Discharge Permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(c) Existing Industrial Users: Applying for an Industrial Discharge Permit Re-issuance.

An industrial user with an expiring Industrial Discharge Permit shall apply for a new permit by submitting a complete permit application at least ninety (90) days prior to the expiration of the industrial user's existing discharge permit. The industrial user shall file a permit application on forms provided by the City containing the information specified in 16-15-10(e) below. An industrial user with an existing permit that has filed a complete and timely application may continue to discharge as approved by the City through an administrative extension of the existing permit.

(d) Enforceability.

Any violation of the terms and conditions of an Industrial Discharge Permit, failure to apply for a permit as required, or discharging without a required permit shall be deemed a violation of this Article and subjects the industrial user to enforcement by the City. Obtaining an Industrial Discharge Permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements.

(e) Permit Application Contents.

In support of the application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name of business, address of the facility, location of the discharge if different from facility address, contact information for the Authorized Representative of the Industrial User and a description of the activities, facilities, and manufacturing process at the facility.
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations.
  - (i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production);
  - (ii) The Standard Industrial Classification(s) of the operation(s) carried out by such industrial user;
  - (iii) A schematic process diagram, which indicates points of discharge to the POTW from the regulated process;
  - (iv) Types of wastes generated;
  - (v) A list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
  - (vi) Number of employees; and
  - (vii) Hours of operation, and proposed or actual hours of operation.
- (4) Time and duration of discharges.

- (5) The location for sampling the wastewater discharges from the industrial user.
- (6) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR Section 403.6(e). For New Sources and new permittees not currently discharging, an estimate of flows may be used for meeting the requirements of the Baseline Monitoring Report required in Section 16-15-23(b).
- (7) Measurement of Pollutants.
  - (i) The Pretreatment Standards applicable to each regulated process;
  - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass of regulated pollutants in the discharge from each regulated process where required by the Standard or by the City;
  - (iii) Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported;
  - (iv) The sample shall be representative of daily operations and shall be collected in accordance with procedures set out in Section 16-15-19. Where the Standard requires compliance with a BMP or pollution prevention alternative, the industrial user shall submit documentation as required by the City or the applicable Standards to determine compliance with the Standard; and
  - (v) Analyses must be performed in accordance with procedures set out in Section 16-15-19.
- (8) Accidental or slug discharge control plans as described in Section 16-15-23(e) shall be submitted.
- (9) Compliance Schedule. If additional pretreatment and/or Operation and Maintenance (O&M) will be required to meet the Pretreatment Standards, the shortest schedule by which the industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

- (i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable Pretreatment Standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No such increment shall exceed nine (9) months.
    - (ii) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director.
  - (10) Certification. A statement, reviewed by an Authorized Representative of the Industrial User and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional Pretreatment is required for the industrial user to meet the Pretreatment Standards and Requirements.
  - (11) Any other information as may be deemed by the Director to be necessary to evaluate the permit application;
  - (12) Application Signatory. All Industrial Discharge Permit applications and certification statements must be signed by an Authorized Representative of the Industrial User and contain the applicable certification statement(s) in Section 16-15-23(h).
- (f) Industrial Discharge Permit Issuance.
- (1) Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than five (5) years at the City's discretion or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in Section 16-15-12 are modified or other just cause exists. The industrial user shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for the

industrial user to achieve compliance with such changes or new conditions.

- (2) Where the City is establishing permit specific Pretreatment Standards, the permit shall be noticed for public comment for thirty (30) days in a newspaper of general circulation that provides meaningful public notice. The City shall consider all comments that are received and incorporate any comments as appropriate prior to issuing the permit.
- (3) The City shall issue an Industrial Discharge Permit to the applicant if the City finds that all of the following conditions are met:
  - (i) The applicant has provided a timely and complete permit application to the City;
  - (ii) The proposed discharge by the applicant is in compliance with the limitations established in this Article;
  - (iii) The proposed operation and discharge of the applicant would permit the normal and efficient operation of the POTW; and
  - (iv) The proposed discharge by the applicant would not result in a violation by the City of the terms and conditions of its CDPS Permit or cause Pass Through or Interference.
- (4) If the City finds that the condition set out in Subsection (3)(ii) of this Section is not met, the City may, at their discretion, issue an Industrial Discharge Permit to the applicant if the conditions set out in subsections (3)(i), (3)(iii) and (3)(iv) of this Section have been met and if the applicant submits, and the City approves, a compliance schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to insure compliance with applicable Pretreatment Standards. At no time shall a discharge be allowed to cause violations of the General and Specific Prohibitions established in Section 16-15-7 nor shall the final compliance date for a Categorical Pretreatment Standard be extended.
- (g) Transferability. Industrial Discharge Permits are issued to a specific industrial user for a specific operation. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new industrial user, different premises, or a new or changed operation without the prior written approval of the City. Any succeeding owner or industrial user shall also comply with the terms and conditions of the existing permit until a new permit is issued.
- (h) Other Industrial Users. The City may require other Non-Significant Industrial Users to obtain wastewater discharge permits necessary to carry out the purposes

of this Article. The City may issue a zero discharge permit to prohibit the discharge of some or all non-domestic process wastewater from a industrial user.

