

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 3615

AN ORDINANCE AMENDING CHAPTER 38, UTILITIES,
OF THE
CODE OF ORDINANCES
BY IMPLEMENTING EPA'S RECOMMENDED CHANGES
TO BE PUBLISHED IN PAMPHLET FORM

Recitals:

The Industrial Pretreatment Program is audited by the Environmental Protection Agency (EPA) on an annual basis. The results of the 2003 audit necessitates changes to Chapter 38 of the City's Code of Ordinances. The proposed amendments do not change the program's operational procedures. The changes concern the definitions within the Code. Some terms have been redefined to more closely reflect the definitions for the same or similar terms found within the United States Code and the Code of Federal Regulations. Additional changes have been made to the Code for clarification.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

1. Chapter 38 of the Code is amended as recommended by the EPA and for clarification. The amendments to Chapter 38, upon passage by the City Council, will not become effective until EPA approval; and

2. The full text of the amending ordinance, in accordance with paragraph 51 of the Charter of the City of Grand Junction, is to be published in pamphlet form with notice published in accordance with the Charter.

Introduced on first reading this 17th day of March 2004.

PASSED and ADOPTED on second reading this 7th day of April 2004.

/s/: Jim Spehar
Mayor

Attest:

/s/: Stephanie Tuin
City Clerk

ARTICLE I. IN GENERAL

Sec. 38-1. Liability for expense, loss, damage; jurisdiction of court.

Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation. The municipal court shall have concurrent jurisdiction in all causes arising under this chapter.

Secs. 38-2--38-25. Reserved.

ARTICLE II. WASTEWATER SYSTEM

Sec. 38-26. Definitions.

Unless otherwise defined in this article, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.

Building sewer means the extension from the building drain to the public sewer.

City Manager means the City Manager or his designee.

Color means the true color due to the substances in solution expressed in milligrams per liter.

Combined sewer means a sewer receiving both surface runoff and sewage.

Easement means an acquired legal right for the specific use of land owned by others.

Equivalent residential unit (ERU) means a single unit providing living facilities for one or more persons including permanent provisions for sleeping and sanitation.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Industrial wastes means the liquid or water-carried wastes from industrial manufacturing processes, trade or business, as distinct from domestic or sanitary sewage.

Interference means the inhibition or disruption of the Wastewater Treatment Works (“WWTW”) processes or operations which causes or materially contributes to a violation of any requirement of the WWTW’s National Pollutant Discharge Elimination System (“NPDES”) permit, or of the requirements of any agency with jurisdiction over discharges by the WWTW into the receiving waters. The term also includes contamination of WWTW sludge byproducts.

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

Normal sewage means that waste having a biochemical oxygen demand of 200 milligrams per liter or less, and having total suspended solids of 250 milligrams per liter or less.

Pass Through means a discharge which exits the WWTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharge from other sources, is a cause of a violation of any requirement of the WWTW’s NPDES permit (including an increase in the magnitude or duration of a violation).

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

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, septic waste, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, dirt, sand, industrial, municipal and agricultural waste discharged into water.

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

Sanitary sewer means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Sewage means the spent water of a community. Also referred to as wastewater.

Sewer means a pipe or conduit for carrying sewage.

Sewer rental charges includes all rates, charges, fees and costs of inspection connected with the WWTW.

Slug means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen minutes more than five (in case of heavy metals, three) times the average twenty

four-hour concentration or flows during normal operation and may adversely affect the wastewater facilities.

Storm drain (sometimes termed “storm sewer”) means a drain or sewer for conveying water, groundwater, drainage water, or unpolluted water from any source, excluding sewage and industrial wastes.

Storm water means the surface runoff from rainfall and other storm events.

Tap means an opening or connection between the service sewer and the sanitary sewer through which sewage is discharged.

Total suspended solids (“TSS”) means total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, also referred to as nonfilterable residue.

Unpolluted water means the water is of quality equal to or better than effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with any incidental groundwater, surface water, and storm water that may be present.

Wastewater facilities means the structures, equipment and processes required to collect, convey and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment plant (“WWTP”) means that portion of the WWTW designed to provide treatment to wastewater. The term includes the Persigo wastewater treatment plant which is owned by the County and the City and operated by the City.

Wastewater Treatment Works (“WWTW”) means wastewater treatment works as defined in the United States Code, 33 U.S.C. section 1292, which are owned by the County and the City and which are operated by the City. The term includes “any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature.” It further includes, “any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water run off, or industrial waste, including waste in combined storm water and sanitary sewer systems.” As used herein, it shall include wastewater facilities that form the WWTW and any sewers that convey wastewaters to the WWTW from persons or sources within the City and outside the City who are, by contract or agreement with the City or connecting sanitation districts, users of the City’s and County’s WWTW.

Watercourse means a natural or artificial channel for the passage of water, either continuously or intermittently.

Sec. 38-27. Jurisdiction.

The provisions of this article shall apply to all sewer users and facilities served by the wastewater facilities and WWTW.

Sec. 38-28. Damaging or tampering with structures or equipment prohibited.

No unauthorized person shall maliciously, willfully, or in a grossly negligent manner break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the WWTW. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.

Sec. 38-29. Authority to enter premises for purposes of inspection, observation, measurement, sampling and testing.

The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. The City Manager shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries, beyond inquiries having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

Sec. 38-30. Duty to observe safety rules.

While performing the necessary work on private properties referred to in section 38-29, the City Manager or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 38-53.

Sec. 38-31. Authority to enter private properties through which City has easement.

The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the WWTW lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of a duly negotiated easement pertaining to the private property involved.

Sec. 38-32. Insanitary deposits prohibited.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any insanitary manner on public or private property within the City and County, or in any area under the jurisdiction of the City and County, any human or animal excrement, garbage, or other objectionable waste.

Sec. 38-33. Discharge to natural outlets.

It shall be unlawful to discharge to any natural outlet within the City and County, or in any area under the jurisdiction of the City and County, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

Sec. 38-34. Construction, maintenance of privies and septic tanks.

Except as provided in this article, 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 when the site is within 400 feet of an existing public sewer with sufficient capacity.

Sec. 38-35. Connection mandatory where public sewer available.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the City or County 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 or County are hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 120 days after date of official notice to do so, provided that such public sewer is within 400 feet (122 meters) of the property line.

Sec. 38-36. Private disposal systems.

(a) *Connection to private disposal system where public system is unavailable.* Where a public, sanitary or combined sewer is not available under the provisions of section 38-35, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(b) *Type, capacities, location and layout.* The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State's department of public health.

(c) *Connection to public sewer upon availability of public sewer; abandonment of private facilities.* At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 38-35, a direct connection shall be made to the public sewer in compliance with this article within 120 days after the date of official notice to do so, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(d) *Sanitary operation.* The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City and County.

(e) *Additional requirements of the County's health officer.* No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County's health officer.

Sec. 38-37. Permit required to connect to, use or alter public sewer.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City Manager.

Sec. 38-38. Building sewer--Cost of connection to public sewer to be borne by owner.

All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City and County from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 38-39. Same--Separate sewer required for each building; exception.

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available nor can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Sec. 38-40. Same--Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination by the City Manager, to meet all requirements of this article.

Sec. 38-41. Same--Size, slope, materials of construction, other specifications.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City and County.

Sec. 38-42. Same--Elevation.

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 flow to the public sewer, sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 38-43. Same--Connection of roof downspouts, areaway drains.

No person shall make connection of roof downspouts, exterior 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 sewer.

Sec. 38-44. Same--Connection to public sewer to conform to Code requirements, applicable rules; deviations from prescribed procedures and materials.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City and County. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the City Manager before installation.

Sec. 38-45. Same--Guarding of excavations; restoration of streets.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City and County.

Sec. 38-46. Changes in direction of private sewers.

When the course of a private sewer is not the same as the junction piece, it must be connected such that no 90-degree turns are used.

Sec. 38-47. General construction of private sewers.

The inside of every private sewer connecting with a public or sanitary sewer must be smooth and perfectly clean throughout its entire length, and the ends of all pipes not to be immediately used must be securely guarded against the introduction of sand or earth by brick and cement or other watertight and impervious metal.

Sec. 38-48. Connection of property lying two miles outside City.

(a) It is the policy of the City and County to require connections to the WWTW for property lying within two miles of the City's limits by arranging for sewage treatment through the City, either by annexation or through powers of attorney to accomplish annexation in the future, as possible. As annexations occur, the ownership of public or sanitary sewers within the annexed area will be transferred to the City.

(b) No property outside the City shall be connected to the WWTW until and unless the owner thereof shall submit an application, together with a signed and sworn statement, showing the

plan, size and type of connection desired and the number of persons who will use the property so connected. Such plans and statement shall be referred to and examined by the City Manager, who shall endorse with approval or disapproval of the same as complying or failing to comply with all of the ordinances, regulations and rules concerning connections with the WWTW .

Sec. 38-49. Use of public sewers--Limitations on discharging certain substances, materials, waters, wastes.

(a) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the City Manager that such wastes may harm the WWTW, including but not limited to, the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the City Manager will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewage treatment process, capacity of the WWTP, degree of treatability of wastes at the WWTP and other pertinent factors.

(b) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public or sanitary sewer:

- (1) Any solid or viscous substances in quantities or amounts or of such size capable of causing obstructions to the flow in sewers, Pass Through, or other Interference with the proper operation of the sewerage system.
- (2) Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants, unless agreed to by the City Manager.
- (3) Water accumulated in excavations or accumulated as the result of grading, water taken from the ground by well points, or any other drainage associated with construction without prior approval by the City.
- (4) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit or exceeding any lower limit fixed by the City to prevent odor nuisance where the volume of heated discharge represents a significant portion of the flow through a particular sewer.
- (5) Any waters, pollutants or wastes having a pH lower than 5.5.
- (6) Any waters or wastes containing grease or oil or other substances that will solidify or become discernible viscous at temperatures between 32 degrees and 150 degrees Fahrenheit, or any waters or wastes containing or possessing heat in amounts which will inhibit biological activity in the WWTW resulting in Interference. In no case shall heat be allowed in

such quantities that the temperature at the WWTP exceeds 104 degrees Fahrenheit.

- (7) Any waters or wastes containing fats, wax, grease, or oils whether emulsified or not, in quantities or amounts capable of causing obstructions to flow, Pass Through, or other Interference with the proper operation of the WWTW. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.
- (8) Any gasoline, benzene, naphtha, fuel oil, lubricating oil or other flammable or explosive liquid, solid, gas or pollutant which may create a fire or explosion hazard, including but not limited to waste streams with a closed cup flashpoint of less than 60 degrees Celsius or 140 degrees Fahrenheit using the test method specified in 40 CFR Section 261.21.
- (9) Any waters or wastes that contain concentrated dye waste or other waste that is either highly colored or could become highly colored by reacting with any other waste, and which is not removable in the WWTW.
- (10) Any waters or wastes containing or which result in the presence of toxic or poisonous solids, liquids, vapors, fumes or gases in sufficient quantity, either singly or by interaction with other wastes, which contaminate the sludge of any municipal system or injure or interfere with any sewage treatment process or constitute a hazard to the health or safety of humans or animals, create a public nuisance or create any hazard in the receiving waters for the WWTW.
- (11) Any waters or wastes that contain a corrosive, noxious or malodorous gas or substance which, either singly or by reaction with other wastes, is capable of causing damage to the system or to any part thereof, of creating a public nuisance or hazard, or of preventing entry into the sewers for maintenance and repair.
- (12) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Manager in compliance with applicable state or federal regulations.
- (13) Quantities of flow, concentrations of flow, or both, which constitute a “slug” as defined in this article.
- (14) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, to any sanitary sewer, unless special permission is granted in writing by the City. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers.
- (15) Any pollutant, waters or wastes, including oxygen demanding pollutants, discharged at a flow rate or pollutant concentration or in such volume which will exceed the hydraulic capacity of the wastewater facilities or which will cause Interference with the WWTW.

- (16) Any waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the WWTP effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (17) Any trucked or hauled pollutants, except at discharge points designated by the WWTP personnel.
- (18) Mass Based Local limits:

The following nondomestic discharge limitations are established to protect sludge quality and prevent Pass Through and Interference with the proper operation of the WWTP. These limits are shown in pounds per day. They reflect the total industrial contribution that can be discharged by permitted industrial users and received at the headwork's of the WWTP. These are called maximum allowable industrial loads ("mails"):

<u>POLLUTANT</u>	<u>*POUNDS PER DAY</u>
Arsenic	11.30
Cadmium	5.61
Chromium (T)	165.07
Chromium (VI)	21.76
Copper	110.48
Lead	40.13
Molybdenum	13.89
Mercury	0.098
Nickel	30.29
Selenium	22.82
Silver	37.04
Zinc	213.7

*Maximum daily industrial loadings shall be allocated through industrial user permits and the total loading to all permitted industrial users shall not exceed the limits shown.

