

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 4574

AN ORDINANCE REPEALING AND RE-ENACTING SECTION 13.04 OF THE GRAND JUNCTION MUNICIPAL CODE PERTAINING TO INDUSTRIAL PRETREATMENT REGULATIONS TO INCORPORATE REQUIRED CHANGES TO THE CITY'S LEGAL AUTHORITY; AND AMENDING SECTIONS 13.12 AND 13.16 TO REFLECT THE RE-ENACTMENT OF SECTION 13.04

RECITALS:

The United States Environmental Protection Agency (USEPA) requires the City's Persigo Wastewater Treatment Facility to have an Industrial Pretreatment Program to prevent certain pollutants from entering the wastewater system. The pollutants of concern are those that can interfere with the operation of the wastewater treatment process, pass through the wastewater treatment system without adequate treatment or contaminate treatment plant biosolids.

The City's Wastewater and Industrial Pretreatment Regulations in Section 13.04 of the Grand Junction Municipal Code (Code) is being repealed and re-enacted to comply with federal Pretreatment requirements and to make the Code more user-friendly for the City's regulated industrial and commercial customers.

The re-enactment of Code Section 13.04 is a major revision of the Industrial Pretreatment Chapter. The re-enactment is necessary for the City to come fully into compliance with federal Pretreatment requirements and to increase the enforceability of Industrial Discharge Permits. The re-enactment separates Wastewater and Industrial Pretreatment requirements into better-defined sections, which should result in an easier comprehension of the City's regulations by the regulated community; corrects typographical errors (i.e., cadmium mass-based local limit corrected from 0.057 to 3.057 pounds per day); lowers the pH limit from 5.5 s.u. to 5.0 s.u.; adds a requirements section for new Categorical Users; clarifies sample collection and testing method requirements; adds the authority to prosecute criminal activities; and provides the authority to establish and enforce specific section control programs through the use of Best Management Practices. The re-enactment is primarily administrative with no major impacts anticipated to the local regulated community.

Code Sections 13.12 and 13.16 are also being amended based on the revisions and renumbering of Section 13.04.

In compliance with the USEPA Pretreatment requirements, City staff has made the required revisions relating to Industrial Pretreatment to the City Code of Ordinances and now requests that the City Council approve the proposed changes to the Code.

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

1. Section 13.04 of the Grand Junction Municipal Code is hereby repealed and re-enacted as follows:

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Chapter 13.04 WASTEWATER SYSTEM

Sections

- 13.04.010 Definitions.
- 13.04.020 Jurisdiction.
- 13.04.030 Damaging or tampering with structures or equipment prohibited.
- 13.04.040 Authority to enter premises for purposes of inspection, observation, measurement, sampling and testing.
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- 13.04.080 Discharge to natural outlets.
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- 13.04.390 Industrial Pretreatment Program – Industrial Discharge Permits.
- 13.04.400 Industrial Pretreatment Program – Industrial Discharge Permit Conditions.
- 13.04.410 Industrial Pretreatment Program – Industrial Discharge Permit Modification.
- 13.04.420 Industrial Pretreatment Program – Industrial Discharge Permit Revocation.
- 13.04.430 Industrial Pretreatment Program – Recordkeeping.
- 13.04.440 Industrial Pretreatment Program – Sample Collection and Analytical Methods.
- 13.04.450 Industrial Pretreatment Program – Reporting and Notification Requirements.
- 13.04.460 Industrial Pretreatment Program – Sector Control Programs.
- 13.04.470 Industrial Pretreatment Program – Fees.
- 13.04.480 Industrial Pretreatment Program – Compliance and Enforcement.
- 13.04.490 Industrial Pretreatment Program – Pretreatment authority outside of City.
- 13.04.500 Industrial Pretreatment Program – Affirmative Defenses to Discharge Violations.

Cross reference(s) – Improper depositing or disposal of animal or human waste declared a nuisance, GJMC 8.08.060.

13.04.010 Definitions.

Unless otherwise defined in GJMC 13.04.360 or in this Code, the following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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. 1251 et seq.

Biochemical Oxygen Demand₅ (BOD₅) 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 (mg/L).

Building drain means that part of the lowest horizontal piping of a drainage system that receives the discharge from 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 for the City of Grand Junction or his/her designee.

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

Domestic Sewage or *Domestic / Sanitary wastes* is wastewater from residential sources including, but not limited, to wastewater from kitchen, bath and laundry facilities; or wastewater from the personal sanitary conveniences (toilets, showers, bathtubs, fountains, noncommercial sinks and similar structures) of commercial, industrial or institutional

buildings, provided that the wastewater exhibits characteristics that are similar to those of wastewater from residential activities.

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

Equivalent residential unit (EQU) means the unit of measurement determined by the average monthly water use per single family residence, or 280 gallons per day.

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

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

Normal domestic strength wastewater means that wastewater, when analyzed in accordance with procedures established by EPA pursuant to 40 CFR Part 136, as amended, contains no more than two hundred (200) mg/L BOD₅ and/or two hundred and fifty (250) mg/L TSS.

Person is any individual, partnership, firm, company, association, joint stock company, trust, estate, society, corporation, group, government, governmental agency or other legal entity, or their legal representatives, agents or assigns. The definition includes all federal, state and local government entities.

Properly shredded garbage means the wastes from the preparation, cooking and discharging 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.

Publicly Owned Treatment Works (POTW): A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the City and County. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature and any sewers, pipes or other conveyances which convey wastewater to the treatment plant. The term also means the municipality having jurisdiction over the Indirect Discharge as defined in GJMC 13.04.360(a) made to and from the wastewater treatment plant. As used herein, it shall include wastewater facilities that form the POTW and any sewers that convey wastewaters to the POTW 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 WWTP.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from the residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally. This definition shall also include, but not be limited, to the terms "public sewer," "sewer system," "sewer" and "collection line."

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 POTW.

State means the State of Colorado and the Colorado Department of Public Health and Environment.

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 40 CFR Part 136, as amended.