**Section 16-15-11.     Industrial Discharge Permit Conditions.**

Industrial Discharge Permits shall be expressly subject to all provisions of this Article and all other applicable regulations, user charges and fees established by the City.

Permits may contain the following:

- (a) A statement that indicates the permit's issuance date, expiration date and effective date;
- (b) A statement on permit transferability;
- (c) The unit charge or schedule of user charges and fees for the wastewater to be discharged into a public sewer;
- (d) Limits on the average and/or maximum wastewater constituents and characteristics including, but not limited to, effluent limits, including Best Management Practices, based upon applicable Pretreatment Standards;
- (e) Limits on average and maximum rate and time of discharge or requirements for flow;
- (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (g) Self-monitoring, sampling, reporting, notification and record-keeping requirements including, but not limited to, identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on federal, state and local law;
- (h) Best Management Practices (BMPs) to control specific pollutants as necessary to meet the objectives of this Article;
- (i) Compliance Schedules;
- (j) Requirements for maintaining and retaining records;
- (k) Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (l) Requirements to control slug loads and notify the City immediately of any changes at its facility affecting potential for a Spill or Slug Discharge and to

notify the POTW immediately in the event of a slug, spill or accidental discharge to the POTW;

- (m) Statements of applicable administrative, civil and criminal penalties for the violation of Pretreatment Standards and Requirements, the permit, this Article, and any applicable compliance schedule;
- (n) Requirements to reapply for a new permit prior to expiration of the existing permit;
- (o) Additional monitoring to be reported;
- (p) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (q) Closure requirements for permitted facilities undergoing partial or complete closure activities to ensure closure activities are completed and wastes have been properly disposed and remaining access to sanitary and storm sewers are protected;
- (r) Other conditions as deemed appropriate by the City or the Director to ensure compliance with all applicable rules and regulations.

**Section 16-15-12.     Industrial Discharge Permit Modifications.**

The City may modify an Industrial Discharge Permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;
- (b) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of the Industrial Discharge Permit issuance;
- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) Information indicating that the permitted discharge poses a threat to the POTW, City personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the Industrial Discharge Permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the Industrial Discharge Permit application or in any required reporting; or

- (g) To correct typographical or other errors in the Industrial Discharge Permit.

**Section 16-15-13. Industrial Discharge Permit Revocation.**

A violation of the conditions of a permit or of this Article or of applicable State and federal regulations shall be reason for revocation of such permit by the City. Upon revocation of the permit, any wastewater discharge from the affected industrial user shall be considered prohibited and in violation of this Article. Grounds for revocation of a permit include, but are not limited to, the following:

- (a) Failure of an industrial user to accurately disclose or report the wastewater constituents and characteristics of their discharge;
- (b) Failure of the industrial user to report significant changes in operations or wastewater constituents and characteristics;
- (c) Refusal of access to the industrial user's premises for the purpose of inspection or monitoring;
- (d) Falsification of records, reports or monitoring results;
- (e) Tampering with monitoring equipment;
- (f) Violation of conditions of the permit;
- (g) Misrepresentation or failure to fully disclose all relevant facts in the Industrial Discharge Permit application;
- (h) Failure to pay fines or penalties;
- (i) Failure to pay sewer charges;
- (j) Failure to pay permit and sampling fees; or
- (k) Failure to meet compliance schedules.

**Section 16-15-14. Industrial User Fees.**

Permit fees for Significant Industrial Users and Permitted Non-Significant Industrial Users are listed in the following table. The fee includes permit issuance and initial monitoring by the City.

Permitted Non-Significant Industrial Users	\$250.00
Significant Industrial User	\$500.00



In addition, to recover the cost to the City of implementing the program established by this Article, the City may adopt charges and fees including, but not limited to the following:

- (a) Fees for monitoring, inspection and surveillance activities;
- (b) Fees for reviewing accidental discharge procedures and construction;
- (c) Fees for permit applications;
- (d) Fees for filing appeals and other legal expenses;
- (e) Fees for consistent removal by the City of pollutants as allowed under 40 CFR Section 403.7;
- (f) Such other fees as the City may deem necessary to administer and enforce the requirements contained herein.

**Section 16-15-15. Promulgation of Standards.**

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

**Section 16-15-16. Recordkeeping.**

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

- (5) The results of such analyses.

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

**Section 16-15-17. Confidential Information.**

**Disclosure of Information and Availability to the Public.**

- (a) All records, reports, data or other information supplied by any person or industrial user as a result of any disclosure required by this Article or information and data from inspections shall be available for public inspection except as otherwise provided in this Section, 40 CFR Section 403.14 and the Colorado Open Records Act (C.R.S. 24-72-201, et. seq.).
- (b) These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include, but shall not be limited to, processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted by the industrial user which is desired to be considered a trade secret shall have the words, "Confidential Business Information," stamped on each page containing such information. The industrial user must demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

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

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

**Section 16-15-18. Special Agreements and Contracts.**

No statement contained in this Article shall be construed as prohibiting special written agreements between the City and any industrial user allowing industrial waste of unusual

strength or character to be admitted to the POTW system, provided the industrial user compensates the City for any additional costs of treatment. The Director may execute an Agreement to exceed the specific limitations contained in Section 16-15-7(c) only if the Director finds that:

- (a) Acceptance of the discharge does not adversely affect the wastewater utility nor cause violation of the City's CDPS permit, cause a violation of the General and Specific Prohibitions specified in sections 16-15-7(a) or (b), does not cause the City to exceed its approved Maximum Allowable Industrial Loading (MAIL) or applicable federal and state laws; and
- (b) The agreement does not waive compliance with Categorical Pretreatment Standards.