- (19) Ethylene glycol (antifreeze), small amounts are considered to be one-half gallon or less. Large amounts (over one-half gallon) must be held for a reclaimer, unless prior approval and instructions for discharge are obtained from the City.
- (20) The following nondomestic discharge limitations are established to protect sludge quality and prevent Pass Through and Interference with the proper operation of the WWTW. These limits are shown in maximum allowable concentrations.
 - a. Cyanide 1.2 mg/l
 - b. Benzene 50.0 µg/l
 - c. BTEX (aggregate parameter of benzene, ethyl benzene, toluene, and xylene), 750 µg/l
 - d. Fats, Oil & Grease (animal/vegetable) 200 mg/l
 - e. Total Recoverable Petroleum Hydrocarbons 50 mg/l

(c) Surcharge: Industrial users discharging a nontoxic or nonhazardous wastewater that exceeds the level set forth in this code for BOD and/or TSS, shall be surcharged in accordance with adopted surcharge rates. Based on the actual treatment costs, permitted industrial users shall be surcharged for BOD in excess of 200 mg/l and TSS in excess of 250 mg/l. In no case shall a surcharge be allowed that may cause Pass Through or Interference or otherwise cause a discharge of wastewater that violates any limit or prohibition specified in this section.

(d) Permitted industrial users discharging a nontoxic or nonhazardous wastewater, that is not otherwise identified in the Sewer Rate Schedule, and is in compliance with all pretreatment limits, shall be surcharged based on the actual cost to treat 1,000 gallons of industrial wastewater.

Sec. 38-50. Same--Action of City upon discharge of waters possessing characteristics enumerated in section 38-49.

(a) If any waters or wastes are discharged, or are proposed to be discharged, to the sanitary sewers, which waters contain the substances or possess the characteristics enumerated in section 38-49, and which, in the judgment of the City Manager, may have a deleterious effect upon the WWTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- (1) Reject the wastes;

- (2) Require pretreatment to an acceptable condition for discharge to the sanitary sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 38-55.

(b) If pretreatment or equalization of waste flows is required, the design and installation of the plants and equipment shall be subject to the review and approval of the City Manager, and subject to the requirements of all applicable codes, ordinances and laws.

Sec. 38-51. Same--Grease, oil and sand interceptors.

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

Sec. 38-52. Same--Maintenance of preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Sec. 38-53. Same--Manholes.

When required by the City, the owner of any property serviced by a building sewer carrying industrial and/or commercial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be readily accessible and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense, and shall be maintained by the owner so as to be safe and accessible at all times.

Sec. 38-54. Same--Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be performed in accordance with the latest

edition of 40 CFR Part 136 at a monitoring location specified in the permit or otherwise specified by the City.

Sec. 38-55. Service charges--Assessed.

(a) There shall be levied and assessed upon each lot, parcel of land, building or premises having any connection, or eligible for connection with the sewer system of the City, monthly sewer service charges or rentals computed by multiplying the EQU by the following factors, to wit:

- (1) Single-family dwelling, 1.00 EQU.
- (2) Multiple-family dwellings, 0.72 times number of single-family units.
- (3) Hotels and motels:
 - a. No restaurants or kitchen, 0.36 times number of rooms;
 - b. With kitchenette, 0.43 times number of rooms;
 - c. With restaurants, use (3)a then add rates from (4), below.
- (4) Restaurants:
 - a. Twenty-four-hour operation, 0.21 times number of seats;
 - b. Twelve-hour or less operation, 0.14 times number of seats;
 - c. Bar, no food, 0.04 times number of seats.
- (5) Schools:
 - a. No food or showers, 0.04 times number of student capacity;
 - b. For cafeterias, add to (5)a 0.02 times number of student capacity;
 - c. For showers, add to (5)a 0.02 times number of student capacity;
 - d. Boarding schools, 0.27 times number of student capacity.
- (6) Service stations:
 - a. Without wash rack, 1.00 EQU;
 - b. With wash rack, 2.3 times number of wash racks.

- (7) Shopping centers and stores, 0.35 times number of thousands of square feet of store space.
- (8) Travel trailer parks and courts, 0.25 times number of trailer parking spaces.
- (9) Churches, assembly halls, theaters and arenas, 0.01 times number of seating capacity.
- (10) Drive-in theater, 0.02 times number of car spaces.
- (11) Factory, warehouses, shops and offices (not including industrial waste), 0.05 times number of employees.
- (12) Hospitals, 0.89 times number of bed spaces.
- (13) Institutions, nursing homes, 0.36 times number of residences.
- (14) Laundry, coin-operated, 0.90 times number of washing machines.
- (15) Mobile home parks, 0.67 times number of lots or spaces.
- (16) Car wash, 2.3 times number of bays.
- (17) Fast food takeout (walk-up or drive-up):
 - a. Open 12 or more hours, 0.10 times number of employees;
 - b. Open less than 12 hours, 0.06 times number of employees.

(b) Where recycling of water is used or other conditions prevail which cause the above-listed nonresidential users to produce more or less average daily sewage flow than that computed by the above formula when the EQU is multiplied by 280 gallons per day, the City Manager may establish the EQU using the formula set forth in the following paragraph. Where the City Manager deems necessary, the sewer service charge may be charged according to the above formula. Then, after the first 12 months of full operation have passed, where actual water use is observed, the user may be remitted down to the sewer service charge computed based on actual water use.

(c) Sewer service charges shall be computed for nonresidential users that are not listed above by computing the hydraulic flow expected from the establishment. The EQU can be computed by dividing the expected flows by 280 gallons per day or by dividing the expected organic load in pounds of BOD₅ per day by 0.47 pound of BOD₅. The higher EQU obtained by the two methods shall be used in computing the sewer service charge.

(d) Industrial waste:

- (1) Industries which discharge a nondomestic wastewater, that are not otherwise identified in this section, and are in compliance with federal, state and local limits shall be charged a rate that is equivalent to the actual cost to treat each 1,000 gallons of nondomestic wastewater discharged to the system, such charge to be in addition to the domestic user rate of 0.05 for each employee.
- (2) Industries such as food, beverage and meat processing, dairies and feed lots which exceed the established limit for BOD and TSS shall be charged at a rate calculated to represent the actual cost to treat a pound of BOD and TSS; this charge shall be in addition to the rate of 0.05 for each employee.
- (3) In those instances when an industry may discharge a wastewater which exceeds the limit for BOD and TSS allowed that industry by other sections of this article, its basic rate shall be calculated and an additional surcharge added to that calculated amount. Once the industry comes back into compliance, the surcharge shall be dropped.

(e) Beginning with the first billings sent out January 15, 1994, the total rate per EQU will be as established by resolution of the City Council and on file in the City Clerk's office for all users situated within or without the boundaries of the City.

(f) No connection shall be made to the WWTW until a permit has been obtained from the building department of the City and a fee as established by resolution of the City Council and on file in the City Clerk's office paid for such permit.

(g) The cost of connection to the WWTW shall be borne by the property owner.

(h) Tank truck operators disposing of wastewater will be assessed a treatment charge based on tank size. Loads are measured by tank size and not gallons. Acceptable water and waste for disposal shall exclude waste enumerated in section 38-49 or which is otherwise regulated by a valid permit or similar regulated guideline.

(i) Users of the WWTW within the City and County shall be charged the same where the services performed for the users are the same. Where services performed are not the same, the difference in the cost of providing the services shall be determined and the users shall be charged on the basis of the services provided.

(j) The City will determine average numeric criteria for the quality and quantity of sewage collected from residential users. The City will assess a surcharge rate for nonresidential users discharging waters and wastes with quality characteristics greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the costs of treating the higher strength wastes. The surcharge rate structure is subject to revision, when necessary.

(k) The pro rata cost of connection shall constitute a sewer rental charge subject to lien under section 38-58.

Sec. 38-56. Same--New service fee.

Whenever a sewer service account is created or is changed, a new service fee in an amount as established by resolution of the City Council and on file in the City Clerk's office shall be charged, unless, at the same time, water service is being commenced or changed and a fee is being charged therefor.

Sec. 38-57. Same--Charge for reconnecting after disconnection for sewer service charge delinquency; penalty for unauthorized reconnections.

(a) If the sewer service is disconnected by shutting off the water supply, reconnection shall be made only upon the payment of all delinquencies plus a reconnecting charge as established by resolution of the City Council.

(b) It shall be unlawful, after sewer service has been disconnected by shutting off the water supply or in any other manner, for any person to reconnect such water supply without the consent of the City, and any person violating this provision shall be deemed guilty of a misdemeanor.

Sec. 38-58. Same--Declared lien; collection.

All sewer rental charges, including but not limited to all rates (see definition), shall constitute a lien upon any lot, land, building or premises served, and if such amounts shall not be paid when due, such service, if within the City's water system, may be disconnected by the City without further notice, by shutting off the water supply therefrom, or, in other areas of the 201 sewer service area, the WWTW, the City Manager may certify the charge to the County Treasurer to be placed upon the tax list for the current year to be collected in the manner other taxes are collected, with 10 percent added thereto to defray the cost of collection; plus interest at the rate of 1 percent per month or as established by resolution of the City Council, and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

Sec. 38-59. Billing procedure.

(a) All sewer charges shall be dated and sent out to the owner of the premises served or to whom the owner may direct at regular intervals. Such sewer service charges shall be added to and made a part of the water bill if customers receive water service from the City, or by separate billing if water service is from other than the City. Provisions of this Code relative to the payment of delinquent water bills shall also apply to delinquent

sewer bills in all respects, including the discontinuance of water service for nonpayment of sewer charges as set forth in section 38-58.

(b) The owner of the premises, as well as the occupants thereof, shall have thirty days to notify the utility accounting department of any change of building structure and/or use to ensure correct monthly charges. The City will be under no obligation to credit or refund any account beyond expiration of the thirty-day notification period.

(c) In the event any user of the WWTW neglects, fails or refuses to pay the rates, fees or charges imposed or levied by this article for the connection or use of the WWTW or facilities, such rates, fees or charges shall constitute a lien upon the real property so served by such sewer connection. The amount due will be collected in the same manner as though it were part of the taxes. This is an additional remedy to others of the City.

Sec. 38-60. Same--Review.

The rates and charges for wastewater service are established so that each user class pays its proportionate share of the costs of wastewater treatment services, and the City Manager is hereby directed to annually review the charge structure to assure that proportionality between user classes is maintained and to recommend modifications as appropriate. Each user shall be notified annually by the City of the rate and that portion of the user charges which are attributable to wastewater treatment services.

Sec. 38-61. Disposition, use of sewer revenues.

The funds received from the collection of the charges or rentals authorized by this article shall be deposited with the City Manager and shall be deposited in a fund to be known as the "sewer fund" and, when appropriated by the City Council and County Commissioners, shall be used for the maintenance, operation, extension and improvement of the WWTW, and for interest on and discharging of principal of bonds and other obligations incurred in the acquisition, construction, improvement and extension of the WWTW.

Sec. 38-62. Pretreatment of industrial wastes--Purpose and policy.

(a) *Purpose.* Sections 38-62 through 38-70 of this article set forth uniform requirements for users of the WWTW and enables the City to comply with applicable state and federal laws, including the Clean Water Act of 1977, the federal General Pretreatment Regulations, 40 CFR Part 403, and the State Water Quality Control Act, as amended. The objectives of such sections are to:

- (1) Prevent the introduction of pollutants into the WWTW which will interfere with or upset the operation of the WWTP, or contaminate treatment plant sludge with toxic or hazardous materials;
- (2) Minimize the introduction of incompatible pollutants into the WWTW which may Pass Through the system without adequate treatment and into receiving waters or the atmosphere;

- (3) Prevent water quality violations resulting from direct discharges into waters of the State, or violations of the NPDES permit for the WWTW;
- (4) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- (5) Provide for equitable distribution of the costs of the WWTW;
- (6) Establish and maintain a database and inspection program sufficient to determine compliance with pretreatment requirements;
- (7) Enhance the efficiency and cost effective operation of the WWTW; and
- (8) Protect the health and safety of City and County residents and WWTW workers.

(b) *Policy.* Sections 38-62 through 38-70 provide for the regulation of contributors or users of the WWTW through the development of an industrial pretreatment program, including issuance of permits to certain nondomestic users, and through enforcement of general requirements for the other users. Such sections authorize monitoring and enforcement activities, require user reporting, protect the WWTW and hydraulic capacity, improve the ability to serve existing and new customers within the service area of the WWTW, set fees for the equitable distribution of costs resulting from the program established herein, and establish penalties and remedies for violations of pretreatment requirements.

(c) *Applicability.* Sections 38-62 through 38-70 apply within the City and to persons outside the City who are, by contract or agreement with the City, connector districts, or County, users of the WWTW. Except as otherwise provided herein, the City Manager shall implement, administer, and enforce the provisions of such sections.

Sec. 38-63. Same--Definitions.

The following words, terms and phrases, when used in sections 38-62 through 38-70, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accidental discharge means the unintentional and temporary discharge to the WWTW of the prohibited waters or wastes, including those described in section 38-49 or section 38-65.

Act or *the act* means the Federal Water Pollution Control Act, PL 92-500, also known as the Clean Water Act, and including amendments thereto by the Clean Water Act of 1977, PL 95-217, 33 U.S.C. section 466 *et seq.*, and as subsequently amended.

Approval Authority is the administrator of the Environmental Protection Agency (“EPA”), unless the State's industrial pretreatment program has been approved, in which case the approval authority shall be the City Manager or the State’s department of health.