Wastewater or *sewage* means the liquid and water-carried domestic or nondomestic wastes from residences, commercial buildings, industrial facilities and institutions whether treated or untreated, which are contributed into or permitted to enter the POTW.

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 POTW 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.

Waters of the State mean any and all surface waters and subsurface waters that have a direct hydrologic connection with surface waters which are contained in or flow in or through the State, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

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

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3722 § 1, 2-16-05; Ord. 3615, 4-7-04; Code 1994 § 38-26; Code 1965 § 25-14)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

13.04.020 Jurisdiction.

The provisions of this Code shall apply to all users of the sewer and/or facilities served by the wastewater facilities and POTW.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-27)

13.04.030 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 POTW. Any person violating this section shall be subject to arrest under charge of disorderly conduct.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-28; Code 1965 § 25-40)

13.04.040 Authority to enter premises for purposes of inspection, observation, measurement, sampling and testing.

The City Manager shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Code. The City has additional Right of Entry provisions for the regulation of Industrial Users in GJMC 13.04.380(b).

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3722 § 2, 2-16-05; Ord. 3615, 4-7-04. Code 1994 § 38-29; Code 1965 § 25-41)

13.04.050 Duty to observe safety rules.

While performing the necessary work on private properties referred to in GJMC 13.04.040, the City Manager shall observe all safety rules applicable to the premises established by the company; the company shall be held harmless for injury or death to the City employee(s) except as such may be caused by negligence or failure of the company to maintain safe conditions as required in GJMC 13.04.380 (a) and as allowed by law the City shall indemnify the company against loss or damage to its property by the City employee(s) and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation(s).

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-30; Code 1965 § 25-42)

13.04.060 Authority to enter private properties through which City has easement.

The City Manager 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 POTW lying within such easement. All entry and subsequent work, if any, on such easement shall be done in accordance with the terms of a duly negotiated easement pertaining to the private property involved.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-31; Code 1965 § 25-43)

13.04.070 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-32; Code 1965 § 25-15)

13.04.080 Discharge to natural outlets.

It shall be unlawful to discharge wastewater to any storm sewer or natural outlet within the City and County, or in any area under the jurisdiction of the City and County, unless the discharger has received written approval or a permit from both the City and the Colorado Department of Health and Environment.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-33; Code 1965 § 25-16)

13.04.090 Connection to sewer mandatory - construction, use and/or repair of privies and/or septic tanks disallowed.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation and/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 chapter, 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.

It shall be unlawful to construct, use or maintain and/or repair any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater when the same site is within 400 feet of an existing public sewer with sufficient capacity and official notice disallowing the use of the same shall have been given to the owner of the house, building or property.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-35; Code 1965 § 25-18)

13.04.100 Reserved

13.04.110 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 GJMC 13.04.100, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Code.
- (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 Colorado Department of Public Health and Environment and any and all conditions, requirements or standards of the City.

- (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 GJMC 13.04.100, a direct connection shall be made to the public sewer in compliance with this Code 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.
- (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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-36; Code 1965 §§ 25-19 – 25-23)

13.04.120 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-37; Code 1965 § 25-24)

13.04.130 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-38; Code 1965 § 25-25)

13.04.140 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-39; Code 1965 § 25-26)

13.04.150 Building sewer – 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 Code.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-40; Code 1965 § 25-27)

13.04.160 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-41; Code 1965 § 25-28)

13.04.170 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-42; Code 1965 § 25-29)

13.04.180 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-43; Code 1965 § 25-30)

13.04.190 Building sewer – 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 in writing by the City Manager before installation.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-44; Code 1965 § 25-31)

13.04.200 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-45; Code 1965 § 25-32)

13.04.210 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-46; Code 1965 § 25-52)

13.04.220 General construction of private sewers.

The inside of every private sewer connecting with a public or sanitary sewer must be smooth and free from rock, dirt and debris throughout its entire length, and the ends of all pipes not to be immediately used must be securely guarded against the introduction of earthen material by brick and cement or other watertight and impervious metal, or seal.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-47; Code 1965 § 25-53)

13.04.230 Connection of property lying two miles outside City.

(a) It is the policy of the City and County to require connections to the POTW 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 POTW 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 POTW.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-48; Code 1965 §§ 25-45, 25-46)

13.04.240 Use of public sewers – Limitations on discharging certain substances, materials, waters, wastes.

No person shall discharge or cause to be discharged substances, materials, waters or waste(s) if it appears likely in the opinion of the City Manager that such wastes may harm the POTW, 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 waste(s), the City Manager will give consideration to such factors as the

nature and source of the wastes, quantities of waste(s) in relation to flows and velocities in the sewage treatment process, toxicity of the waste(s), capacity of the POTW and degree of treatability of waste(s) at the WWTP and other pertinent factors.

13.04.250 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:
 - (i) No restaurants or kitchen, 0.36 times number of rooms;
 - (ii) With kitchenette, 0.43 times number of rooms;
 - (iii) With restaurants, use subsection (a)(3)(i) of this section then add rates from subsection (a)(4) of this section.
 - (4) Restaurants:
 - (i) Greater than twelve hour operation to twenty-four-hour operation, 0.21 times number of seats;
 - (ii) Twelve-hour or less operation, 0.14 times number of seats;
 - (iii) Bar, no food, 0.04 times number of seats.
 - (5) Schools:
 - (i) No food or showers, 0.04 times number of student capacity;
 - (ii) For cafeterias, add to subsection (a)(5)(i) of this section 0.02 times number of student capacity;
 - (iii) For showers, add to subsection (a)(5)(i) of this section 0.02 times number of student capacity;
 - (iv) Boarding schools, 0.27 times number of student capacity.
 - (6) Service stations:
 - (i) Without wash rack, 1.00 EQU;
 - (ii) 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):
 - (i) Open 12 or more hours, 0.10 times number of employees;
 - (ii) 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 subsection (c) of this section. When 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 up or 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 shall be computed by dividing the expected flows by 280 gallons per day.
- (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 EQU for each employee.
 - (2) Industries which exceed the established limit of 200 mg/L for BOD₅ and 250 mg/L for TSS shall be charged at a rate calculated to represent the

actual cost to treat a pound of BOD₅ and TSS; this charge shall be in addition to the rate of 0.05 EQU for each employee.