**Section 16-15-19. Sample Collection and Analytical Methods.**

(a) Sample Collection.

Compliance determinations with respect to prohibitions and limitations in this Article may be made on the basis of either grab or composite samples of wastewater as specified by the City. Such samples shall be taken at a point or points which the City determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty-four (24) hour period, or over a longer or shorter time span, as determined by the City to meet specific circumstances.

(b) Sample Type.

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

- (1) Except as indicated in subparagraphs (2) and (3) below, the industrial user must collect representative wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is required by the City. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the permitted discharge.
- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may

be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composited samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous local limits, including pH.

- (3) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 16-15-23, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical representative sampling data do not exist. Where historical data are available, the City may authorize a lower minimum. For the reports required by Section 16-15-23, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

(c) Analytical Requirements.

All pollutant analysis, including sampling techniques, to be submitted as part of an Industrial Discharge Permit application, report, permit or other analyses required under this Article shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the City or other parties approved by the EPA.

**Section 16-15-20. RESERVED**

**Section 16-15-21. RESERVED**

**Section 16-15-22. RESERVED**

**Section 16-15-23. Reporting Requirements.**

(a) Periodic Compliance Reports – All Significant Industrial Users.

- (1) Any industrial user subject to a federal, state, or City Pretreatment Standard or Requirement must, at a frequency determined by the City submit no less than once per six (6) months, unless required more

frequently in the permit or by the City, reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practices (BMPs) or pollution prevention alternatives, the industrial user must submit documentation required by the City or the Pretreatment Standard necessary to determine compliance status of the industrial user. All periodic compliance reports must be signed and certified in accordance with Section 16-15-23(h).

- (2) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that the sample results are unrepresentative of its discharge.
- (3) If an industrial user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City, using the methods and procedures prescribed in Section 16-15-19, the results of this monitoring shall be included in the report.
- (4) The sampling and analyses required for the reporting outlined above may be performed by the City in lieu of the permittee. Where the City itself makes arrangements with the industrial user to collect all the information required for the report, the industrial user will not be required to submit the report.

(b) Baseline Monitoring Reports (BMR) – Categorical Industrial Users.

- (1) Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR Section 403.6(a)(4), whichever is later, existing industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the City a report which contains the information listed in paragraph (2) below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the City a report which contains the information listed in paragraph (2) below. A New Source shall report the method of pretreatment it intends to use to meet applicable Pretreatment Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged from regulated process streams and other non-process streams.

(2) Industrial users described above shall submit the information set forth below.

(i) All information required in Section 16-15-10(e).

(ii) Measurement of pollutants.

- 1) The industrial user shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this paragraph.
- 2) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the industrial user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 Section CFR 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR Section 403.6(e) this adjusted limit along with supporting data shall be submitted to the City.
- 3) Sampling and analysis shall be performed in accordance with Section 16-15-19.
- 4) The City may allow the submission of a BMR which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- 5) The BMR shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- 6) Signature and Report Certification. All baseline monitoring reports must be signed in accordance with Section 16-15-23(h) and signed by an Authorized Representative as defined in Section 16-15-2(a)(3).

(c) 90-Day Compliance Reports – Categorical Industrial Users.

- (1) New Sources: All New Sources subject to existing Categorical Pretreatment Standards shall submit a report to the City within ninety (90) days from the date of first discharge to the POTW demonstrating actual and continuing compliance with those Standards.
- (2) Existing Sources: All Existing Sources required to comply with newly promulgated Categorical Pretreatment Standards shall submit a report to the City within ninety (90) days of the date on which compliance is required with those Standards demonstrating that actual and continuing compliance with such Standards has been achieved.
- (3) Such 90-day Compliance Report shall contain at a minimum the information required in Section 16-15-10 paragraphs (6), (7), (10), (11), and (12).

(d) 24 Hour Notice and 30 Day Re-sampling.

If sampling performed by an industrial user indicates a violation of this Article, the industrial user shall notify the City within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violations. The industrial user is not required to resample if the following occurs:

- (1) The City performs sampling at the industrial user's facility at a frequency of at least once per month.
- (2) The City performs sampling at the industrial user's facility between the time when the industrial user performs its initial sampling and the time when the industrial user receives the results of this sampling. It is the sole responsibility of the industrial user to verify if the City has performed this sampling.

(e) Slug/Spill Plans.