Authorized representative of an industrial user includes:

- (1) A principal executive officer of at least the level of vice president having full actual authority to act on behalf of the corporation, if the industrial user is a corporation;
- (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or
- (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of facilities from which any discharge originates.

Categorical industrial user means an industrial user discharging into the City's 201 area wastewater collection, treatment and disposal system, the WWTW, which is classified as a categorical industry and because of the nature of its discharge is governed by the national categorical pretreatment standards as specified in 40 CFR Chapter I, Subchapter N, Section 403.6.

Categorical standards means national categorical pretreatment standards or pretreatment standard.

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

City Manager refers to the City Manager or his designee.

Discharge means the introduction of treated or untreated wastewater into the WWTW.

Domestic waste or sanitary wastes means liquid waste(s):

- (1) From the noncommercial preparation, cooking or handling of food; or
- (2) Containing human excrement or similar matter from the sanitary conveniences of a dwelling, commercial building, industrial facility or institution.

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

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Harmful contribution means an actual or threatened discharge or introduction of industrial waste to the WWTW; which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment; or which inhibits or interferes with the physical or lawful operation of the WWTW; or which causes the City or the WWTW to be in violation of any condition of its NPDES permit.

Holding tank waste means any waste from a holding tank such as vessels, chemical toilets, campers or trailers.

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

Industrial discharge permit means a document as set forth in section 38-67, which licenses and conditions the nature and amount of contribution of industrial waste into the WWTW.

Industrial user means any person or source that introduces or discharges wastewater from industrial processes into the WWTW, such as eating establishments, food processors or feed lots, and who may be subject to a user charge for excess strength or toxic waste.

Industrial user charge means an additional charge calculated either by the actual gallons of industrial or commercial wastewater discharged per 1,000 gallons or by calculating the pounds of BOD and TSS being discharged in the process wastewater. This charge is in addition to the charge determined under section 38-55(a)(11).

Industrial waste or wastewater means the liquid or water-carried waste(s) from industrial manufacturing or processing, as distinct from domestic or sanitary wastes.

Interference means the inhibition or disruption of the WWTW processes or operations which causes or materially contributes to a violation of any requirement of the WWTW's NPDES permit, or of the requirements of any agency with jurisdiction over discharges by the WWTW into the receiving waters. The term also includes contamination of WWTW sludge byproducts.

National categorical pretreatment standard(s) means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Clean Water Act (33 U.S.C. section 1317) and as specified in 40 CFR Chapter I, Subchapter N, which applies to a specific category of primary industrial users.

National pollutant discharge elimination system (NPDES) permit means a permit issued pursuant to section 402 of the act (33 U.S.C. 1342), allowing discharge of pollutants into navigable waters of the United States or waters of the State.

National pretreatment standard, pretreatment standard, or standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with 40 CFR Part 307 Section (b) and (c) which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Part 403.5.

National prohibitive discharge standards or prohibitive discharge standard means any federal regulation developed under the authority of section 307(b) of the Clean Water Act, including the general pretreatment regulations (40 CFR 403.5).

New Source means any building, structure, facility or installation from which there is or may be a discharge of pollutants as defined in 40 CFR, Part 403.3, Section (k)(1) through (k)(3).

Pass Through means a discharge which exits the WWTW 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 WWTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Pollutant means any dredged soil, solid waste, incinerator residue, sewage, garbage, septic waste, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

Pollution means the alteration of the chemical, physical, biological or radiological integrity of water by human activity.

Potential contributor means an industrial user of the WWTW which:

- (1) Discharges into the system more than 25,000 gallons of material per day on average;
- (2) Discharges into the system materials prohibited by section 38-49 of this article; or
- (3) Is found by the City, the State's department of health or EPA to have an adverse impact, separately or in combination with other industries, on the WWTW or the beneficial reuse of sludge, or to cause a toxic Pass Through, or to interfere with the treatment process, or to have the potential, because of an accumulative effect, to cause a violation of the WWTP's CDPS [NPDES] discharge permit. These may include users such as hospitals, laundries, auto repair shops and service stations.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, the alteration of the rate of their introduction into the WWTW, 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 the WWTW. The reduction or alteration can be achieved by physical, chemical or biological processes, process changes, or by other means, except as prohibited by 40 CFR Part 403.6(d).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, including national categorical pretreatment standards, imposed on an industrial user.

Significant industrial user means a permitted industrial user discharging into the WWTW and which may be classified as one of the following: categorical user, potential contributor or an industrial user, or any other descriptive term necessary to readily identify any industrial waste discharge or permit classification. These include any industrial discharger subject to categorical pretreatment standards; or:

- (1) Any other industrial user that discharges an average of 25,000 gallons per day or more process wastewater to the WWTW, excluding sanitary, noncontact cooling water and boiler blowdown wastewater; or
- (2) Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the WWTW, whichever is less; or
- (3) Is designated as such by the WWTW on the basis that the industrial user has a reasonable potential for adversely affecting the WWTW operation or for violating any pretreatment standard or requirement.

Significant noncompliance. An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any amount) the daily maximum limit for the same pollutant parameter; or
- (2) Technical review criteria (“TRC”) violations, defined here as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH.); or
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer term mean average) that the WWTW determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of WWTW personnel or the public; or
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the

WWTW's exercise of its emergency authority to halt or prevent such a discharge;
or

- (5) Failure to meet, within ninety days after the scheduled date, a compliance schedule milestone or a local control mechanism or enforcement order, for starting or completing construction or for attaining compliance; or
- (6) Failure to provide, within thirty days after the date due, a required report such as a baseline monitoring report (BMR), a ninety-day compliance report, a periodic self-monitoring report or a report on compliance with compliance schedules; or
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations which the Program City Manager, also known as the WWTW industrial pretreatment coordinator, or the City Manager, determines will adversely affect the operation or implementation of the local pretreatment program.

Source means any building, structure, facility or installation from which there may be a discharge of pollutants.

Standard industrial classification ("SIC") means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

Toxic pollutant includes, but is not limited to, any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of section 307(a) of the act or other applicable laws.

User means any person who contributes, causes or permits the contribution or introduction of wastewater into the WWTW.

Wastewater or *sewage* means the spent water of a community that enters the WWTW. The term also refers to a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water or storm water that may be present.

Wastewater treatment plant ("WWTP") is that portion of the WWTW designed to provide treatment to wastewater. The term includes the Persigo wastewater treatment plant which is owned by the County and the City and operated by the City.

Wastewater treatment works ("WWTW") means wastewater treatment works as defined by section 212 of the act (33 U.S.C. section 1292) which are owned by the City and County, or which are managed and operated by the City. This term includes any sewers that convey wastewater to the WWTP from within the Persigo WWTP service area. . The term includes "any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature." It further includes, "any other method or system for preventing, abating,

reducing, storing, treating, separating, or disposing of municipal waste, including storm water run off, or industrial waste, including waste in combined storm water and sanitary sewer systems.” For the purposes of sections 38-62 through 38-70, “WWTW” shall also include waterworks facilities and any sewers that convey wastewaters to the WWTW from persons or sources outside the City who are, by contract or agreement with the City or connecting sanitation districts, users of the City’s and County’s WWTW.

Waters of the State means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Sec. 38-64. Same--Abbreviations.

The following abbreviations when used in sections 38-62 through 38-70 shall have the meanings designated in this section:

CDPS: Colorado Discharge Permit System

CFR: Code of Federal Regulations.

EPA: Environmental Protection Agency.

mg/l: Milligrams per liter.

NPDES: National pollutant discharge elimination system.

SIC: Standard industrial classification.

TSS: Total suspended solids.

U.S.C.: United States Code.

WWTP: Wastewater treatment plant.

WWTW: Wastewater treatment works.

Sec. 38-65. Same--Regulations.

(a) *General discharge prohibitions.*

- (1) No person or user shall introduce, discharge, or cause to be discharged into the WWTW any pollutant or wastewater which may cause Interference with the operation or performance of the WWTW, or which

constitutes a harmful contribution to the WWTW, or which may Pass Through the WWTW so as to cause the WWTW to violate a term of its NPDES permit or other applicable laws and regulations. These general prohibitions apply to all users of the WWTW, whether or not the user is subject to national pretreatment standards or any other national, state or local pretreatment standards or requirements, including specific pollutant limitations developed pursuant to subsection (j) of this section.

- (2) In addition to the prohibited waters or wastes described above or in section 38-49, a user shall not introduce or discharge the following substances into the WWTW:
 - a. Any wastewater containing toxic pollutants in sufficient quantity to exceed the limitation set forth in a national categorical pretreatment standard; or
 - b. Any substance which may cause the WWTW's effluent or any other products such as residues, sludges, or scums to be unsuitable for reclamation or reuse.
- (3) No person or user shall discharge a pollutant into the WWTW which may cause the WWTW or its management agency to be in noncompliance with any sludge use or disposal law or regulations, including section 405 of the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or any State criteria applicable to sludge management.

(b) *Actions of City Manager.* Whenever the City Manager determines through an industrial waste survey or otherwise that a user is contributing to the WWTW any of the substances referred to in section 38-49, or in this section, in such amounts as to interfere with the operation of the WWTW, or to constitute a harmful contribution to the WWTW, the City Manager shall:

- (1) Advise the user of the impact of the contribution on the WWTW; and
- (2) Develop and apply specific effluent limitations and pretreatment requirements for the user to correct the Interference with or harm to the WWTW; and/or
- (3) Perform the actions listed in section 38-50, as deemed necessary.
- (4) Undertake an action, where appropriate, as specified in 38-68.

(c) *Preemption by national categorical pretreatment standards.* Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The City Manager shall notify all affected users of the applicable reporting requirements under 40 CFR Section 403.12. Failure to notify shall not relieve a user from any requirements under the law.

(d) *Modification of national categorical pretreatment standards.* When the WWTW has achieved consistent removal of pollutants limited by national pretreatment standards, the City may apply to the approval authority for modification of or exemption from specific limits in the national pretreatment standards.

(e) *State requirements.* 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.

(f) *City's right of revision.* Notwithstanding the provisions of subsection (c) of this section the City reserves the right to establish by ordinance, resolution, or permit more stringent specific pollutant limitations or pretreatment requirements pursuant to subsection (j) of this section for discharges to the WWTW, if deemed necessary to comply with the objectives and intent of section 38-62.

(g) *Excessive discharge.* No industrial user shall increase the use of process water or dilute industrial wastewater with tap water, unpolluted water, sanitary sewage, or other liquid dilutants as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or with any other pollutant-specific limitation developed by the City or State.

(h) *Accidental discharges.* Each significant industrial user shall provide adequate protection against accidental discharge of the prohibited waters or wastes described in section 38-49 or in this section, or other substances regulated by sections 38-62 through 38-70. Facilities to prevent accidental discharge of prohibited waters or wastes shall be provided and maintained at the user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection, unless already provided, shall be submitted to the City for review and shall be approved by the City Manager before construction of the accidental discharge prevention facility. All significant industrial users shall submit such a plan within ninety days after being permitted as a significant industrial user. No industrial user who commences contribution to the WWTW after the effective date of the ordinance from which this section derives shall be permitted to introduce pollutants into the system until accidental discharge procedures and facilities have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from any responsibility to pretreat as necessary to meet the industrial pretreatment requirements of sections 38-62 through 38-70.

(i) *Notice of accidental discharge.* In the case of an accidental discharge, it is the responsibility of any industrial user to immediately telephone and notify the City Manager of the incident. The notification shall include the location of discharge, type of waste or wastes, concentration, volume, duration, time of episode, and corrective actions undertaken.

(1) Within fifteen days following an accidental discharge, the industrial user shall submit to the City Manager a detailed written report describing the

cause of the discharge and the measures taken or planned 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 may be incurred as a result of damage to the WWTW, fish kills, or any other damage to persons or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by sections 38-62 through 38-70 or other applicable law.

- (2) A sign shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. The industrial user shall ensure that all employees who may cause such an accidental discharge to occur are advised of the emergency notification procedure.

- (j) *Specific pollutant limitations.* No person shall discharge into the WWTW any wastewater containing pollutants generally prohibited by section 38-49 of this Code, pollutants in excess of specific pollutant limitations as established by resolution of the City Council, specific limitations contained in any industrial discharge permit, or limitations imposed by national categorical pretreatment standards.

- (k) *Methodology.* All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in sections 38-62 through 38-70 shall be conducted in accordance with 40 CFR Part 136.

- (l) *Right of entry.*

- (1) The City Manager and/or his authorized representative, upon the presentation of credentials, may:

- a. Enter upon premises where an effluent or potential effluent source is located or in which any records are required to be kept under the terms and conditions of sections 38-62 through 38-70;

- b. At reasonable times, have access to and may copy any records required to be kept under the terms and conditions of this Code or a discharge permit and may inspect any monitoring or sampling methods being used;

- c. Enter upon the premises to reasonably investigate any actual, suspected or potential source of uncommon water pollution, or any violation of this article.

- (2) The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs; interviewing of any person having any knowledge related to the discharge or alleged violation; and

access to any and all facilities or areas within the premises that may have any effect on the discharge or alleged violation.

Sec. 38-66. Same--Fees.