- (3) In those instances when an industry may discharge a wastewater which exceeds the limit for BOD₅ and TSS allowed by other sections of this Code, its basic rate shall be calculated and an additional surcharge added to that calculated amount.
- (e) 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 POTW until a permit has been obtained from 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 POTW shall be borne by the property owner.
- (h) Tank truck operators disposing of wastewater will be assessed a treatment charge based on tank size or gallons discharged. Loads are measured by tank size or gallons. Acceptable water and waste for disposal shall exclude waste enumerated in GJMC 13.04.240 and GJMC 13.04.370 or which is otherwise regulated by a valid permit or similar regulated guideline.
- (i) Users of the POTW 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 that are greater, i.e., of higher strength or concentration, 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 shall be reviewed by the City from time to time and as determined by the City Manager.
- (k) The pro rata cost of connection shall constitute a sewer rental charge subject to lien under GJMC 13.04.330.

(Ord. 4476, 7-20-11; Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-55; Code 1965 § 25-44)

13.04.260 Service charges – 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. If water service is being commenced or changed a separate fee shall be charged therefore.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-56; Code 1965 § 25-47(a))

13.04.270 Service charges – 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 1) reconnect such water supply without the consent of the City, and/or 2) use hauled water in lieu of a permanent water supply. Any person violating this provision shall be deemed guilty of a misdemeanor.
- (c) A violation of this Code shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC 1.04.090. Each day or portion thereof that any violation of any provision of this Code exists shall constitute a separate offense.

(Ord. 4424 § 3, 5-5-10; Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-57; Code 1965 §§ 25-49, 25-51)

13.04.280 Plant investment fees and connection procedures – Purpose of fee.

The plant investment fee shall be charged 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-71; Code 1965 § 25-70)

13.04.290 Plant investment fees and connection procedures – 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 Basic Plant Investment fee (BPIF) to the City.
- (b) BPIFs shall be paid within 120 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.
- (c) The Basic Plant Investment Fee (BPIF) shall be as adopted by resolution of the City Council.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-72; Code 1965 §§ 25-71, 25-72)

13.04.300 Plant investment fees and connection procedures – Amount of fee.

- (a) The Plant Investment Fee 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 PIF for any building, lot or premises shall not be less than the BPIF.

Formula for PIF:

$$\text{PIF} = (\text{BPIF}) \times (\text{EQU})$$

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 dwelling above 1.00	EQU
(2)	Multiple-family dwellings, 0.72 x number of single-family units	EQU
(3)	Hotels and motels:	
	(i) No restaurants or kitchens, 0.36 x number of rooms	EQU
	(ii) With kitchenettes, 0.43 x number of rooms	EQU
	(iii) With restaurants: Use above then add restaurants from below	
(4)	Restaurants:	
	(i) Greater than twelve hour operation to twenty-four hour operation, 0.21 x number of seats	EQU
	(ii) Twelve-hour or less operation, 0.14 x number of seats	EQU
	(iii) Bar, no food, 0.04 x number of seats	EQU
(5)	Schools:	
	(i) No food or showers, 0.04 x number of student capacity	EQU
	(ii) Add to subsection (b)(5)(i) of this section for cafeterias, 0.02 x number of student capacity	EQU
	(iii) Add to subsection (b)(5)(i) of this section for showers, 0.02 x number of student capacity	EQU
	(iv) Boarding schools, 0.27 x 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 x number of thousand square feet of store space	EQU
(8)	Travel trailer park (KOA, etc.), 0.25 x number of trailer parking spaces	EQU
(9)	Churches and assembly halls, theaters and arenas, 0.01 x number of seating capacity	EQU

(10)	Drive-in theaters, 0.02 x number of car spaces	EQU
(11)	Factories, warehouses and offices (not including industrial waste), 0.05 x number of employees	EQU
(12)	Hospital, 0.89 x number of bed spaces	EQU
(13)	Institution – Nursing home, 0.36 x number of residences	EQU
(14)	Laundry, coin-operated, 0.90 x number of washing machines	EQU
(15)	Mobile home parks, 0.67 x 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

- (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 subsection (c) of this section. 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.
- (c) 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 daily flow 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.
- (d) Sewer extension charges are as established by resolution of the City Council.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-73; Code 1965 § 25-73)

13.04.310 Service charges – Declared lien – Collection.

All sewer charges, including but not limited to all rates (see definition, GJMC 13.04.010), 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 POTW, 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 one 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-58; Code 1965 § 25-48)

State law reference(s) – Interest rate, § 31-35-609, C.R.S.

13.04.320 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 GJMC 13.04.310.
- (b) The owner of the premises, as well as the occupants thereof, shall have 30 days to notify the City 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 30-day notification period.
- (c) In the event any user of the POTW neglects, fails or refuses to pay the rates, fees or charges imposed or levied by this Code for the connection or use of the POTW 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-59; Code 1965 § 25-47(b), (c))

13.04.330 Billing procedure – 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; 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-60; Code 1965 § 25-54)

13.04.340 Disposition, use of sewer revenues.

The funds received from the collection of the charges or rentals authorized by this Code shall be deposited with the City Manager and shall be deposited in a fund to be known

as the sewer fund and, when lawfully appropriated, shall be used for the maintenance, operation, extension and improvement of the POTW, and for interest on and discharging of principal of bonds and other obligations incurred in the acquisition, construction, improvement and extension of the POTW.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-61; Code 1965 § 25-50)