- (1) Each industrial user shall provide protection from accidental discharges and slug loads of pollutants regulated under this Article. Facilities to prevent the discharge of spills or slug loads shall be provided and maintained at the industrial user's expense.
- (2) The City shall evaluate whether each Significant Industrial User needs a Spill Prevention and Control Plan or other action to control spills and slug discharges. The City may require an industrial user to develop, submit for approval, and implement a Spill Prevention and Control Plan or take such other action that may be necessary to control spills and slug discharges.
- (3) A Spill Prevention and Control Plan shall address, at a minimum, the following:

- (i) Detailed plans (schematics) showing facility layout and plumbing representative of operating procedures;
  - (ii) Description of contents and volumes of any process tanks;
  - (iii) Description of discharge practices, including non-routine batch discharges;
  - (iv) Listing of stored chemicals, including location and volumes;
  - (v) Procedures for immediately notifying the City of any Spill or Slug Discharge. It is the responsibility of the industrial user to comply with the reporting requirements in Section 16-15-23(e);
  - (vi) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response; and
  - (vii) Any other information as required by the City.
- (4) Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees who to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who work in any area where an accidental or slug discharge may occur or originate are advised of the emergency notification procedures.
- (f) Reports of Potential Problems – Slug and Spills.
  - (1) In the case of any discharge, including, but not limited to, spills, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or a discharge that may cause potential problems for the POTW, the industrial user shall immediately telephone and notify the City of the incident. This notification shall include:
    - (i) Name of the facility
    - (ii) Location of the facility
    - (iii) Name of the caller
    - (iv) Date and time of discharge



- (v) Date and time discharge was halted
- (vi) Location of the discharge
- (vii) Estimated volume of discharge
- (viii) Estimated concentration of pollutants in discharge
- (ix) Corrective actions taken to halt the discharge
- (x) Method of disposal if applicable

- (2) Within five (5) working days following such discharge, the industrial user shall, unless waived by the City, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, penalties, or other liability which may be imposed pursuant to this Article.

(g) Reports for Non-Significant Industrial Users.

Should the City deem it necessary to assure compliance with provisions of this Article, any industrial user of the POTW may be required to submit an Industrial Discharge Permit Application or Questionnaire to the City. Any industrial 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.

(h) Signatory Certification.

All reports and other submittals required to be submitted to the City shall include the following statement and signatory requirements.

- (1) The Authorized Representative of the Industrial User signing any application, questionnaire, any report or other information required to be submitted to the City must sign and attach the following certification statement with each such report or information submitted to the City.

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

- (2) If the Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of Section 16-15-2(a)(3) must be submitted to the City prior to or together with any reports to be signed by an authorized representative.

(i) Compliance Schedules.

Should any schedule of compliance be established in accordance with the requirements of this Article, the following conditions shall apply to such schedule:

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);
- (2) No increment referred to above shall exceed nine (9) months;
- (3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the City including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the City.

(j) Change in Discharge or Operations.

Every Significant Industrial User shall file a notification with the City a minimum of fourteen (14) days prior to any planned significant change in operations or wastewater characteristics. A significant change shall be a change equal to or greater than twenty percent (20%) in the mass of a pollutant or volume of flow discharged to the POTW. In addition, this notification shall include changes to:

- (1) Adding or removing processing, manufacturing or other production operations.
- (2) New substances used which may be discharged.
- (3) Changes in the listed or characteristic hazardous waste for which the industrial user has submitted or is required to submit information to the City

under this Article and 40 CFR Section 403.12 (p) as amended.

(k) Notification of the Discharge of Hazardous Waste.

- (1) Any industrial user shall notify the City, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification to the City shall be made within the appropriate time frames specified in Section 16-15-23 paragraphs (d),(f), and (j).

Such notification must include:

- (i) The name of the hazardous waste as set forth at 40 CFR Part 261;
  - (ii) The EPA hazardous waste number;
  - (iii) The type of discharge (continuous, batch, or other);
  - (iv) An identification of the hazardous constituents contained in the wastes;
  - (v) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
  - (vi) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;
  - (vii) Certification that the industrial user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and
  - (viii) Signatory certification as required by Section 16-15-23(h).
- (2) Any industrial user shall notify the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of the discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261 and meets the reporting criteria specified at 40 CFR 403.12(p). Notification to the State and EPA is the responsibility of the industrial user and shall be made as required under 40 CFR §403.12(p). The industrial user shall copy the City on all notifications made to the State and EPA.
  - (3) In the case of any new regulation under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as

hazardous waste, the industrial user must notify the City, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- (4) This provision does not create a right to discharge any substance not otherwise allowed to be discharged by this Article, a permit issued hereunder, or any applicable federal or state law.

**Section 16-15-24. Right of Entry.**

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

- (d) Failure to allow entry or unreasonable delays: In the event the City or other duly authorized representative of the City is refused admission or unreasonably delayed, may result in enforcement action as allowed for under this Article. In addition, if the Director has demonstrated either probable cause to believe that there may be a violation of this Article, or there is a reasonable need for inspection as part of an inspection program of the City developed to verify compliance with this Article or any permit or order issued under this Article, or to protect the overall public health, safety and welfare, then upon application by the City Attorney, the Municipal Court or any other court of competent jurisdiction shall issue a search and seizure warrant. The application by the City Attorney shall be reviewed, and the Search and Seizure Warrant shall be issued, pursuant to Sections 16-3-301, 16-3-303 through 16-3-309, Colorado Revised Statutes, as amended, and Rule 41, Colorado Rules of Criminal Procedure, as amended. For purposes of this Article, the Municipal Court shall have jurisdiction under the above-cited authorities to issue search and seizure warrants. A Warrant shall describe the location subject to the Warrant and specify what, if anything, may be searched, inspected or seized on the property or premises described. Such warrant shall be served at reasonable hours by the Director in the company of uniformed peace officers of the City. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

**Section 16-15-25.     Sector Control Programs.**

(a)     General Requirements.