(a) *Purpose.* The purpose of this section is to provide for the payment to the City sewer fund by industrial users of the WWTW for all costs incurred in the implementation and administration of the industrial pretreatment program. The applicable charges and fees shall be set forth in a schedule developed by the City Manager.

(b) *Charges and fees.* The City Manager may adopt separate charges and fees that relate solely to the matters covered by sections 38-62 through 38-70, including fees for:

- (1) Industrial discharge permit applications;
- (2) Reimbursement of costs of setting up and operating the Industrial Pretreatment Program;
- (3) Measuring, monitoring, inspection and surveillance procedures, sampling, testing, and analyzing user wastewater;
- (4) Reviewing and approving accidental discharge procedures and facilities;
- (5) Fees as the City may deem necessary to carry out the requirements contained herein; and
- (6) Fees to cover the added cost of handling or treating any wastes not covered by existing or regular monthly sewer service charges.

The charges and fees shall be established so that the permit application fee will cover the administrative costs of processing the permit. All other costs will be reviewed annually and established as part of the regular billing for each industrial user.

Sec. 38-67. Same--Pretreatment program administration.

(a) *Unlawful discharge.* It shall be unlawful to discharge any industrial wastewater or polluted waters into any natural outlet within the City or within any area under the jurisdiction of the City, except where suitable treatment has been provided, and except as authorized by the City Manager in accordance with the provisions of sections 38-62 through 38-70.

(b) *Industrial discharge permits.*

- (1) *Permit required.* No significant industrial user shall discharge wastewater to the WWTW without having a valid industrial discharge permit issued by the City Manager. Any discharge in violation of pretreatment standards or requirements contained therein is prohibited.

- (2) *Issuance.* After evaluation of the permit application, the City Manager may issue an industrial discharge permit subject to terms and conditions provided herein. In determining whether a permit shall be issued and/or what conditions shall be applied, the City Manager shall consider all applicable national categorical and local pretreatment standards as well as those factors listed in section 38-49.
- (3) *Permit application.* Users required to obtain an industrial discharge permit shall complete and file with the City Manager an application in the form prescribed by the City Manager and accompanied by the permit application fee. The user shall submit, in units and terms suitable for evaluation, all information required by the permit application, and any relevant supplemental information requested by the City Manager. All significant industrial users connected to or discharging to the WWTW and all other persons proposing to connect to the WWTW who are determined to be subject to industrial discharge permit requirements shall apply at least thirty days prior to commencing discharge. When a user becomes subject to a national categorical pretreatment standard and has not previously submitted an application for an industrial discharge permit, the user shall apply for an industrial discharge permit within ninety days after the promulgation of the applicable national categorical pretreatment standard.
- (4) *Categorical Pretreatment Standards.* Within six months after the promulgation of a national categorical pretreatment standard, the industrial discharge permit of users subject to such standards shall be revised to require compliance by the prescribed compliance date. In addition, any industrial user with an existing industrial discharge permit shall submit to the City Manager within 180 days after the promulgation of an applicable national categorical pretreatment standard a baseline report and any information required by 40 CFR Section 403.12 and by section (E)(2) of the industrial discharge permit application.
- (5) *Permit conditions.* Industrial discharge permits and significant industrial user permittees shall be subject to all the provisions of this chapter and all other applicable City laws, user charges and fees. Permits shall contain, but shall not be limited to, the following requirements or conditions:
 - a. Unit charge or schedule of industrial user charges and fees for the wastewater to be discharged to the WWTW;
 - b. Notice of the general and specific prohibitions required under sections 38-49 and 38-65 (j) of this chapter;
 - c. Prohibitions on discharge of any specific materials;
 - d. Notice of applicable national categorical standards; Pretreatment Standards;

- e. Limits equal to or more stringent than the specific pollutant limitations as established pursuant to section 38-65(j) concerning average and maximum wastewater constituents, and on characteristics of either the individual industrial process wastes or combined industrial wastewater discharge;
- f. Limits on average and maximum rate and time of discharge, or requirements for flow regulations and equalization;
- g. Monitoring facilities as described in subsection (d) of this section;
- h. Monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedules;
- i. Installation, maintenance, and cleaning of any pretreatment technology necessary to achieve compliance with the requirements of this article, including filtration, chemical treatment, grease, oil and sand traps, and other necessary equipment;
- j. Compliance schedules and any periodic progress or compliance reports required by this article or by Federal Pretreatment Regulations, including 40 CFR Section 403.12;
- k. Submission of technical reports or discharge reports, as provided in subsection (c) of this section;
- l. Maintenance and retention of plant records relating to wastewater discharge, as specified by the City Manager;
- m. Notification of the City Manager of any discharge of new wastewater constituents, or of any substantial change in the volume or character of the wastewater constituents being introduced into the WWTW;
- n. Notification of any slug or accidental discharge as per section 38-65 (i)(1);
- o. Agreement to pay additional costs of handling or treating any industrial wastewater discharges not authorized by this article or by any permit issued hereunder. Nothing herein shall be interpreted to allow discharges which include harmful contributions to the WWTW, interfere with the WWTP facilities, equipment, or receiving waters, or which may otherwise create a hazard to life or which may constitute a public nuisance;

- p. Agreement by the industrial user: to allow access to the City Manager to ensure compliance with permit conditions; to agree to perform all permit conditions; to submit to the remedy of specific performance for breach of contract; and to pay liquidated damages for violation of pretreatment standards and/or requirements where damages are not readily ascertainable; and
 - q. Other appropriate conditions, in the judgment of the City Manager necessary to ensure compliance with this article.
- (6) *Permit duration.* Industrial discharge permits are valid only for a specified time period, not to exceed five years from the date of issuance. Each significant industrial user shall apply for permit renewal at least ninety days prior to the expiration date of the existing permit.
- (7) *Permit modifications.* The terms and conditions of any permit may be subject to modification by the City Manager during the term of the permit as limitations or requirements as identified in sections 38-65 and this section are modified, or as other just cause exists. The user shall be notified of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (8) *Permit transfer.* Industrial discharge permits are issued to a specific user for a specific operation. An industrial discharge permit is not transferable, and is voidable if reassigned, transferred, or sold to a new owner, new user, different premises, or a new or different operation without written approval by the City Manager.
- (c) *Reporting requirements.*
- (1) *Compliance date report.* Within ninety days following the date for final compliance with applicable pretreatment standards or requirements, or in the case of a new source, following commencement of the introduction of wastewater into WWTW, any industrial user subject to federal, state or city pretreatment standards and requirements shall submit to the City Manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such standards and requirements. The report shall also indicate the average and maximum daily flow or predicted flow for the process units in the user facility subject to the federal, state or city standards and requirements, whether these standards are being met on a consistent basis and, if not, what additional operations, maintenance or pretreatment is or will be necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized

representative of the industrial user, and shall be certified by a qualified professional engineer or a person with adequate wastewater discharge experience.

(2) *Mass limits.* The City Manager may impose mass limitations in addition to concentration limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or upon other users when deemed necessary. In such cases, the reports required by subsections (b)(5)l and (c)(1) of this section shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow, nature, concentration, production, and mass of pollutants which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the industrial discharge permit.

(3) *Reporting violations.* Reporting violations include failure to submit self-monitoring reports, total toxic organics compliance certifications or compliance schedule progress reports within thirty days of deadlines and/or failure to complete milestones within ninety days of deadline.

(d) *Monitoring facilities.*

(1) Each significant industrial user shall provide, calibrate, and operate at its expense sufficient monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and internal drainage systems. The monitoring facilities, including control manholes and continuous flow recorders, shall normally be situated on the user's premises. If such a location would be impractical or cause undue hardship on the industrial user, the City Manager may allow the facility to be constructed in a public right-of-way if the facility will not be obstructed by landscaping or parked vehicles.

(2) A sampling manhole or facility shall have sufficient room for accurate sampling and preparation of samples for analysis. The facility shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user.

(3) Whether constructed on public or private property, any sampling and monitoring facilities shall be built in accordance with City requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety days following receipt of a written order by the City Manager to install the facility.

(e) *Inspection and sampling.* The City Manager may inspect the facilities of any user to determine whether the purpose of these industrial pretreatment regulations and all applicable requirements are being complied with. Owners, employees or occupants of premises where wastewater is discharged shall allow the City Manager and other City

representatives or agents ready access at all reasonable times to all parts of the premises where wastewater is created or discharged, including industrial process areas, for the purposes of inspection, sampling, records examination, or performance evaluation. The City Manager may set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which require proper identification and clearance before entry into such user's premises, the user shall make necessary arrangements with the security guards so that, upon presentation of suitable identification, personnel authorized by the City or from the State or EPA will be permitted to enter without delay for the purpose of performing their specific responsibilities under this article.

(f) *Pretreatment.*

- (1) Industrial users shall provide whatever wastewater pretreatment is required, in the opinion of the City Manager, to comply with this article and shall comply with all national categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations and this article. Any facilities required to pretreat wastewater to a level of quality acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City Manager for review, and must be approved by the City Manager before construction of the facilities. The review or approval of such plans and operating procedures shall in no way relieve a 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 change in the pretreatment facilities or method of operation shall be reported to and approved by the City Manager prior to such change.
- (2) The City Manager shall annually publish, in a newspaper of general circulation within the City, a list of any industrial users determined to be in significant noncompliance ("SNC") with this article. The notification shall summarize the types of violations and any enforcement action taken.
- (3) All records relating to compliance with pretreatment standards or requirements shall be made available to officials of the EPA or the State's department of health upon request to the City Manager.

(g) *Confidential information.*

- (1) Information and data regarding a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or governmental agencies without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the City Manager that the release of such information would divulge information entitled to protection as a trade secret of the user. In such case, restricted information shall not be made available to the public, but shall nevertheless be made available to

other governmental agencies for limited purposes related to water pollution control, including judicial review or enforcement of the provisions of this article.

- (2) Wastewater constituents and characteristics will not be recognized as confidential information.
- (3) Information accepted by the City Manager as confidential shall be handled in compliance with applicable state law.

Sec. 38-68. Same--Enforcement.

The Persigo WWTW shall develop and implement an enforcement response plan. The plan shall be reviewed as required by and for conformance with federal law and shall at a minimum contain detailed procedures indicating how the Persigo WWTW will investigate and respond to instances of industrial noncompliance. The plan shall describe how the WWTW will investigate instances of noncompliance; describe the types of escalating enforcement the WWTW will take in response to all anticipated user violations and the time periods within which such responses will occur. The plan shall identify, by title, the official(s) responsible for various responses and reflect the Persigo WWTW's primary responsibility to enforce all applicable pretreatment requirements and standards as established in this article or by other applicable standards.

- (1) *Harmful contributions or Interference with the WWTW.*
 - a. The City Manager may cancel a user's permission to discharge wastewater into the WWTW, may reject such wastewater, may cease wastewater treatment service, and/or may suspend a user's industrial discharge permit when such suspension is necessary, in the opinion of the City Manager, in order to stop or preclude a harmful contribution to the WWTW, or a discharge which interferes with or has a deleterious effect upon the WWTW.
 - b. Any user notified of a suspension or cancellation of wastewater treatment service and/or the industrial discharge permit shall immediately stop or eliminate the contribution or discharge. In the event of a failure by such person to comply voluntarily with the suspension order, the City Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWTW, danger to individuals, or harm to the receiving waters. The City Manager may reinstate the industrial discharge permit and/or the wastewater treatment service only upon proof of compliance with the order and all federal, state and local Pretreatment Standards and requirements, including payment of any fees or penalties. A

detailed written statement submitted by the user describing the causes of the harmful contribution, and the measures actually taken to prevent any future occurrence, shall be submitted to the City within five business days from the date of occurrence.

- (2) *Revocation of permit.* Any significant industrial user who violates the following conditions of this section, any provision of this article, or applicable state and federal laws or regulations is subject to permit revocation in accordance with the procedures of this section:
 - a. Failure to factually report wastewater constituents and characteristics;
 - b. Failure to report significant changes in operations, or wastewater constituents and characteristics;
 - c. Refusal or physical obstruction of reasonable access to the user's premises for the purposes of inspection, monitoring, review of records concerning wastewater, or any purpose listed under section 38-67(e);
or
 - d. Violation of conditions of the industrial discharge permit.
- (3) *Notification of violation.* Whenever the City finds that any user has violated or is violating this article, an industrial discharge permit, or any prohibition, limitation, condition or requirements contained therein, the City Manager shall serve upon such person a written notice stating the nature of the violation. Violation of any permit condition shall be considered to be a violation of this article. Unless required earlier by another provision of this article, within thirty days after the date of such notice the user shall submit to the City Manager evidence of the satisfactory correction of the violation, or a plan to correct the violation.
- (4) *Administrative Orders.* Whenever the City Manager finds that any user has violated or is violating this article, or a permit or administrative order issued hereunder, the City Manager may have served upon said user an Administrative Order. Such order may be a Compliance Order, a Show Cause Order, a Cease and Desist Order, or an order assessing an administrative fine. Compliance with an administrative order shall not relieve the user of liability for any violations occurring before or after the issuance of the administrative order or prevent the City Manager from taking any other enforcement action authorized under this article.
- (5) *Administrative Appeal Procedure.* Any permit applicant, permit holder or user affected by and dissatisfied with any decision, action, administrative order, assessment of administrative fine, or determination made and issued by the

City Manager in interpreting, enforcing or implementing the provisions of this article, or the provision of any permit or administrative order issued under this article, shall file with the City Manager a written request for reconsideration within ten working days of such decision, action, administrative order or determination, setting forth in detail the facts supporting the request, whereupon the City Manager shall hold a hearing within ten working days of such request. All requests for reconsideration shall be heard by the City Manager within ten working days from the date of the hearing. The decision, action, administrative order or determination shall remain in effect during the reconsideration period.