13.04.350 Industrial Pretreatment Program - Applicability, Objectives, Authority.

- (a) **Applicability:** This Code sets forth uniform requirements for all Industrial Users discharging to the POTW and enables the City to comply with all applicable State and Federal laws including the Clean Water Act and the General Pretreatment Regulations (40 CFR Part 403). Any Industrial User, the discharge from which directly or indirectly enters the POTW from areas within or without the boundaries of the City of Grand Junction or Mesa County, shall be bound by this Code as it now exists or may hereafter be amended. This Code may be enforced against any Industrial User.
- (b) **Objectives:** The objectives of this Code are:
 - (1) To prevent the introduction of pollutants into the Publicly-Owned Treatment Works (POTW) that will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) To prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
 - (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
 - (4) To provide for and promote the general health, safety and welfare of the citizens residing within the City or County and connecting jurisdictions;
 - (5) To enable the City to comply with its Colorado Discharge Permit System (CDPS) permit conditions, sewage sludge use and disposal requirements, and any other applicable federal or state laws or regulations to which the POTW is subject;
 - (6) To prevent adverse impacts to worker health and safety due to the discharge of pollutants from Industrial Users; and
 - (7) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW.
- (c) **Non-Domestic Industrial Users:** It shall be unlawful for any Industrial User to discharge any domestic or non-domestic wastewater into any natural waterway, any surface drainage, or storm drain in any area under the jurisdiction of the City.

No industrial wastewater shall be discharged to the POTW unless done so in compliance with the provisions of this Code.

(d) Responsibility and Authority of the City

- (1) Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this Code. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to other City personnel.
- (2) The City shall attempt to notify in writing any Industrial User whom they have cause to believe is subject to a National Categorical Pretreatment Standard or Requirement, or other applicable requirements promulgated by the EPA under the provisions of Section 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solid Waste Disposal Act. Failure of the City to so notify Industrial Users shall not relieve said Industrial Users from the responsibility of complying with applicable Pretreatment Standards and Requirements. It is the responsibility of Significant Industrial Users to apply for and receive a permit prior to discharge, whether or not the Industrial User has been identified and formally requested to do so.
- (3) If wastewaters containing any pollutant, including excess flow, or as otherwise defined in this Code, are discharged or proposed to be discharged to the POTW, the City may take any action necessary to:
 - (i) Prohibit the discharge of such wastewater;
 - (ii) Require an Industrial User to demonstrate that in-plant facility modifications will reduce or eliminate the discharge of such substances in conformity with this Code;
 - (iii) Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the potential for a discharge to violate this Code;
 - (iv) Require the Industrial User making, causing or allowing the discharge to pay any additional cost or expense incurred by the City for handling, treating, disposing or remediation costs as a result of wastes discharged to the wastewater treatment system;
 - (v) Require the Industrial User to apply for and obtain a permit;
 - (vi) Require timely and factual reports from the Industrial User responsible for such discharge; or
 - (vii) Take such other action as may be necessary to meet the objectives of this Code.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-62; Code 1965 § 25-57)

13.04.360 Industrial Pretreatment Program – Definitions and Abbreviations.

- (a) In addition to the definition of terms in GJMC 13.04.010, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Authorized Representative of the Industrial User is:

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

Best Management Practices (BMPs) are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the General and Specific Prohibitions listed in GJMC 13.04.370 of this Code. BMPs may also include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs shall be considered local limits and Pretreatment Standards for the purposes of this Code and Section 307(d) of the Act (40 CFR Section 403.5(c)(4)).

Categorical Industrial User means an Industrial User subject to a Categorical Pretreatment Standard.

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

City Manager means the City Manager for the City of Grand Junction or his/her designee.

Colorado Discharge Permit System or CDPS: The State of Colorado program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into waters of the state implemented by the Colorado Department of Public Health and Environment pursuant to Section 402 of the Clean Water Act.

Composite sample refers to a representative flow proportioned sample generally collected within a twenty-four (24) hour period and combined according to flow. Time proportional sampling may be approved or used by the City where time-proportional samples are believed representative of the discharge.

Control Authority refers to the City of Grand Junction and Mesa County, co-permittees on the CDPS Permit # CO0040053. Mesa County has delegated the authority to implement and enforcement the Pretreatment Program required by the CDPS Permit to the City of Grand Junction.

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. Cooling water includes:

- (i) Contact. Water used for cooling purposes which comes in contact with any raw material, intermediate product, waste product or finished product.
- (ii) Noncontact. Water used for cooling purposes which does not comes in contact with any raw material, intermediate product, waste product or finished product and the only pollutant added is heat.

Discharge. See Indirect Discharge.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency or, where appropriate, the Administrator or other duly authorized official of such Agency.

Existing Source is a source of discharge by an Industrial User, the construction of which commenced prior to the publication of a proposed Categorical Pretreatment Standard which is subsequently promulgated in accordance with Section 307 of the Clean Water Act, or as otherwise specified in the applicable Categorical Pretreatment Standard.

Fats, Oil and Grease (animal / vegetable) (FOG) is equivalent to the non-petroleum organic polar fraction of Hexane Extractable Material (HEM, polar material) derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules using methods approved in 40 CFR Part 136 as amended.

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

Holding tank waste means any waste from a holding tank such as vessels, chemical toilets, campers or trailers, septic tanks and vacuum pump tank trucks.

Indirect Discharge or Discharge means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act (including holding tank waste discharged to the system).

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

Industrial Discharge Permit means a permit issued to an Industrial User by the City that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW as set forth in GJMC 13.04.390 of this Code.

Industrial User or User means a source of Indirect Discharge.

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

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

- (i) Inhibits or disrupts the POTW treatment processes or operations or its sludge processes, use or disposal; and
- (ii) Therefore, is a cause of violation of any requirement of the City's CDPS permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued

hereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resources Conservation and Recovery Act (RCRA); any State regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solids Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limits means any regulation containing pollution discharge limits promulgated by the City in accordance with 40 CFR Section 403.5(c) and (d), which are deemed to be Pretreatment Standards and contained in GJMC 13.04.370 of this Code.

National Pollutant Discharge Elimination System or NPDES. See Colorado Discharge Permit System.

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 Section 403.3(m) and incorporated herein by reference.