(1)     Authority.

The City may establish specific sector control programs for industrial users to control specific pollutants as necessary to meet the objectives of this Article. Pollutants subject to these sector control programs shall generally be controlled using Best Management Practices (BMPs) or by Permits as determined by the City.

(2)     Facility Identification and Compliance.

The City shall establish and/or maintain an Industrial User Identification and Characterization Program through which industrial users shall be identified for inclusion into applicable sector control programs. Once identified and included into one or more sector control program, the facility shall be required to comply with each applicable sector control program requirements.

(3)     Notification to the City by the Industrial User and Management Review.

The City shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other change that could change the nature, properties, or volume of wastewater discharge, to ensure

that current sector control program requirements are incorporated and implemented.

(4) The industrial user shall inform the City prior to:

- (i) Sale or transfer of ownership of the business; or
- (ii) Change in the trade name under which the business is operated; or
- (iii) Change in the nature of the services provided that affect the potential to discharge sector control program pollutants; or
- (iv) Remodeling of the facility that may result in an increase in flow or pollutant loading or that otherwise requires the facility to submit plans or specifications for approval through a building or zoning department, or any other formal approval process of a city, county, or other jurisdiction.

(5) Inspections.

- (i) The City may conduct inspections of any facility with or without notice for the purpose of determining applicability and/or compliance with sector control program requirements.
- (ii) If any inspection reveals non-compliance with any provision of a sector control program requirement, corrective action shall be required pursuant to the applicable sector control program.
- (iii) Inspection results will be provided in writing to the facility.

(6) Closure.

The City may require closure of plumbing, treatment devices, storage components, containments, or other such physical structures that are no longer required for their intended purpose. Closure may include the removal of equipment, the filling in and/or cementing, capping, plugging, etc.

(7) Variance.

A variance as to the requirements of any sector control program for existing facilities may be granted by the City for good cause. The facility has the burden of proof of demonstrating through data and other information why a variance should be granted. In no case shall a variance result in violation of any requirement or effluent limit specified in this Article applicable to the discharge. The granting of any variance shall be at the sole discretion of the City.

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

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

(8) Enforcement and Compliance.

- (i) These requirements form a part of this Article. Enforcement of this regulation is governed by the express terms herein and the enforcement provisions of Section 16-15-27.
- (ii) Any extraordinary costs incurred by the City due to Interference, damage, Pass Through, or maintenance necessary in the treatment and/or collection system shall be paid by the industrial user to the City. The direct costs of all labor, equipment and materials incurred in rectifying the Interference or damage, including reasonable attorneys fees, shall be billed directly to the owner or the industrial user by the City, and such costs shall become part of the total charges due and owing to the City and shall constitute a lien on the industrial user until paid in full.

(b) Program Descriptions.

All facilities subject to this section must comply with the requirements in the FOG Sector Control Program which includes both the requirement for installation and operation of a sand/oil interceptor and the Best Management Practices.

(1) Fats, Oil and Grease (FOG) Program Requirements.

The requirements established in this Section shall apply to facilities subject to the FOG Sector Control Program established by the City. Non-domestic dischargers where preparation, manufacturing, or processing of food occurs include, but are not limited to, restaurants, cafes, fast food outlets, pizza outlets, delicatessens, sandwich shops, coffee shops, schools, nursing homes and other facilities that

prepare, service, or otherwise make foodstuff available for consumption. These users shall install and maintain a gravity grease interceptor as directed by the City.

(i) General Control Requirements.

- 1) A gravity grease interceptor shall be required when, in the judgment of the City, it is necessary for the proper handling of liquid wastes which may be harmful to, or cause obstruction in the wastewater collection system or cause or contribute to Interference or Pass Through.
- 2) It shall be the responsibility of the industrial user and owner of the property, business or industry or an Authorized Representative of the Industrial User to contact the City for the purpose of obtaining a plan review. The plan review shall determine the need, size, location, and other requirements of the interceptor required to control discharges into the POTW. Written approval from the City must be obtained prior to installation of the interceptor. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Article.
- 3) The design and sizing of gravity grease interceptors shall be in accordance with the FOG Sector Control Program in this Article. The gravity grease interceptor shall be designed, sized, installed, maintained and operated so as to accomplish their intended purpose of intercepting pollutants from the industrial user's wastewater and preventing the discharge of such pollutants to the City's wastewater collection system.
- 4) Upon change of ownership of any existing facility which would be required to have an interceptor under this Section, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning grease interceptor is installed.
- 5) Hydromechanical grease interceptors shall not be permitted in lieu of a gravity grease interceptor to comply with the requirements of this Article.
- 6) Toilets, urinals and similar fixtures shall not waste through a gravity grease interceptor. Such fixtures shall be plumbed directly into the building sewer and waste system.
- 7) All fixtures not equipped with a garbage disposal (garbage grinder) which are connected to a gravity grease interceptor shall be



equipped with a fixed or removable mesh or screen which shall catch garbage and food debris and prevent it from entering the gravity grease interceptor.