(6) *Appeal of order of City Manager.*

- a. Any person entitled to appeal an order of the City Manager pertaining to industrial wastewater discharge may do so by filing an appeal with the City Manager within ten days from the date of the City Manager's determination or order. The appeal shall contain the following items:
 1. A heading in the words "Before the Utility Hearing Board of the City of Grand Junction, Colorado" or "Before the Utility Hearing Officer of the City of Grand Junction, Colorado";
 2. A caption reading "Appeal of _____," giving the names of all participating appellants;
 3. A statement of the legal interest of the appellants in the affected facility, together with the name of the authorized representative thereof;
 4. A concise statement of the action protested, together with any material facts;
 5. Verified signatures of all appellants, together with official mailing addresses and telephone numbers; and
 6. Verification by declaration under perjury of at least one appellant as to the truth of the matters stated in the appeal.
- b. Upon receipt of a properly filed appeal, the City Manager shall notify the City Council, who shall convene the utility hearing board or appoint a hearing officer. The hearing shall commence no sooner than ten days, but no later than sixty days, after the appeal is filed.

(7) *Show cause hearing.*

- a. The City Manager is authorized to order any industrial user who causes, makes, or allows an unauthorized direct or indirect discharge or a harmful contribution to the WWTW to show cause why appropriate enforcement action should not be taken. In such case, a notice shall be served on the respondent user specifying the time and place of a hearing regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken.
- b. The notice of the hearing shall be served upon the user personally or by certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or authorized representative of a corporation or partnership.

(8) *Procedure for appeal or show cause hearing.*

- a. The City Manager may appoint a hearing officer or may instead convene a utility hearing board to conduct the hearing or appeal. The board shall consist of a City Council member or designee, the City Manager, a County Commissioner or designee, an employee of the department of public works or utilities, and a connector district representative if the appellant or respondent industrial user is located within the jurisdiction of that district.
- b. The hearing officer or utility hearing board shall have the power to:
 - 1. Issue in the name of the City Council notices of hearings requiring the attendance and testimony of witnesses and the production of evidence.
 - 2. Hold a quasi-judicatory hearing, and receive relevant evidence relating to compliance with the requirements set forth in this chapter. Hearings shall be conducted informally. Rules of civil procedure and evidence shall not solely determine the conduct of the hearing or the admissibility of evidence. All testimony shall be given under oath, and a tape recording or other evidence of the verbatim content of the hearing shall be made. The burden of persuasion in either an appeal or show cause hearing shall be upon the appellant or respondent. The standard of proof to be utilized by the officer or board in making its findings or recommendations shall be a preponderance of the evidence.
 - 3. Determine and find whether just cause exists for not taking the proposed enforcement actions, or whether the order or action appealed is unwarranted.

4. Transmit a report of the evidence and hearing, including transcripts, tapes, and copies of other evidence requested by any party, together with findings and recommendations to all parties to the hearing and to the City Council.

(9) *Effect of hearing.*

- a. Findings and recommendations of the hearing board or officer shall be final and binding upon the City Manager and parties to the hearing, provided, however, that if the City Council disapproves the recommendations of the hearing board or officer within thirty days thereof, the Council may conduct its own hearing, make its own findings, and issue its own orders.
- b. An order consistent with findings and recommendations of the hearing board or officer, or the City Council, as the case may be, shall be issued by the City Manager. The order may direct that sewer service to the user responsible for the violation be discontinued unless and until adequate treatment facilities or related devices have been installed and approved within a specified period of time. The order may provide for imposition of appropriate penalty charges, and for administrative fines designed to reimburse the City for the costs of the permit enforcement action. Further orders and directives, as are necessary and appropriate to enforce industrial wastewater permits and provisions of this article, may be issued by the City Manager.

Sec. 38-69. Same--Actions for violation.

(a) *Penalties.* The City shall have the authority to seek and assess civil and/or criminal penalties up to \$1,000.00 per day for each violation for noncompliance by industrial wastewater dischargers who fail to comply with provisions of an industrial pretreatment permit, program condition or pretreatment standard and/or requirements issued thereunder.

(b) *Remedies.* If any person violates any order of the City Manager, a hearing board or officer or the council, or otherwise fails to comply with any provisions of this article or the orders, rules, regulations and permits issued hereunder, or discharges sewage, industrial wastes, or other wastes into the WWTW or into state waters contrary to the provisions of this article, federal or state pretreatment requirements, or contrary to any order of the City, the City may commence an action in a court of record for appropriate legal and equitable relief. In such action, the City may recover from the defendant reasonable attorney fees, court costs, deposition and discovery costs, expert witness fees, and other expenses of investigation, enforcement action, administrative hearings, and litigation, if the City prevails in the action or settles at the request of the defendant. Any

person who violates any of the provisions of this article shall become liable to the City for any expense, loss, or damage to the City or to the WWTW occasioned by such violation. In addition, upon proof of willful or intentional meter bypassing, meter tampering, or unauthorized metering, the City shall be entitled to recover as damages three times the amount of actual damages.

(c) *Misdemeanor.* Any person who violates or fails to comply with any provision of sections 38-62 through 38-70 or with any orders, rules, regulations, permits and permit conditions issued hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$1,000.00 or imprisonment not to exceed one year or both. Each day in which any such violation occurs or persists shall be deemed a separate and distinct offense.

(d) *Penalty for false statement and tampering.* Any person who knowingly makes, authorizes, solicits, aids, or attempts to make any false statement, representation or certification in any hearing, or in any permit application, record, report, plan, or other document filed or required to be maintained pursuant to this article, or who falsifies, tampers with, bypasses, or knowingly renders inaccurate any monitoring device, testing method, or testing samples required under this article, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$1,000.00 or imprisonment not to exceed one year or both.

(e) *Remedies cumulative.* The remedies provided for in this article, including recovery of costs, administrative fines and treble damages, shall be cumulative and in addition to any other penalties, sanctions, fines and remedies that may be imposed. Each day in which any such violation occurs, whether civil and/or criminal, shall be deemed a separate and distinct offense.

Sec. 38-70. Same--Pretreatment authority outside of the City.

(a) In order to achieve and maintain compliance with the Clean Water Act, federal pretreatment standards and requirements, state regulations, sewage grant conditions, and WWTP discharge permit requirements, the City, as manager/operator of the Persigo WWTP, must possess and demonstrate a clear legal right to require compliance with pretreatment standards and requirements by any industrial user of the WWTW located outside of the City's territorial jurisdiction. To that end all governmental sewage connectors, including sanitation districts and the County, have been requested to adopt, and have adopted, by resolution, a regulatory pretreatment program either parallel to Ordinance No. 2169 or incorporating the provisions of Ordinance No. 2169, and requiring industrial users to comply with the City's pretreatment program.

(b) The connector districts and the County shall also be requested to approve necessary revisions to existing sewer service agreements or joint agreements granting the City the right to administer and physically enforce the connector's pretreatment program on behalf of and as agent for the connector district or County. Such supplemental or indirect regulatory authority accorded to the City shall only be used where direct contractual relationships with industrial users through the industrial discharge permit program prove insufficient to ensure compliance with the pretreatment program.

Sec. 38-71. Plant investment fees and connection procedures--Purpose of fee.

The intent of the plant investment fee shall be to recover the cost of construction of main interceptor lines and sewage treatment works as determined by the City Manager in accordance with and pursuant to applicable law.

Sec. 38-72. Same--Payment of fee.

(a) Prior to connection of any building, premises or lot to any sewer system which utilizes the sewage treatment works or sewage transportation system of the City, the owner of that building, premises or lot shall pay a plant investment fee ("PIF") to the City.

(b) PIFs shall be paid within 150 days prior to actual connection of the building, premises or lot to the sewer system, and no prepayment shall be allowed except with the permission of the City Manager.

Sec. 38-73. Same--Amount of fee.

(a) The basic plant investment fee ("BPIF") shall be as adopted by resolution of the City Council.

(b) The PIF for any building, lot or premises other than a single-family residence shall be computed using the formula set out in this subsection; provided, that the minimum PIF for any building, lot or premises shall not be less than the BPIF.

Formula for PIF:

$$PIF = (BPIF) \times (EQU)$$

The EQU is determined by using the following values as applied for the type of use in which the building, premises or lot is to be used:

- (1) Any single-family above 1.00 EQU
- (2) Multiple-family dwellings, 0.72 x number of single-family units. EQU
- (3) Hotels and motels:
 - a. No restaurants or kitchens, 0.36 x number of rooms EQU
 - b. With kitchenettes, 0.43 x number of rooms EQU
 - c. With restaurants: Use above then add restaurants from below.

- (4) Restaurants:
 - a. Twenty-four-hour operation, $0.21 \times$ number of seats EQU
 - b. Twelve-hour or less operation, $0.14 \times$ number of seats . . . EQU
 - c. Bar, no food, $0.04 \times$ number of seats EQU
- (5) Schools:
 - a. No food or showers, $0.04 \times$ number of student capacity . . EQU
 - b. Add to (5)a for cafeterias, $0.02 \times$ number of student capacity EQU
 - c. Add to (5)a for showers, $0.02 \times$ number of student capacity EQU
 - d. Boarding schools, $0.27 \times$ number of student capacity EQU
- (6) Service stations:
 - Without wash rack, 1.00 EQU
 - With wash rack, 2.3 per rack EQU
- (7) Shopping centers and stores, $0.35 \times$ number of thousand square feet of store space EQU
- (8) Travel trailer park (KOA, etc.), $0.25 \times$ number of trailer parking spaces EQU
- (9) Churches and assembly halls, theaters and arenas, $0.01 \times$ number of seating capacity EQU
- (10) Drive-in theaters, $0.02 \times$ number of car spaces EQU
- (11) Factory, warehouses and offices (not including industrial waste), $0.05 \times$ number of employees EQU
- (12) Hospital, $0.89 \times$ number of bed spaces EQU
- (13) Institution--Nursing home, $0.36 \times$ number of residences EQU
- (14) Laundry, coin-operated, $0.90 \times$ number of washing machines . . . EQU
- (15) Mobile home parks, $0.67 \times$ number of lots or spaces EQU

(16) Car wash, 2.3 x number of bays EQU

(17) Fast food takeout (walk up or drive up):

Open 12 hours or more each day, 0.10 x number of employees . . . EQU

Open less than 12 hours per day, 0.06 x number of employees . . . EQU

(c) Where recycling of water is used or other conditions prevail which cause the above-listed nonresidential users to produce more or less average daily sewage flow than that computed by the above formula when the EQU is multiplied by 280 gallons per day, the City Manager may establish the EQU using the formula set forth in the following paragraph. Where the City Manager deems necessary, the PIF may be charged according to the above formula. Then, after the first 12 months of full operation have passed, where actual water use is observed, the PIF may be revised up or down based on actual water use.

(d) PIFs shall be computed for nonresidential users that are not listed above by computing the hydraulic flow expected from the establishment. The EQU can be computed by dividing the expected flows by 280 gallons per day or by dividing the expected organic load in pounds of BOD₅ per day by 0.47 pound of BOD₅. The higher EQU obtained by the two methods shall be used in computing the PIF.

(e) Sewer extension charges are as established by resolution of the City Council.

Secs. 38-74--38-95. Reserved.

ARTICLE III. WATER SYSTEM

Sec. 38-96. Kannah Creek--Territory covered.

(a) Sections 38-96 through 38-101 shall cover an area of all territory for five miles above the point on Kannah Creek, in Mesa County, where the water is diverted by the City from such creek, such point of diversion being located as follows: At a point whence the southwest corner of Section 34, Township 12 South, Range 97 West, sixth principal meridian bears south 20 degrees 47 minutes, west 2,670 feet.

(b) Sections 38-96 through 38-101 shall also cover the area within a radius of 500 feet of the settling basin or reservoir of the City on Kannah Creek located near such point of diversion.

Sec. 38-97. Same--Police power of caretaker.

The person employed by the City as caretaker to look after the water system of the City at Kannah Creek is hereby given, within the area covered by this article, the power and authority held and used by a police officer of the City within its corporate limits, and such

caretaker shall have the right and power to arrest any person who may violate any provisions of sections 38-96 through 38-101.

Sec. 38-98. Same--Contamination prohibited.

(a) No person shall construct, keep or maintain a house, tent, barn, stable, cattle yard, chicken yard, feed lot, pigpen or any grounds or premises of whatever kind within the area covered by sections 38-96 through 38-101, the drainage from which is capable of contaminating or rendering the water injurious and unwholesome, upon Kannah Creek or upon the drainage district thereof.