Pass Through means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's CDPS permit including an increase in the magnitude or duration of a violation.

pH is the intensity of acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution and reported as Standard Units (SU).

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, septic waste, sewage sludge, munitions, chemical wastes, medical 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 man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR Section 403.6(d). Appropriate pretreatment technology includes control equipment, such as flow equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in a flow equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the flow

equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR Section 403.6(e).

Pretreatment Requirement(s) means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

Pretreatment Standard, National Pretreatment Standard, or Standard mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial Users. The term includes prohibitive discharge limits, local limits, and Best Management Practices that are or may be established by the City. In cases of differing standards or regulations, the more stringent shall apply.

Sector Control Program is any program designed to control specific pollutants from Industrial Users with similar operations, waste generation or treatment through the implementation of Pretreatment Standards and Requirements, including Best Management Practices. Sector Control Program requirements may be found at GJMC 13.04.460 of this Code.

Shall, will, may: “shall” and “will” are mandatory; “may” is permissive.

Significant Industrial User (SIU): Except as provided in paragraphs (iii) and (iv) of this definition, a Significant Industrial User is:

- (i) An Industrial User subject to Categorical Pretreatment Standards; or
- (ii) An Industrial User that:
 - (A) Discharges an average of twenty-five thousand gallons per day (25,000 gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (B) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (C) Is designated as such by the City on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or Requirement.
- (iii) The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than one hundred gallons per day (100 gpd) of total Categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met;

(A) The Industrial User, prior to the City's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(B) The Industrial User annually submits the certification statement as found in 40 CFR 403.12(g), together with any additional information necessary to support the certification statement; and

(C) The Industrial User never discharges any untreated concentrated wastewater.

(iv) Upon finding by the City that an Industrial User meeting the criteria in Section (ii) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Pretreatment Requirement the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with 40 CFR 403.8(f)(2), determine that such Industrial User is not a Significant Industrial User.

Slug Discharge refers to any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, or a discharge which exceeds the hydraulic or design of a Industrial Users treatment system or any part of the treatment unit which has a reasonable potential to cause Interference or Pass Through, or in any other way violate an applicable Pretreatment Standard or Pretreatment Requirement, this Code, or an Industrial User permit issued by the City.

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.

Total Recoverable Petroleum Hydrocarbon (TRPH) is equivalent to the non-polar fraction of Silica-Gel Treated Hexane Extractable Material (SGT-HEM, Non-polar material) using methods approved under 40 CFR Part 136 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 Act or as otherwise listed at 40 CFR Part 122, Appendix D.

User means Industrial User.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 4210, 4-2-08; Ord. 3722 § 3, 2-16-05; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-63; Code 1965 § 25-58)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

(b) The following abbreviations shall have the meanings designated in this section:

BMP:	Best Management Practices
BOD ₅ :	Biochemical Oxygen Demand ₅
BTEX:	Benzene, toluene, ethylbenzene and xylene
CDPHE:	Colorado Department of Public Health and Environment
CDPS:	Colorado Discharge Permit System
CFR:	Code of Federal Regulations
CWA:	Clean Water Act
EPA:	Environmental Protection Agency
FOG:	Fats, Oils and Grease (animal / vegetable)
mg/L:	milligrams per liter
O&M:	Operation and Maintenance
POTW:	Publicly-Owned Treatment Works
NPDES:	National Pollutant Discharge Elimination System
RCRA:	Resource Conservation and Recovery Act
SIC:	Standard Industrial Classification
SIU:	Significant Industrial User
SMR:	Self-Monitoring Report
SNC:	Significant Noncompliance
TRPH:	Total Recoverable Petroleum Hydrocarbons
TSS:	Total Suspended Solids
U.S.C.:	United States Code
WWTP:	Wastewater treatment plant.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 2892, 2-21-96. Code 1994 § 38-64; Code 1965 § 25-59)

13.04.370 Industrial Pretreatment Program – Prohibited Discharges and Limitations.

(a) General Discharge Prohibitions.

An Industrial User may not introduce into a POTW any pollutant(s) which cause(s) Pass Through or Interference. These General Prohibitions and the Specific Prohibitions in paragraph (b) of this Section apply to each Industrial User, unless otherwise specified, introducing pollutants into a POTW whether or not the Industrial User is subject to other Pretreatment Standards or Requirements.

(b) Specific Prohibitions

- (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR Section 261.21. The City Manager may require Industrial Users with the potential to discharge flammable, combustible or explosive substances to install and maintain an approved combustible gas detection meter or explosion hazard meter. No two successive readings on an explosion hazard meter at the point of discharge shall be more than five

percent (5%), or any one reading more than ten percent (10%), of the Lower Explosive Limit (LEL) of the meter.

- (2) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 S.U., unless the works is specifically designed to accommodate such discharges.
- (3) Any solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in Interference.
- (4) Any pollutant, including oxygen demanding pollutants (BOD₅, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.
- (5) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 degrees Celsius (104°F) unless the EPA, upon request of the POTW, approves alternate temperature limits. No liquid or vapor having a temperature higher than 150 degrees Fahrenheit or exceeding any lower limit fixed by the City Manager to prevent odor nuisance shall be discharged.
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the City. The discharge of any trucked or hauled waste originating outside of Mesa County is prohibited.
- (9) The following nondomestic discharge limitations are established to protect sludge quality and prevent Pass Through and Interference with the proper operation of the POTW. These limits are shown in maximum allowable concentrations:

(i)	Cyanide	1.2 mg/L
(ii)	Benzene	50.0 µg/L
(iii)	BTEX (aggregate parameter of benzene, ethyl benzene, toluene, and xylene)	750 µg/L
(iv)	Fats, Oil and Grease (animal/vegetable)	200 mg/L
(v)	Total Recoverable Petroleum Hydrocarbons	50 mg/L