- 8) The industrial user must ensure interceptors are easily accessible for inspection, cleaning, and removal of FOG.
- 9) The industrial user must maintain interceptors at their expense and keep in efficient operating condition at all times by the regular removal of accumulated FOG.

(ii) Required Maintenance.

- 1) Gravity grease interceptors shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the fats, oil and grease from the facility's wastewater and prevent the discharge of said materials into the City's wastewater collection system. A gravity grease interceptor shall be serviced at a minimum every ninety (90) days, or more often if required by the City.
- 2) The City may require more frequent cleaning than that prescribed in 1) above. A variance from the requirement in 1) above may be obtained if the industrial user can demonstrate less frequent cleaning is sufficient.
- 3) Maintenance of gravity grease interceptors shall be done in a workman-like manner only by a business/professional normally engaged in the servicing of such plumbing fixtures.
- 4) In the event an interceptor is not properly maintained by the industrial user, owner, lessee, or other authorized representative of the facility, the City may authorize such maintenance work be performed on behalf of the industrial user. The costs of such maintenance shall be billed directly to the tenant/owner and shall become part of the charges due and owing to the City and shall constitute a lien against the property until paid in full.
- 5) Biological treatment or enzyme treatment shall not be a substitute for the servicing of gravity grease interceptors at the frequency determined by the City. Use of enzymes to emulsify FOG is prohibited.
- 6) The industrial user must document each pump-out with a waste manifest or trip ticket which must be kept on site for at least three (3) years.

- 7) The industrial user must take reasonable steps to assure that all waste is properly disposed of at a facility in accordance with federal, state and local regulations (i.e. through a certification by the hauler included on the waste manifest or trip ticket for each load).

(2) Petroleum Oil, Grease and Sand (POGS) Separator Requirements.

The requirements established in this Section shall apply to facilities subject to the POGS Program requirements established by the City.

Non-domestic dischargers where work or service is performed includes automotive service, machine shops, automotive care centers, auto body shops, car washes, or any other facility that generates sand, petroleum oil, grease or other petroleum product, grit, gravel or other aggregate that may discharge into a wastewater collection system. Access to the wastewater collection system is often via floor drains located inside shop areas that are not limited to non-polluting wastewater sources; such drains must be connected to a sand/oil interceptor.

All facilities subject to this Section must comply with the requirements in the POGS Sector Control Program which includes both the requirement for installation and operation of a sand/oil separator and the Best Management Practices.

(i) General Control Requirements.

- 1) A sand/oil separator shall be required when, in the judgment of the City, it is necessary for the proper handling of liquid wastes which may be harmful to, or cause obstruction in the wastewater collection system or cause or contribute to Interference or Pass Through.
- 2) It shall be the responsibility of the industrial user and owner of the property, business or industry or an authorized representative of the Industrial User to contact the City for the purpose of obtaining a plan review. The plan review shall determine the need, size, location, and other requirements of the interceptor required to control discharges into the POTW. Written approval from the City must be obtained prior to installation of the separator. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Article.
- 3) The design and sizing of sand/oil separators shall be in accordance with the POGS Sector Control Program. The sand/oil interceptor

shall be designed, sized, installed, maintained and operated so as to accomplish their intended purpose of intercepting pollutants from the industrial user's wastewater and preventing the discharge of such pollutants to the City's wastewater collection system.

- 4) Upon change of ownership of any existing facility which would be required to have a separator under this Section, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning sand/oil separator is installed.
- 5) Toilets, urinals and similar fixtures shall not waste through a sand/oil separator. Such fixtures shall be plumbed directly into the building sewer and waste system.
- 6) The industrial user shall ensure interceptors are easily accessible for inspection, cleaning, and removal of POGS.
- 7) The industrial user shall maintain separators at their expense and keep in efficient operating condition at all times by the regular removal of POGS.

(ii) Required Maintenance.

- 1) Sand/oil separators shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the sand and oil from the POGS facility's wastewater and prevent the discharge of said materials into the City's wastewater collection system. A sand/oil separator shall be serviced at a minimum once every year, or more often as required by the City.
- 2) The City may require more frequent cleaning. A variance from this requirement may be obtained when the industrial user can demonstrate less frequent cleaning is sufficient.
- 3) Maintenance of sand/oil separators shall be done in a workman-like manner only by a business/professional normally engaged in the servicing of such plumbing fixtures.
- 4) In the event a separator is not properly maintained by the industrial user, owner, lessee, or other authorized representative of the facility, the City may authorize such maintenance work be performed on behalf of the facility. The costs of such maintenance shall be billed directly to the customer and shall become part of the charges due and owing to the City and shall constitute a lien against the property until paid in full.