(b) No person within the area covered by sections 38-96 through 38-101 shall allow any offensive or unwholesome or contaminating substance to remain upon the premises in such position that such substance or the drainage therefrom may be carried by natural causes into Kannah Creek.

Sec. 38-99. Same--Permit to live or camp near.

The utilities department may require that persons camping or living within the area covered by sections 38-96 through 38-101 first obtain a permit from it or from the caretaker to do so. Such permit shall designate the camping or living place and shall be revocable for cause by the utilities department or the caretaker.

Sec. 38-100. Same--Disposal of dead animals.

The carcasses of any animals dying within the area of sections 38-96 through 38-101 shall be immediately burned and buried in accordance with the regulations of the United States Forest Service.

Sec. 38-101. Same--Injuring trees.

No person shall cut or otherwise injure live trees in the area covered by sections 38-96 through 38-101, and no person shall tie horses or other animals to trees having a soft bark which are liable to be injured by such animals.

Sec. 38-102. Contractual nature of provisions.

The provisions of this article, so far as applicable, shall be considered as a part of the contract between the City and each property owner who is furnished with City water, and each property owner, by using City water and allowing City water to be used, shall be presumed to express his consent to be bound by all the provisions of this article, and such other regulations as the City may adopt.

Sec. 38-103. Application for service; liability of owners of premises; start of billing period.

(a) Application for water service to premises shall be in the name of the owner of the premises. Although the owner may direct that the water bill be sent to another for payment, the owner of property where water is used shall be liable for the payment of rent for all water used thereon in addition to the other utility charges appearing on the water bill. Where application is for new service, charges for water service shall begin when the City is advised that usage has commenced or 120 days after the issuance of the sewer or water permit, whichever is first, unless the applicant can show that no services are being received. Water rental charges include all rates, charges, fees and costs of inspection connected with the water system.

(b) The owner of the premises, as well as the occupant or occupants thereof, shall have thirty days to notify the utility accounting department of any change of building structure and/or use to ensure correct monthly charges. The City will be under no obligation to credit or refund any account beyond expiration of the thirty-day notification period.

Sec. 38-104. Water rent payable monthly; charges constitute lien.

All water rent shall be due and payable monthly. All water service and water service availability (see section 38-111) charges shall constitute a lien upon any lot, land, building or premises served and if such charges shall not be paid when due, such service may be disconnected by the City without further notice, by shutting off the water supply, and the City Manager may certify the charge to the County Treasurer to be placed upon the tax list for the current year to be collected in the manner other taxes are collected, with 10 percent added to defray the cost of collection and the value of attorney's fees and court costs plus interest at 1 percent per month or as amended by resolution of the City Council, and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

Sec. 38-105. New service fee.

Whenever a water service account is created or is changed, a new service fee in the amount established by resolution of the City Council shall be charged for the setting up of the new account.

Sec. 38-106. Payment of water rent; discontinuing service for nonpayment; delinquency charge.

All water rent shall be payable at the office of the City Treasurer within forty-five days following the date of billing, and if not paid within that time shall become delinquent, and the water may be shut off without notice. An additional charge as established by

resolution of the City Council shall be made for each notification of delinquency, accomplished by a door hanger or other notice of delinquency placed on the premises.

Sec. 38-107. Resumption of services after discontinuance.

Whenever the water shall have been shut off for nonpayment of water rent, or nonpayment of other utility services provided by the City, the water shall not be turned on again until the back water rentals or other utility service charges have been paid, together with an additional charge as established by resolution of the City Council and on file in the City Clerk's office for the trouble and expense of shutting off and turning on the water for each delinquency.

Sec. 38-108. Discontinuing water service at request of consumer.

(a) Any person desirous of discontinuing the use of water must give notice to the utilities department and the utilities department shall turn off the water. No credit will be given for nonusage of water unless the water service has been shut off by the utilities department.

(b) Whenever a water user notifies the utilities department of a desire to have the water shut off at his premises because of vacancy therein, the City shall cause the water to be shut off at such premises at the curb stopbox, and a credit shall be given on the books of the City to such water user for such premises for the period of time water is so shut off. No credit shall be given to any water user for vacancy on his premises unless the water shall be shut off as provided in this section.

Sec. 38-109. Charge for reading meters for customer turn-off and turn-on requests.

A charge as established by resolution of the City Council and on file in the City Clerk's office shall be made for the turning off or turning on of water at the request of the customer. If the City, at the request of a customer, turns such customer's water meter on or off during hours other than from 8:00 a.m. to 5:00 p.m. during a normal business day, such customer shall pay to the City, in addition to all other amounts owing to the City, a sum established by resolution of the City Council and on file in the City Clerk's office, which amount reflects the cost to the City of overtime wages and equipment costs. Such sum shall be paid in all instances except where the request for the turn-on or the turn-off is as a consequence of a leak in the domestic water service line between the water meter and the point at which the service line enters the dwelling or structure. If the request to turn on or turn off water is as a consequence of a leak or repair within the dwelling or on a sprinkler system, then the charge established by resolution of the City Council shall be imposed. Additionally, upon the third occasion when no one is present at a premises when an appointment has been made for such presence for the turning on or turning off of a water meter, a further charge as established by resolution of the City Council shall be made. The same charge shall be made for each trip to the premises after the third occasion if appointments are not kept.

Sec. 38-110. Discontinuing service for violation.

Whenever any provision of this article or any term of an agreement by which the City agrees to furnish water is violated by the consumer, the water shall be cut off from the building or

place of such violation, although two or more parties may receive water through the same pipe, and shall not be turned on again except by order of the City Manager, and on payment of the expense of shutting it off and turning it on again, and such other terms as the City Council shall determine, and a satisfactory understanding with the party or parties that no further cause of complaint shall arise; and in case of a violation after such understanding, the City Manager shall have the right to declare any payment made for the water by the person committing such violation to be forfeited.

Sec. 38-111. Meter rates.

Monthly rates as established by resolution of the City Council and on file in the City Clerk's office shall apply to all water used and measured by a water meter.

Sec. 38-112. Certificate of number of users required; additional connections.

It shall be the duty of all owners and/or operators of water service lines with more than one user to certify to the utilities department the location thereof and the number of units or users thereon. No additional connections shall be made without application and notice thereof to the utilities department.

Sec. 38-113. Charge when meter defective.

When a meter or indicator gets out of order and fails to register correctly, a charge shall be made according to the average quantity of water used in a similar period as shown by the meter when in order.

Sec. 38-114. Charge for water sold by the tank.

Water sold by the tank by the City shall be charged for at the rates established by resolution of the City Council and on file in the City Clerk's office.

Sec. 38-115. Meters required; installation, ownership, maintenance.

(a) All water users shall be required to have a meter. All meters shall be installed, owned and maintained by the City.

(b) Owners of water meters who under previous ordinances of the City were permitted to install and own water meters which were two inches in size or more are required to regularly inspect and maintain those meters. If inspection by the City reveals that the meters are not being properly maintained, the City may cause the meters to be repaired at the expense of the owner of the meter.

Sec. 38-116. Unlawfully using water, tampering with facilities.

No person shall use the water from any part of the waterworks without permission having been duly issued therefor, nor shall any person, without lawful authority, open any fire plug, stopcock or valve or other fixture appertaining to such works, nor shall any person shut off or turn on water for any service pipe without lawful authority therefor.

Sec. 38-117. Permitting others to use water.

No consumer shall permit the owner or occupant of other premises to use water from the consumer's service except by special permission from the utilities department.

Sec. 38-118. Permits to tap street mains.

For any of the uses specified in this article or in the schedule of water rates established by the City Council, an application shall be made to the utilities department for a permit to have tapped the street mains forming a part of the City waterworks. If granted, such permit shall set forth the name of the person for whose benefit such permit shall be granted, the size of the stopcock for discharging the water from the main to the service pipes, and as near as may be the point at which the tapping is to be done, the place to which the water is to be conducted, the situation of the hydrants and the contemplated use of the waters thereby. The utilities department shall keep a record of all such permits in a book kept for that purpose in its office, which record shall set forth the substance of every such permit; provided, that by virtue of such permit no more water shall be used than shall be necessary at the time of placing the service pipes and their fixtures to test the tightness of such pipes and fixtures for the flow of water; provided further, that any other legitimate use than that specified in such permit may be made of such water, the proper permit being obtained therefor.

Sec. 38-119. Permits for new connections; work, materials supplied by City; stopcocks.

Persons wishing water in buildings and premises not connected with the water mains must get a special permit from the utilities department for each building, residence, business, etc. The utilities department shall, except as approved by the City Manager, in all cases tap the water main and put in the service pipe to a point on the inner side of the curbstone where there shall be a corporation cock and stop box. Provided, that if there shall be no sidewalks where such pipes shall be extended, such stopcocks shall be in some conspicuous and accessible place near the premises so supplied with water and on some public highway to be designated by the utilities department. Such stopcocks shall be kept in good condition, so that the utilities department shall be able to shut off the water from service pipes at any time.

Sec. 38-120. Requirements for service pipe.

All service pipes laid or constructed in the City for the distribution of water connected with the main in the street and extended to the stop box shall be Type K copper.

Sec. 38-121. Exclusive jurisdiction of water department over service pipe.

The repairing, laying or construction of service pipes for the distribution of water, connected with the main in the street and extended to the stop box inside the curblineline of the street in front of property to be served, shall be performed only by the utilities department of the City, except as authorized by the City Manager.

Sec. 38-122. Application for service pipe; cost of installation.

Service pipes of suitable size will be furnished upon application to the City Manager and the prepayment of the charges therefor as provided in this article, and the utilities department shall furnish all labor and materials necessary for such construction, including tapping of mains, installation of brass corporation cocks, brass curbcocks and connections, stop box, and such K copper pipe as may be necessary.

Sec. 38-123. Calculating charges for service pipe and connections.

All charges for furnishing and laying service pipe and connections shall be calculated as if the water main were laid in the center of the street in order that a uniform charge may be made to the property abutting on the opposite side.

Sec. 38-124. Rates for service pipes.

The rates to be charged for furnishing, constructing and laying service pipes by the utilities department shall be fixed and established by the City Council by resolution. Such rates shall be subject to change by resolution of the Council as it may determine. "Time and materials" may be charged if expenses exceed the normal charge.

Sec. 38-125. Stop boxes.

(a) All stop boxes shall be placed at a point 1 1/2 feet back from the face of the pavement curb, or if no permanent curb is in place, then at a point 1 1/2 feet back from proposed location of the face of the curb, which shall be standard for all streets according to the width of such streets, as follows:

Width of street	Width of roadway between curbs
60 feet	30 feet
80 feet	36 feet

100 feet	56 feet

(b) When a street is paved a greater width than the above standard, all stop boxes shall be moved and the pipe extended to conform to the extra width of roadway, and such work shall be performed by and charged to the utilities department.

Sec. 38-126. Cost of cutting streets, sidewalks.

Where it becomes necessary to cut a pavement or cement sidewalk in order to install the service pipe and connections, the cost of such cut may be charged to the property owner at cost plus 20 percent for overhead expense.

Sec. 38-127. Repair, maintenance of service pipes.

The owner, lessee or agent shall maintain the service pipes from the curb stop if the meter is at the curb, or from the meter if the meter is located between the property line and the curb. It shall be the owner's duty to keep such pipes in good repair and protected from freezing, and the owner shall be responsible for all damages resulting from leaks or breaks in such service pipes.

Sec. 38-128. Defective service pipe to be replaced or repaired.

When the service pipe shall become defective and leak, it shall be reported to the utilities department, which shall make inspection of such pipe, and if the pipe is worn out, the utilities department shall order the service pipe replaced with new pipe. If the pipe is in a generally good condition, the department may permit a licensed plumber to repair the leak.

Sec. 38-129. Maintenance and repairs to service pipe.

After service pipe has been laid and constructed, the utilities department shall thereafter maintain and keep in repair all such service pipes between the main and the curbcock, and shall repair or cause to be repaired any cuts or excavations in paved or unpaved streets in laying or repairing such service connections, to the satisfaction of the City Manager.

Sec. 38-130. Filling trench after laying service pipe.

After service pipes are laid, in refilling the opening, the earth must be laid in layers of not more than nine inches in depth, and each layer thoroughly tamped or puddled to prevent settlement, and this work, together with the replacing of sidewalks, ballast and paving, must be done so as to leave the street and sidewalk in as good condition as before it was disturbed, and to the satisfaction of the utilities department, which is required to see that such work is done as stated in this section.

Sec. 38-131. Time for sprinkling, irrigating.

No person shall use water from the City waterworks system for sprinkling or irrigating except between the hours and at the times which may be from time to time designated by the City Manager, and any person who shall use or cause to be used or permit to be used on their premises, or premises occupied by them, any water as provided in this section, or who shall use or cause to be used or permit to be used any water on their premises occupied by them when prohibited so to do under this section or by the City Manager shall be guilty of a misdemeanor.

Sec. 38-132. Wasting water.

The owner or lessee of any premises to which any water shall be conducted from the water mains shall keep all pipes and their fixtures from the curblineline to his premises and on such premises in good repair and protected from the frost, and tight, so as to prevent waste of water. Upon any waste resulting from a breakage of such pipes or fixtures, or any imperfection of such pipes or fixtures, the owner or lessee shall forthwith stop such waste of water by repairing the old work or by laying new work. It shall be unlawful to use water so that it is wasted by flowing off lawns and gardens into the street gutters.