- (10) Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants, unless agreed to by the City Manager.
- (11) 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 Manager.
- (12) Bulk, expired, outdated or concentrated prescription or non-prescription drugs.
- (13) Any waters or wastes containing grease or oil or other substances that will solidify or become discernibly viscous at temperatures between 32 degrees Fahrenheit (32°F) and 150 degrees Fahrenheit (150°F).
- (14) 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 POTW.
- (15) 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.
- (16) 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.
- (17) A Slug Discharge as defined in GJMC 13.04.360(a).
- (18) Stormwater drainage from ground resulting in infiltration and inflow (I&I) through the Industrial User's service line(s) or surface, roof drains, catch basins, unroofed area drains (e.g. commercial car washing facilities) or any other source unless otherwise approved by the City Manager. Specifically prohibited is the connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to the City's wastewater collection system. No Industrial User shall connect or discharge water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction activities.
- (19) Any pollutant or Discharge directly into a manhole or other opening in the POTW unless specifically authorized by the City Manager or as otherwise permitted under this Code. Prohibited is the opening of a manhole or discharging into any opening in violation of this Code.
- (20) Liquid wastes from chemical toilets and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other

containers shall not be discharged into the POTW except at locations authorized by the City to collect such wastes.

- (21) No chemicals, materials, or substances, including but not limited to, paints, solvents, boiler or water treatment chemicals, sludges, chemicals, or wastes shall be stored in proximity to a floor drain or other sewer openings. Containers shall be clearly labeled and stored in a place where the chemicals, materials, substances or wastes, in case of leakage or rupture of the container, cannot enter the wastewater collection system. The storage of any chemicals, materials, substances or wastes that leak or have potential to leak or discharge into the wastewater collection system which may create an explosion hazard or in any way have a deleterious effect to the POTW or constitute a nuisance or a hazard to POTW personnel, the general public, the environment, or the receiving stream shall be prohibited.
 - (22) Any water contaminated as a result of discharge from aboveground and/or underground gasoline, diesel fuels, fuel oil, kerosene, and jet fuel tanks, tank accessories, and/or pipelines without applying for and obtaining a permit prior to discharge.
 - (23) Any wastes containing detergents, surface-active agents, or other substances in concentrations which causes or may cause excessive foaming in the POTW or cause or contribute to Interference or Pass Through.
 - (24) Any pollutant or wastewater containing pollutants with UV (254 nm) absorbing substances which causes or may cause interference with UV disinfection at the WWTP.
 - (25) Wastes that have been collected and/or held in a tank or other container and where such wastes fail to comply with any Pretreatment Standard or Requirement.
 - (26) Discharge of nonylphenol from the use of bulk or concentrated nonylphenol containing detergents as employed by some industrial or commercial laundries, car washes or asphalt manufacturers or other Industrial Users.
 - (27) Discharge of any wastewater containing perchloroethylene (PCE) (also known as tetrachloroethene and tetrachloroethylene) from any Industrial User involved in the dry cleaning business.
- (c) Dilution is prohibited as a substitute for treatment; dilution when used or attempted as a substitution for treatment shall be a violation of this Code. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water or in any other way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Pretreatment Requirement. The City may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or

Requirements or in other cases where the imposition of mass limitations is appropriate.

(d) Specific Discharge Limitations - Mass-Based Local Limits.

The following mass loadings reflect the total pounds per day that can be allocated to all Significant Industrial Users and other permitted Industrial Users by the City. The City, at its sole discretion, includes the industry specific allocation in the Industrial User's Industrial Discharge Permit as a mass or concentration-based limit.

Pollutant	Pounds Per Day
Arsenic	12.300
Cadmium	3.057
Chromium (Total)	67.685
Chromium (VI)	2.960
Copper	41.350
Lead	14.095
Molybdenum	7.652
Mercury	0.026
Nickel	23.937
Selenium	0.278
Silver	3.015
Zinc	104.246

(e) Surcharge. Industrial Users that discharge wastewater the exceeds Normal Domestic Strength Wastewater as defined in GJMC 13.04.010 may be surcharged in accordance with adopted surcharge rates for flow, BOD₅ and/or TSS (see GJMC 13.04.250). In no case shall a surcharge be allowed that causes a violation of the General or Specific Prohibitions, an Industrial Discharge Permit, results in a Mass-Based Local Limit to be exceeded, causes the WWTP hydraulic or treatment capacity to be exceeded or results in a violation of a Categorical Pretreatment Standard.

(f) All Industrial Users subject to a Categorical Pretreatment Standard shall comply with all requirements of such Standard, and shall also comply with any limitations contained in this Code. Where the same pollutant is limited by more than one Pretreatment Standard, the limitations which are more stringent shall prevail. Compliance with Categorical Pretreatment Standards shall be in the timeframe specified in the applicable Categorical Pretreatment Standard.

- (g) The City may establish more stringent pollutant limits, additional site-specific pollutant limits, Best Management Practices, and/or additional Pretreatment Requirements when, in the judgment of the City, such limitations are necessary to implement the provisions of this Code.
- (h) Promulgation of Standards.
 - (1) Upon the promulgation of the Federal Categorical Pretreatment Standard for a particular industrial subcategory, the Federal standard, if more stringent than limitations imposed by this Code for sources in that subcategory, shall immediately supersede the limitations imposed by this Code as required by the applicable Categorical Pretreatment Standard.
 - (2) State requirements and limitations on discharges shall apply in any case where they are more stringent than federal Pretreatment Standard and Pretreatment Requirements or those in this Code.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 4122, 10-17-07; Ord. 3615, 4-7-04; Ord. 3045, 2-18-98; Ord. 2892, 2-21-96. Code 1994 § 38-49; Code 1965 § 25-33)

13.04.380 Industrial Pretreatment Program – Pretreatment and Monitoring Facilities, Right of Entry and Search Warrants.

- (a) Pretreatment and Monitoring Facilities
 - (1) Treatment Required: An Industrial User shall provide necessary wastewater treatment at the Industrial User's expense as required to comply with this Code and shall achieve compliance with all Pretreatment Standard and Pretreatment Requirement(s) within the time limitations specified by the EPA, the State, or the City, whichever is more stringent. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City Manager for review and shall be deemed acceptable by the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the Industrial User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Code.
 - (2) Wastewater Discharge Control: The City may require an Industrial User to restrict discharge during peak flow periods, designate that certain wastewater be discharged only into specified sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and demonstrate the Industrial User's compliance with the requirements of this Code.
 - (3) Flow Equalization: The City may require any Industrial User discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization

of flow. An Industrial Discharge Permit may be issued solely for flow equalization.