- 5) The industrial user must document each pump-out with a waste manifest or trip ticket which must be kept on site for at least three (3) years.
- 6) The industrial user must take reasonable steps to assure that all waste is properly disposed of at a facility in accordance with federal, state and local regulations (i.e. through a certification by the hauler included on the waste manifest or trip ticket for each load).

**Section 16-15-26. RESERVED**

**Section 16-15-27. Compliance and Enforcement.**

(a) Enforcement Response Plan.

The City may adopt policies and procedures as set forth in the City's Enforcement Response Plan for carrying out the provisions of this Article, provided that such policies and procedures are not in conflict with this Article or any applicable state or federal law or regulation.

(b) Publication of Industrial Users in Significant Noncompliance.

The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Significant Industrial Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance as defined in Section 16-15-2(a)(62) with applicable Pretreatment Standards and Requirements. In addition, any industrial user found to be in Significant Noncompliance with Section 16-15-2(a)(62) paragraphs (iii), (iv), or (viii) shall also be published in the newspaper.

(c) Administrative Enforcement Actions.

(1) Notice of Violation (NOV).

When the City finds that an industrial user has violated, or continues to violate, any provision of this Article, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon the industrial user a written Notice of Violation. Within five (5) working days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction of prevention thereof, to include specific required actions, shall be submitted by the industrial user to the City. Submission of such a plan in no way relieves the industrial user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the City to take any action, including

emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(2) Suspension of Service.

The City may suspend the wastewater treatment service and/or revoke an Industrial Discharge Permit (Section 16-15-13) when such revocation is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes Pass Through or Interference or causes the City to violate any condition of its CDPS Permit.

Any person notified of a suspension of the wastewater treatment service and/or the Industrial Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The City may reinstate the Industrial Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the industrial user describing the causes of the harmful contribution and the measure taken to prevent any future occurrence shall be provided to the City within five (5) days of the date of occurrence.

(3) Administrative Compliance Order.

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

(4) Consent Orders.

The City may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any industrial user responsible for noncompliance. Such documents shall include specific actions to be taken by the industrial user to correct the noncompliance within a time period specified by the document. A consent order may include penalties, supplemental environmental projects, or other conditions and requirements as agreed to by the City and the industrial user.

(5) Show Cause Hearing.

- (i) The City may order any industrial user who causes or allows an unauthorized discharge to enter the POTW to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the industrial user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the proposed action is to be taken, and directing the industrial user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or be sent by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
- (ii) The City Council may itself conduct the hearing and take the evidence, or it may designate one or more of its members to take the following actions:
  - 1) Issue in the name of the City Council, hearings and subpoenas requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings, and the Director or the industrial user may petition the Municipal Court to enforce any subpoena issued pursuant to this Section through the Court's contempt powers.
  - 2) Receive evidence from both the industrial user and the Director on any relevant issue involved in such hearings, provided however, that the Colorado Rules of Evidence shall not apply strictly to such evidence.
  - 3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for final action thereon.

- (iii) At any hearing held pursuant to the article, testimony taken must be under oath and recorded. The transcript of testimony will be made available to any member of the public and any party to the hearing upon payment of reasonable charges for the preparation thereof. The hearing may be suspended or continued from time to time in the discretion of the presiding officer, provided that all evidence is received and the hearing is closed within sixty (60) days after it is commenced.
- (iv) After the City Council has reviewed the evidence, it may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate to correct the violation may be issued.

(6) Administrative Fines.

- (i) When the City finds that an industrial user has violated, or continues to violate, any provision of this Article, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such industrial user in an amount not to exceed one thousand dollar (\$1,000) per day per violation. Such fines shall be assessed on a per-violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (ii) A lien against the industrial user's property shall be sought for unpaid charges, fines, and penalties.
- (iii) Industrial users desiring to appeal such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Such notice or appeal shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and request a hearing pursuant to procedures outlined in Section 16-15-34.
- (iv) Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

(d) Judicial Enforcement Remedies.

(1) Injunctive Relief.

When the City finds that an industrial user has violated, or continues to violate, any provision of this Article, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition the Northglenn Municipal Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Industrial Discharge Permit, order, or other requirement imposed by this Article on activities of the industrial user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the industrial user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an industrial user.

(2) Civil Penalties.

- (i) An industrial user who has violated, or continues to violate, any provision of this Article, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty not to exceed one thousand dollars (\$1,000) per day per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.
- (ii) The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (iii) In determining the amount of civil liability, the Court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the industrial user, and any other factor as justice requires.
- (iv) Actions for civil penalties shall be civil actions brought in the name of the City. Such actions shall be administered pursuant to the Rules of County Court Civil Procedure, except Rules 313, 338, 339, 347, 348, 351.1, 365 and 398 shall not apply. All trials shall be to the court and all trials shall be held within the City. The City must prove alleged violations by a preponderance of the evidence.



- (v) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an industrial user.

(3) Civil Fine Pass Through.

In the event that an industrial user discharges such pollutants which cause the City to violate any condition of its CDPS permit and the City is fined by the EPA or the State for such violation, then such industrial user shall be fully liable for the total amount of the fine assessed against the City by the EPA and/or the State.