Sec. 38-133. City's right of entry; notice; correction of defects.

The employees of the utilities department shall be authorized to enter and have free access at all reasonable hours to premises to ascertain the location or condition of all hydrants, pipes or other fixtures attached to the waterworks, and in case they find that water is wasted on account of negligence or for want of repairs, and if such waste is not immediately remedied, the water leading to such premises shall be turned off. It shall be the duty of such employees in case they discover any defect in a private pipe between the meter pit and the structure to give notice in writing to be left at the premises, if occupied, and if not occupied, with the owner or his agent, and if the necessary repairs are not made within twenty-four hours thereafter the water shall be turned off, and shall not be turned on again until the repairs are made and a sum as established by resolution of the City Council and on file in the City Clerk's office has been paid to the utilities department to cover the expense of turning the water off and on. The City is responsible for repairs of services between the main pipe and the meter pit.

Sec. 38-134. Using water for fire protection.

If the proprietors of manufactories, lumberyards, halls, stores, elevators, warehouses, hotels or public buildings, being regular consumers of water from the waterworks, wish to lay large pipes with hydrant and hose couplings to be used only in the case of fire, they will be permitted to connect with the street mains at their own expense, upon application to the utilities department and under its direction, and will be allowed the use of water for fire purposes only, free of charge, but all such pipes must be provided with a suitable valve which must be sealed by the utilities department, and a stop and waste cock attached at the bottom or inside the building; in case the seal is broken for the extinguishment of fire, the party shall immediately give notice to the utilities department, and in case such seal shall have been broken for any other purpose or use, the party so

offending shall be guilty of a misdemeanor. No standpipe will be allowed on premises where the water is taken for other than fire purposes.

Sec. 38-135. Unlawfully using water; tampering with facilities.

(a) It shall be unlawful for any person to use the water from any part of the waterworks system, to open any fire hydrant, stopcock or valve or other fixture appertaining to such waterworks, or to shut off or turn on water for any service pipe without lawful authority or permission having been issued therefor.

(b) No water shall be used from fire hydrants except by the fire department or public works department for the purpose of extinguishing fires, street sprinkling, cleaning, washing or testing fire hose or other fire apparatus, or practice and experimental drill and exercise; provided, that the utilities department may let water therefrom whenever necessary for testing the condition of the waterworks, for purifying the water, or for repairing such works. The City will provide specialized fill hydrants separate from the fire systems for public works purposes.

Sec. 38-136. Tampering with, obstructing fire plugs, water facilities.

No person shall, without lawful authority, molest or in any manner tamper with any fire plug, valve or stopcock in any of the streets, alleys or avenues of this City nor in any manner obstruct the same, nor shall any person hitch a horse or other animal thereto at any time.

Sec. 38-137. City may shut off water from mains.

The City Council reserves the right to cause the water to be shut off from the street mains when it deems it necessary for repairing the mains or waterworks, making connections or extensions to the mains or waterworks, or for the purpose of cleaning the mains or waterworks.

Sec. 38-138. City not liable for interruption of water supply.

No claim shall be made against the City by reason of the breaking of any pipe or service cock, or for any other interruption of the water supply, or by reason of the breaking of any machinery, reservoir, ditch, flume, dam or any other appliances of and to the waterworks or stoppage for necessary repairs.

Secs. 38-139--38-160. Reserved.

ARTICLE IV. WATER AND WASTEWATER POLICY

Sec. 38-161. Purpose and construction of article.

This article shall be liberally construed, so as to establish the policy of the City for the construction of waterworks and wastewater systems; to provide for the upgrading of water lines to provide adequate fire protection within the City; to provide for the relocation of water and sewer lines without compensation to their owners when required by the public health, safety and welfare;

to protect and preserve the public ways of the City for the users thereof; to protect the people of the City and all the persons using or relying upon the public ways of the City; and to those ends, this article shall be applicable to all public ways and waterworks and wastewater systems and all pipelines connected therewith within the City.

Sec. 38-162. Unlawful activity.

It shall be unlawful for any person to make, construct, reconstruct, or alter any opening, excavation, tunnel, sidewalk, curb, gutter, driveway, street or to perform any other work of any kind within the public way which will result in physical alteration thereof unless such person shall have first obtained a permit for the performance of such work, and unless such work shall be performed in conformity with: the terms and provisions of this article; any permits or franchises issued under this article; and the engineering regulations, design standards and construction testing and inspection specifications adopted by the City.

Sec. 38-163. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City Manager means the City Manager or his authorized representative.

District means any metropolitan, water, and/or sanitation district formed under C.R.S. title 32, art. 1, as amended, and any conservancy district formed under C.R.S. title 37, art. 45, as amended.

Permittee means the holder of a valid permit.

Person means any person, firm, partnership, district, corporation, municipal department, company or organization of any kind.

Public way means any public street, way, place, alley, sidewalk, easement, park, square, plaza and any City-owned right-of-way or any other public property owned or controlled by the City and dedicated to public use, including without limitation, easements, dedicated solely for utility purposes.

Service provider means any person other than the City providing potable water or sewer services.

Specifications means the engineering regulations, design standards, construction specifications and construction testing and inspection specifications adopted by the City by resolution.

Utility means waterworks, wastewater systems, pipelines, gas lines, electrical lines, telephone and telegraph lines, transportation systems, cable television and fiber optics systems, and any district or person providing the same for public use.

Work in the public way means, without limitation, construction, reconstruction, repair, alteration of openings, excavation, tunneling, or any other work within or under public ways, including construction, maintenance, and repair of all underground structures such as pipes, conduits, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below the surface of any public way, and installation of overhead poles used for any purpose.

Sec. 38-164. Types of permits to work in the public way.

There shall be required a permit to work in the public way.

Sec. 38-165. Application for permit.

A separate written application for the work to be done under a permit shall be submitted to the City Manager on a form available from the City. The application shall be submitted no later than five days prior to the planned start of work in the public way. Permittees may be required to increase this time up to fourteen days when the work consists of more than a single spot excavation. The City Manager may require submission of plans and specifications. No work shall be started until the City Manager has approved the plans and specifications and permit application. The application when approved shall constitute a permit.

Sec. 38-166. Permit, inspection, and testing fees.

(a) *Permit fee.* A fee, as established by resolution of the City Council and on file in the City Clerk's office, shall be required to obtain each permit.

(b) *Inspection and testing fees.* An hourly fee as established by resolution of the City Council and on file in the City Clerk's office shall be required for inspection and testing.

(c) *Amendment of fees.* The fees established by this section may be amended by City Council resolution.

(d) *Exemption.* A water conservancy district shall not be required to pay any permit fees under this section.

Sec. 38-167. Performance/warranty guarantee for permits.

Each permittee, before being issued a permit under this article, shall provide the City, at the permittee's expense, a performance warranty/guarantee in accordance with one of the following:

(a) The guarantee may be in the form of cash, a letter of credit or a license and permit bond, acceptable in form and content to the City, in an amount equal to one hundred (100) percent of the City Manager's estimate of the cost of restoration. The cost of restoration shall include the removal of defective material, recompaction of subgrade and base material and construction of

surface improvements. The license and permit bond or letter of credit shall run for a period of time at least one year beyond the anticipated acceptance date of any work done under the right-of-way permit(s). Such guarantee(s) shall be extended if requested by the City Manager; or

(b) The guarantee may be in the form of cash, a letter of credit or a license and permit bond, acceptable to the City in form and content, in the principal sum of ten thousand dollars (\$10,000.00) payable to the City of Grand Junction upon failure of the permittee to restore all of the right-of-way to a condition comparable to that which existed at any location at which work is performed by the permittee under one or more permits issued to the permittee. The cost of restoration shall include the removal of defective material, recompaction of subgrade and base material and construction of surface improvements.

(c) If no written refund request of a cash deposit is received, the deposit shall be carried forward and applied as the performance/warranty guarantee (in whole or in part as the fee may be established by the City Council) for the following year.

(d) *Other guarantees.* In lieu of the requirements of (a) and (b) of this section, any public utility regulated by the State's public utilities commission, any person holding a franchise from the City, a mutual water district, any governmental agency or any metropolitan water and/or sanitation district or conservancy district may provide the City with an annual letter signed by an appropriate officer guaranteeing:

- (1) complete performance of the work acceptable to the City; and
- (2) the correction of any defect in the work which the City discovers and for which the City gives written notice to the permittee within one year after the date when the City initially accepts the work.

(e) If the City Manager determines that any permittee fails to perform promptly under the conditions of this subsection (d), that permittee shall be required to post a performance/warranty guarantee meeting the requirements of subsection (b) of this section. If the City Manager determines that the permittee then satisfactorily complies with this article for a one-year period while operating under the provisions of subsection (b) of this section, the permittee shall again be eligible to operate with the annual letter guarantee provided in this subsection (d). Notwithstanding anything to the contrary contained in this section, any contractor performing work pursuant to a contract with the City shall adhere to the performance and payment requirements set forth in the contract documents.

Sec. 38-168. Purpose of performance/warranty guarantee.

(a) Any guarantee made under this article shall serve as security for the performance of work necessary to repair the public way if the permittee fails to make the necessary repairs or to complete the work under the permit.

(b) The permittee, by acceptance of the permit, expressly guarantees complete performance of the work acceptable to the City under this article and guarantees all work done by him for a period of one year after the date of acceptance, and agrees upon demand to maintain and to make all necessary repairs during the one-year period. This guarantee shall include all repairs and actions needed as a result of:

- (1) Defects in workmanship;
- (2) Settling of fills or excavations;
- (3) Any unauthorized deviations from the approved plans and specifications;
- (4) Failure to barricade;
- (5) Failure to clean up during and after performance of the work;
- (6) Any other violation of this article.

(c) The requirement for a performance/warranty guarantee may be waived by the City Manager if, in his opinion, the cost of restoration on any single project is less than \$1,000.00 and the work is being performed by a contractor licensed by the City to perform work within the City. The waiver shall be made only on the requirement for a performance/warranty guarantee and does not relieve the contractor of any other requirement(s) stated in section 38-167 or other applicable sections of this article.

Sec. 38-169. Inspection and testing fees and procedures.

At the time of permit application and at such other intervals as may be established by the City Manager, all permittees under this article shall pay for the costs of inspection and testing. Costs of inspection and testing shall be in accordance with this article and the schedule of charges adopted by City Council resolution.

- (1) *Process.* An initial site inspection may be conducted by the City following submittal of an application. Following issuance of a permit, inspection of the work shall be performed as determined necessary by the City to assure that the work is performed in accordance with and pursuant to the permit and any and all applicable standards and specifications.
- (2) *Permitted work.* The permittee shall notify the City immediately after completion of work and acceptance will be made if all work meets City and permit standards. Approximately thirty days prior to expiration of the one-year guarantee, the City may perform an inspection of the completed work. If the work is intact and otherwise satisfactory, the guarantee shall be returned and released less any amounts needed to complete work not performed by the permittee. A guarantee may be carried forward for future projects. At any time prior to completion of the one-year warranty, the City may notify the permittee of required repairs. The

permittee shall complete such repairs within twenty-four hours or less if required by the City Manager, if the defects are determined by the City to be an imminent danger to public health, safety or welfare. The permittee shall complete all other repairs within thirty days after notice to the permittee.

- (3) *Random Inspections.* The City may perform random inspections of the work described and/or permitted in or by this article and the permittee shall correct its work or procedures if ordered to do so as provided above. Failure to timely correct any work or procedure may result in revocation of the permit.
- (4) *Testing.* Material(s) testing shall be performed as indicated on the permit or as otherwise required by the City Manager. All testing shall be performed by a certified, independent testing laboratory at the sole and absolute expense of permittee.

Sec. 38-170. Time for completion.

All work covered by the permit under this article shall be completed by the date stated on the application. Permits shall be void if work has not commenced six months after issuance. Letters of credit or cash deposited as a performance/warranty guarantee for individual permits will be returned after voiding of the permit.

Sec. 38-171. Insurance.

Before a public way permit is issued, the applicant shall submit to the City Manager a certificate of insurance in an amount set by City Council resolution. The certificate of insurance shall list the City and its officers and employees as additional named insureds. City departments, any public utility regulated by the State's public utilities commission, mutual water companies, persons holding a franchise in the City, any governmental agency, and any metropolitan, water and/or sanitation district, or conservancy district shall be relieved of the obligation of submitting a certificate of insurance if the applicant carries insurance equal to an amount set by City Council resolution. Upon request, the applicant shall submit a letter certifying such coverage or self-insurance. If a person other than those named above signs the permit, a certificate of insurance shall be provided.

Sec. 38-172. Traffic control.

(a) No permittee under this article shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless permission is obtained from the owner of that facility. If a street closing is required, the applicant shall submit a traffic control plan and obtain approval of the City Manager. It

shall be the responsibility of the permittee to notify and coordinate all work in the public way with police, fire, ambulance, and transit departments.

(b) When necessary for public safety, the permittee under this article shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the City Manager.