- (4) **Monitoring Facilities:** The City may require an Industrial User to install at the Industrial User's expense, a manhole and suitable monitoring facilities or equipment that allows for the representative sampling and accurate observation of wastewater discharges and be maintained by the Industrial User so as to be safe and accessible at all times. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the City's requirements and all applicable construction standards and specifications. Monitoring equipment and structures shall be maintained in proper working order and kept safe and accessible at all times to City personnel. The monitoring equipment shall be located and maintained on the Industrial User's premises outside of the building unless otherwise approved by the City. When such a location would be impractical, the City may allow such facility to be constructed in the public street or easement area, with the approval of the agency having jurisdiction over such street or easement, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.
- (5) **Multi-tenant Buildings:** When more than one Industrial User is able to discharge into a common service line, the City may require installation of separate monitoring and/or metering equipment for each Industrial User.
- (6) **Flow, pH and Lower Explosive Limit (LEL) Meters:** If the City determines that an Industrial User needs to measure and report wastewater flow and/or discharge process wastewaters necessitating continuous pH measurement and/or discharge wastewater that may contain flammable substances, they may be required to install and maintain, at the Industrial User's expense, approved meters, structures and equipment.
- (7) Unless approved by the City Manager in writing, no Industrial User shall cover any manhole, sewer cleanout, or other openings in the wastewater collection system with earth, paving, or otherwise render it inaccessible.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-67; Code 1965 § 25-62)

(b) **Right of Entry.**

- (1) Whenever it shall be necessary for the purposes of this Code, the City may enter upon any Industrial User's facility, property or premises for the purposes of:
 - (i) Performing all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Pretreatment Requirements by an Industrial User. Compliance monitoring and inspection shall be

conducted at a frequency as determined by the City and may be announced or unannounced;

- (ii) Examining and copying any records required to be kept under the provisions of this Code or of any other local, state or federal regulation;
 - (iii) The City may use electronic means of its choosing to photograph, videotape and/or digitally collect and preserve images and sound of any areas of any facility as deemed necessary by the City for carrying out the duties of the industrial pretreatment program including, but not limited to, documentation of the Industrial User's compliance status and for reinforcement of required written reports. The Industrial User shall be allowed to review copies of data the City obtains so that the Industrial User may assert confidentiality.
 - (iv) Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation;
 - (v) Sampling any discharge of wastewater into POTW; and/or
 - (vi) Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under this Code, could originate, be stored, or be discharged to the POTW.
- (2) The occupant of such property or premises shall render all proper assistance in such activities. Where an Industrial User has security measures in place which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements with its security personnel so that authorized representatives of the City will be permitted to enter without delay to perform their specified functions.
- (3) The City Manager and other duly authorized agents and employees of the City are entitled to enter all private properties through which the City or any connecting jurisdiction holds an easement.
- (4) Failure to allow entry or unreasonable delays: In the event the City or other duly authorized representative of the City is refused admission or unreasonably delayed is a violation and may result in enforcement action as allowed for under this Code including revocation of the Industrial Discharge Permit.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the City Manager and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User.
- (c) Search Warrants.

If the City Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Code or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the City Manager may, with the assistance of the City Attorney, seek issuance of a search warrant from the Grand Junction Municipal Court.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3722 § 4, 2-16-05; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-65; Code 1965 § 25-60)

13.04.390 Industrial Pretreatment Program – Industrial Discharge Permits.

(a) Permits Required.

All Significant Industrial Users proposing to connect to, or discharge into, any part of the wastewater system shall apply for and obtain an Industrial Discharge Permit prior to commencing discharge to the POTW. A separate permit may be required for each Industrial User, building or complex of buildings. Such Significant Industrial Users shall immediately contact the City and obtain an Industrial Waste Discharge Permit.

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

Any Industrial User required to obtain an Industrial Discharge Permit who proposes to begin or recommence discharging into the POTW must apply for and obtain such permit prior to the beginning or recommencing of such discharge. The Industrial User shall file a permit application on forms provided by the City containing the information specified in GJMC 13.04.390(f) below. The completed application for the Industrial Discharge Permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence. The City may issue a permit at any time after receipt of the completed permit application.

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

An Industrial User with an expiring Industrial Discharge Permit shall apply for a new permit by submitting a complete permit application at least ninety (90) days prior to the expiration of the Industrial User's existing discharge permit. The Industrial User shall file a permit application on forms provided by the City containing the information specified in GJMC 13.04.390(f) below. An Industrial User with an existing permit that has filed a complete and timely application may continue to discharge as approved in writing by the City through an administrative extension of the existing permit if the delay in permit issuance is not due to any act or failure to act on the Industrial User's part.

(d) Other Industrial Users.

The City may require other Industrial Users to apply for and obtain wastewater discharge permits or similar control mechanisms necessary to carry out the purposes of this Code. The City may issue a zero discharge permit to prohibit the discharge of some or all non-domestic process wastewater from an Industrial User.

(e) Enforceability.

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

(f) Permit Application Contents.