(4) Criminal Prosecution.

An industrial user who willfully or negligently violates any provision of this Article or willfully or negligently introduces any substance into the POTW which causes personal injury or property damage or knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained by an industrial discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, shall upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000) per day per violation and be subject to imprisonment for not more than ninety (90) days, or both. In addition, these penalties may be sought for any person who maliciously, willfully, or negligently breaks, destroys, uncovers, defaces, tampers with, or otherwise destroys, or who prevents access to, any structure, appurtenance or equipment, or any part to the POTW.

(e) Remedies Nonexclusive.

The remedies provided for in this Article are not exclusive of any other remedies that the City may have under the provisions of Colorado law. The City may take any, all, or any combination of these actions against a noncompliant industrial user. Enforcement of pretreatment violations will generally be in accordance with the Enforcement Response Plan. However, the City may take other action against any industrial user when the circumstances warrant and may take more than one enforcement action against any noncompliant industrial user.

(f) Public Nuisance.

Any violation of this Article, an industrial discharge permit, or any order issued pursuant to this Article, is hereby declared a public nuisance and may be corrected or abated by the Director or his designee. Any person creating such a public nuisance may be subject to the provisions of the Northglenn Municipal Code governing nuisances, including the provisions requiring reimbursement to the City for its costs of abatement. The Director may initiate, on behalf of the City, an action in any court of competent jurisdiction concerning the abatement of any public nuisance created or caused by a violation of this Article. In any such

action, the Director may request any legal or equitable relief, including injunctive relief and civil damages, as provided by applicable law.

**Section 16-15-28.** RESERVED

**Section 16-15-29.** RESERVED

**Section 16-15-30.** RESERVED

**Section 16-15-31.** RESERVED

**Section 16-15-32.** RESERVED

**Section 16-15-33.** Affirmative Defenses to Discharge Violations.

(a) Upset.

- (1) For the purposes of this Article, upset means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (3) below are met.
- (3) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (i) An upset occurred and the industrial user can identify the cause(s) of the upset;
  - (ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - (iii) The industrial user has submitted the following information to the City within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

- 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.
- (4) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have burden of proof.
  - (5) Industrial users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.
  - (6) Industrial users shall control (decrease) production of all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(b) Prohibited Discharge Standards.

An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Section 16-15-7 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- (1) A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the industrial user's prior discharge when the City was regularly in compliance with its CDPS permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements; or
- (3) The industrial user disclosed the pollutants causing the violation in the Wastewater Permit Application.

**Section 16-15-34.**     General: Hearings and Appeals Applicable to All Users.

- (a) Except as otherwise expressly provided in this Article, any applicant or user may petition the City Council to reconsider any determination, decision, condition, or requirement made by the Director or his designee pursuant to this Article.
- (b) Any petition for reconsideration must be received by the Director during regular business hours within ten (10) business days of the Director's determination or decision. The user's or applicant's failure to submit a timely petition for reconsideration shall be deemed a waiver of any such reconsideration. For purposes of identifying the date of the Director's determination or decision, the following dates will control:
  - (1) For determinations or decisions which the Director transmits by mail, the date of the postmark shall be the date of decision;
  - (2) For determinations or decisions which the Director causes to be delivered by hand delivery, the date of such delivery shall be the date of decision;
  - (3) For determinations or decisions given by the Director orally, the date of oral notification by the Director or his designee shall be the date of decision.
- (c) A petition for reconsideration must indicate which determination or decision of the Director the user or applicant wishes to have reviewed, the grounds or reasons for objection to the Director's decision, and the alternate determination, decision, condition or requirement that the applicant or user believes the Director should have made.
- (d) The Director's determination or decision shall remain effective during any review provided by this Section and a petition for reconsideration shall not stay any decision or determination of the Director. The Director shall forward any petition for reconsideration to the City Council. The City Council shall schedule the petition for reconsideration for hearing at the next regular meeting of the City Council which will also allow for adequate notice of such hearing. The applicable provisions of Sections 16-15-27(5) paragraphs (i), (ii) and (iii) shall control the notice and conduct of such hearing.
- (e) The City Council shall deliberate regarding the evidence presented at such hearing in executive session. The City Council shall affirm and uphold the decision, determination, condition or requirement of the Director if the City Council finds competent grounds in the evidence presented to support the Director's decision, determination, condition or requirement. The City Council may reverse the Director's decision, determination, condition or requirement only if it is so devoid of evidentiary support that it can only be explained as an arbitrary and capricious act.

- (f) The City Council shall announce the results of its deliberations at the next regular meeting of the City Council and approve written findings and conclusions to memorialize those results. The City Council shall announce its decision and approve its written findings and conclusions not more than sixty (60) days following the conclusion of the hearing.

INTRODUCED, READ AND ORDERED POSTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
SUSAN CLYNE  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
JOHANNA SMALL, CMC  
City Clerk

PASSED ON SECOND AND FINAL READING this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
JOYCE DOWNING  
Mayor

ATTEST:

\_\_\_\_\_  
JOHANNA SMALL, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
COREY Y. HOFFMANN  
City Attorney