(c) Unless approved by the City Manager, the permittee under this article shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours. No construction shall be performed nor shall any traffic lane be closed to traffic during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:00 p.m. without the approval of the City Manager. When it is necessary to obstruct traffic during the rush hours, a detour plan shall be submitted to the City Manager prior to starting construction. No permit will be issued until the plan is approved by the City Manager.

(d) Unless provided otherwise by this section, the City Manager shall enforce the provisions of the American Traffic Safety Services Association (2nd ed. 1984) and the Federal Highway Administrator's Manual on Uniform Traffic Control Devices (1988), as they may be amended.

Sec. 38-173. Construction standards and responsibility for all public improvements.

The permittee under this article shall be fully responsible for the cost and actual performance of all work in the public way. The permittee shall do all work in conformance with the engineering regulations, construction specifications, and design standards adopted by the City. These standards shall apply to all work in the public way.

Sec. 38-174. Protection of paved surfaces from equipment damage.

Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles are not permitted on paved surface unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage caused to existing pavement by the operation of such equipment and, upon order of the City Manager, shall repair such surfaces. Failure to do so will result in the use of the permittee's performance/warranty guarantee by the City to repair the damage.

Sec. 38-175. Protection of property.

The permittee under this article shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way.

Sec. 38-176. Relocation and protection of utilities.

Before any permittee under this article begins excavation in any public way, he shall make inquiries of all irrigation companies, utility companies, districts, municipal departments and all other agencies which might have facilities in the area of work to determine possible conflicts. The permittee shall request field locations of all facilities in the area at least forty-eight hours in advance of work. The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction or settlement of trenches subsequent to construction.

Sec. 38-177. Noise, dust, debris, hours of work.

Each permittee under this article shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No work shall be done between the hours of 10:00 p.m. and 7:00 a.m., nor at any time on Sunday, except with the written permission of the City Manager, or in case of an emergency.

Sec. 38-178. Cleanup.

As the work under this article progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All cleanup operations shall be done at the expense of the permittee.

Sec. 38-179. Emergency work.

Any person maintaining facilities in the public way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. "Emergency work" is defined to mean any work necessary to restore water and sewer. The person doing the work shall apply to the City Manager for a permit on the first working day after such work has commenced. All emergency work shall require prior telephone notification to the City Manager.

Sec. 38-180. Preservation of monuments.

The permittee under this article shall not disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the City Manager. Any points disturbed will be replaced at the permittee's expense.

Sec. 38-181. Boring.

Boring or other methods to prevent cutting of the pavement will be required upon request of the City Manager. It is the City's intent to require boring only when necessary on

arterial and major and minor collector streets with high volumes of traffic and/or serious accident potential.

Sec. 38-182. Suspension or revocation of permits and stop work orders.

(a) Any permit issued under this article may be revoked or suspended by the City Manager, after notice to the permittee for:

- (1) Violation of any condition of the permit or of any provision of this article;
- (2) Violation of any provision of any other ordinance of the City or State law relating to the work;
- (3) Existence of any condition or the doing of any act which does constitute or cause a condition endangering life or serious damage to property.

(b) A suspension or revocation by the City Manager of the permit issued under this article, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way.

(c) A stop work order may be issued by the City Manager to any person doing or causing any work to be done in the public way without a permit, or in violation of any provision of this article, or any other ordinance of the City.

(d) Any suspension or revocation of permit or stop work order may be appealed by the permittee under this article to the City Manager by filing a written notice of appeal within ten days of the action.

Sec. 38-183. Appeals procedure.

Any decision rendered by the City Manager under this article may be appealed within ten days by the permittee to the utility hearing board in accordance with the rules and procedures established by section 38-69 of this Code.

Sec. 38-184. Penalty for violation of article.

If any person, officers and agents of a corporation or district responsible for its actions or inaction, and the partners or a partnership, firm or joint venture, shall violate or cause the violation of any of the provisions of this article, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues or is permitted and, upon conviction of any such violation, such person, firm or corporation, including but not limited to its partners or officers or agents, shall be punished pursuant to section 1-9.

Sec. 38-185. Actions for violation of article.

If any person violates any order of the City Manager, or otherwise fails to comply with any provisions of this article or the orders, rules, regulations and permits issued under this article, the

City may commence an action in a court of record for appropriate legal and equitable relief. In such action, the City may recover from the defendant reasonable attorney fees, court costs, deposition and discovery costs, expert witness fees and other expenses of investigation, enforcement action, administrative hearings and litigation, if the City prevails in the action or settles at the request of the defendant.

Sec. 38-186. Relocation of water and sewer facilities--Projects coordination.

All providers of water and sewer services and the City shall, as far in advance as possible when working in public streets and drainageways, coordinate through the City Manager all projects, each with the other, to minimize current and future anticipated conflicts between public ways and waterworks and wastewater facilities.

Sec. 38-187. Same--Future alteration minimization.

Project planning and engineering conducted by the City and providers of water and sewer services shall consider present and future plans in order to avoid or minimize future alterations in such improvements and facility locations. In cooperation with the provider of water and sewer service, the City Manager may indicate general location restrictions that would avoid future conflicts.

Sec. 38-188. Same--Relocation cost liabilities.

When waterworks, wastewater systems, pipelines connected therewith, and utilities require relocation due to improvement, changes, or alteration of streets or drainageways, redevelopment of urban areas, construction of mass transit systems, installation of City-owned waterworks and sewer protection of the public health, safety and welfare, all costs associated with waterworks and wastewater systems relocation and restoration to the equivalent of their preimprovement condition will be included and considered as part of the total public way improvement cost, and shall be paid by the service provider.

Sec. 38-189. Same--Adjustment cost liabilities.

The costs of adjusting manholes and valve boxes within the public right-of-way, when such work is necessitated by pavement repair or street resurfacing will be borne by the City's street division. The costs of adjusting manholes and valve boxes not within the public right-of-way, when such work is requested by the property owner or is necessitated by repair, reconstruction or re-design by the property owner or required by the service provider, shall be borne by the property owner. All adjustments, repairs and reconstruction of manholes and valve boxes shall be performed in accordance with City standards. The City shall provide billings for such work.

Sec. 38-190. Same--Permit application review.

To the extent that work in the public way is regulated by other City ordinances which require that such work be done under a permit from the City, the City Manager shall have the prerogative to review such permit applications for work in the public way for the purpose of requiring relocation of the proposed facility in the public way, and compliance with construction standards of the City for work in the public way.

Sec. 38-191. Same--Work resulting from permit noncompliance cost liability.

Should work be performed within the public right-of-way without coordinating the project with the City or work be performed without observing proper permit procedures and/or conditions any and all general penalties provided for in this Code shall apply. In addition, the person or entity performing the work shall be liable for the cost of any relocations, reconstruction or repair which would not have been required if coordination had occurred, including coordination attendant to securing a permit, or had permit conditions been observed. Penalties provided for in this section are not exclusive. The City expressly reserves the right to file an action in law or equity and/or otherwise utilize any and all remedies provided by law.

Sec. 38-192. Same--Permit grant or denial.

The City Manager shall timely respond to permit applications, approving or denying the application as submitted or conditioned upon specific requirements.

Sec. 38-193. Same--City Council determination.

The City Council may require the relocation, without compensation, of any waterworks, sewer system or pipelines connected therewith by ordinance declaring that the public health, safety and welfare requires such relocation.

Sec. 38-194. Development; upgrades of existing water lines and facilities.

(a) To ensure fire protection to users, owners, and the City, for new construction, replacements, and development which occurs after the effective date hereof, all development and water service providers in the City shall meet the following minimum standards:

- (1) Water shall be supplied at a residual hydrostatic pressure of not less than twenty pounds per square inch (20 psi), nor more than one hundred twenty five pounds per square inch (125 psi).
- (2) Hydrants shall be placed in the public right-of-way and shall not be spaced more than five hundred feet (500') from each other. In no case shall there be more than two hundred fifty feet (250') from the nearest hydrant to the closest portion of the property. See Appendix 3 B which has additional
- (3) Hydrants shall provide the required flow as specified in the adopted fire code;

(4) Hydrants shall be directly supplied by a line at least six (6") in diameter. The Fire Chief may require a line or pipe larger than as described herein based on standards adopted in this section, regulations promulgated pursuant to this section or in accordance with law otherwise applicable to water service providers. Any decision of the City Manager or the Fire Chief which requires a line of greater than six inches (6") in diameter may be appealed if a written notice of appeal is delivered to the City Clerk within ten days. If timely filed, the appeal shall be heard by the utility hearing board in accordance with the rules and procedures established by section 38-68. At an appeal hearing convened under that section, the appellant shall have the burden of proof by clear and convincing evidence.

(b) To ensure adequate fire protection to users, owners, and the City, all existing water facilities, hydrants and lines in the City, existing as of the effective date hereof, shall also meet the minimum standards set forth in subsections (1) through (4) immediately above.

(c) The City Manager may promulgate and enforce regulations which are more restrictive than the provisions of this section if the City Manager finds such regulations to be necessary to protect the health, safety and general welfare of the citizens of the City.

(d) To the extent permitted by law, the provisions of this section shall apply to areas outside of existing City limits. To the extent that applicable law does not permit such extraterritorial application, the provisions of this section shall be limited to the limits of the City.

(e) The provisions of the adopted fire code shall supersede any inconsistent provisions of this section.

(f) In order to bring existing water facilities, hydrants and lines that do not currently meet subsections (1) through (4) above into compliance with those sections, the following shall apply:

(1) When water service providers or water districts upgrade, repair or replace existing water transmission or water distribution lines or facilities, such provider or district shall, at that time, upgrade the existing facilities to meet the minimum line size standards outlined in paragraph (a), subparagraphs (1) through (5), above.

(2) When water service providers or water districts upgrade, repair or replace existing fire hydrants or facilities, such provider or district shall also, at that time, upgrade the existing hydrant and facilities to meet the standards in paragraph (a), subparagraphs (2) through (4), hereof.

- (3) With respect to water line, hydrant and facilities which do not meet the standards outlined in paragraph (b) above, at least once each five years, each water provider and district shall provide written notice to each affected property owner and the City of such deficiency. Such water provider and district shall obtain the prior approval of the City of the form and content of such notice. Such water provider and district shall provide the City Manager with a detailed list of the water, hydrants and facilities which do not meet the standards hereof, along with a list of the property owners to which the written notice was provided.
- (4) When a petition, signed by more than fifty percent (50%) of the property owners in an area supplied by or adjacent to water lines and/or hydrants which do not meet the standards outlined in paragraph (b) above, is submitted to a water provider or water district requesting the water provider or water district to upgrade existing facilities to meet the minimum standards in paragraph (a), such water provider or water district shall complete the requested improvements within three years of the delivery of such petition. The City may, pursuant to an agreement then negotiated with the water provider or district, agree to pay a portion of the costs of such improvements.

Sec. 38-195. Same--City Council determination.

To ensure adequate fire protection to users, owners and the City, the City Council shall be empowered to declare by ordinance the necessity that water lines shall be upgraded for the health, safety and welfare of the parties to meet the requirements of section 38-194 and the specifications of the City. The cost of upgrading water lines to meet the requirements of this section shall be the obligation of the service provider.

Sec. 38-196. Franchises--Generally.

No franchise giving or granting to any person the right or privilege to erect, construct, operate or maintain or use any waterworks, wastewater system or pipelines connected therewith to provide water or wastewater service to any user or consumer within the City; or to use the public ways of the City for any purpose; or to interconnect any building, structure or facility of any kind to any waterworks, wastewater system or pipelines connected therewith other than to the waterworks and wastewater systems of the City shall be given or granted unless such franchise shall be given or granted by ordinance. No such ordinance shall be considered, except for waterworks and pipelines connected therewith, until after the question of the granting of any franchise necessary for such purpose and required by law shall be submitted to and approved by a majority of the qualified, taxpaying electors of the City at an election held for such purpose at the expense of the applicant for such franchise.

Sec. 38-197. Same--Unlawful acts.

Unless a franchise has been given or granted under the provisions of section 38-196, it shall be unlawful for any person to erect, construct, operate or maintain or use any waterworks or wastewater system or pipelines connected therewith within the City in order to provide water or

wastewater service to any user or consumer within the City; or to use the public ways of the City for such purposes; or to interconnect any building, structure or facility of any kind to any waterworks or wastewater system or pipelines connected therewith other than to the waterworks and wastewater system of the City.

Sec. 38-198. Same--Exempted service providers.

Service providers who are providing service pursuant to agreements with the City shall not be subject to the provisions of sections 38-196 and 38-197.

Sec. 38-199. Same--Condemnation and appropriation of public and private waterworks and wastewater systems.

To provide municipal water and sewer services to its users and residents, the City shall have the right and power to condemn and appropriate as much public and private property as is necessary for the construction and operation of waterworks, wastewater systems and pipelines connected therewith in such manner as may be prescribed by law; and to condemn and appropriate any publicly or privately owned waterworks, wastewater systems and pipelines connected therewith not owned by the City in such manner as may be prescribed by law for the condemnation of real estate.

Sec. 38-200. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this article or the Code provisions reenacted hereby should be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this article or Code provisions, which shall remain in full force and effect.