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

- (1) Name of business, address of the facility, location of the discharge if different from the facility address, and contact information of the Authorized Representative of the Industrial User.
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations.
 - (i) A thorough and detailed description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production);
 - (ii) The Standard Industrial Classification(s) of the operation(s) carried out by such Industrial User;
 - (iii) A schematic process diagram, which indicates all process tanks, process lines, treatment systems, drains, and points of discharge to the POTW from the regulated process;
 - (iv) Types of wastes generated;
 - (v) A list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (vi) A list of hazardous waste(s) generated and a description of the storage area and procedures for the wastes;

- (vii) Number of employees; and
- (viii) Hours of operation, and proposed or actual hours of operation.
- (4) Time and duration of discharges including the date the Industrial User first began discharge or plans to discharge to the POTW.
- (5) The location for sampling the wastewater discharges from the Industrial User.
- (6) Flow measurement. Information showing the average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR Section 403.6(e). For New Sources and new permittees not currently discharging, an estimate of flows may be used for meeting the requirements of the Baseline Monitoring Report required in GJMC 13.04.450(b).
- (7) Measurement of Pollutants.
 - (i) The Pretreatment Standards applicable to each regulated process;
 - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass of regulated pollutants in the discharge from each regulated process where required by the Standard or by the City;
 - (iii) Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported;
 - (iv) The sample shall be representative of daily operations and shall be collected in accordance with procedures set out in GJMC 13.04.440 or GJMC 13.04.450(b)(3) as appropriate. Where the Standard requires compliance with a BMP or pollution prevention alternative, the Industrial User shall submit documentation as required by the City for the applicable Standards to determine compliance with the Standard; and
 - (v) Analyses must be performed in accordance with procedures set out in GJMC 13.04.440(c).
- (8) A list of hazardous waste(s) generated and a description of the storage area and procedures for the wastes.
- (9) Slug Discharge Control Plan for Significant Industrial Users as described in GJMC 13.04.450(d) shall be submitted and for Non-Significant Industrial User as required by the City.

- (10) Compliance Schedule. If additional pretreatment and/or Operation and Maintenance (O&M) will be required to meet the Pretreatment Standards, the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

- (i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable Pretreatment Standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No such increment shall exceed nine (9) months.
- (ii) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the City Manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the City Manager.
- (11) Certification. A statement, reviewed by an Authorized Representative of the Industrial User and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional Pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements.
- (12) Signatory Certification. All Industrial Discharge Permit applications and certification statements must be signed by an Authorized Representative of the Industrial User and contain the applicable certification statement(s) in GJMC 13.04.450(g).
- (13) Any other information as may be deemed by the City Manager to be necessary to evaluate the permit application.
- (g) Industrial Discharge Permit Issuance.
- (1) Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than five (5) years at the City's discretion or may be stated to expire on a specific date.

- (2) Where the City is establishing enforceable permit specific Pretreatment Standard or Pretreatment Requirements that are not otherwise contained in this Code, the Industrial Discharge Permit shall be noticed for public comment for thirty (30) days in a newspaper of general circulation that provides meaningful public notice.
 - (3) The City shall issue an Industrial Discharge Permit to the applicant if the City finds that all of the following conditions are met:
 - (i) The applicant has provided a timely and complete permit application to the City;
 - (ii) The proposed discharge by the applicant is in compliance with the limitations established in this Code;
 - (iii) The proposed operation and discharge of the applicant would permit the normal and efficient operation of the POTW; and
 - (iv) The proposed discharge by the applicant would not result in a violation by the City of the terms and conditions of its CPDS Permit or cause Pass Through or Interference.
 - (4) If the City finds that the condition set out in Subsection (3)(ii) of this Section is not met, the City may, at their discretion, issue an Industrial Discharge Permit to the applicant if the conditions set out in subsections (3)(i), (3)(iii) and (3)(iv) of this Section have been met and if the applicant submits, and the City approves, a compliance schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to insure compliance with applicable Pretreatment Standards. At no time shall a discharge be allowed to cause a violation of any General or Specific Prohibition established in GJMC 13.04.370 nor shall the final compliance date for a Categorical Pretreatment Standard be extended.
 - (5) Any Industrial User, may petition the City to reconsider the terms of an Industrial Discharge Permit within 10 working days of the permit issuance date. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal. In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the Industrial Discharge Permit. The effectiveness of the Industrial Discharge Permit shall not be stayed pending the appeal. If the City does not act on such appeal within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider, not to issue an Industrial Discharge Permit, or not to modify a permit, shall be considered final administrative action for purposes of judicial review.
- (h) Denial by City to Issue a Permit
- (i) In the event the City denies an Industrial User's request for a permit to discharge, the City Manager shall notify the applicant in writing of such

denial. Such notification shall state the grounds for such denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.

- (ii) Upon receipt of notification of denial of permit issuance, the applicant may request a hearing to be held by the City Manager, provided the request is submitted in writing to the City Manager within 10 working days of receipt of the City's original notification. At such hearing the applicant shall have the burden of establishing that the conditions set out in GJMC 13.04.390(g) above are met.
- (iii) Upon review of the evidence, the City Manager shall make written findings of fact. Thereupon the City may issue an order issuing an Industrial Discharge Permit, or directing that such permit shall not be issued, or giving such other or further orders and directives as are necessary and appropriate.
- (i) **Transferability.** Industrial Discharge Permits are issued to a specific Industrial User for a specific operation. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new Industrial User, different premises, or a new or changed operation without the prior written approval of the City. Any succeeding owner shall comply with the terms and conditions of the existing permit until a new permit is issued. The Permittee shall notify the City at least ten (10) working days prior to any change of ownership.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-67; Code 1965 § 25-62)

13.04.400 Industrial Pretreatment Program – Industrial Discharge Permit Conditions.

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

- (a) A statement that indicates the permit's issuance date, expiration date and effective date;
- (b) A statement on permit transferability;
- (c) The unit charge or schedule of user charges and fees for the wastewater to be discharged into a public sewer;
- (d) Limits on the average and/or maximum wastewater constituents and characteristics including, but not limited to, effluent limits, including Best Management Practices, based upon applicable Pretreatment Standards;
- (e) Limits on average and maximum rate and time of discharge or requirements for flow;

- (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (g) Self-monitoring, sampling, reporting, notification and record-keeping requirements including, but not limited to, identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on federal, state and local law;
- (h) Best Management Practices (BMPs) to control specific pollutants as necessary to meet the objectives of this Code;
- (i) Compliance Schedules;
- (j) Requirements for notification of the City of any new introduction of wastewater constituents or any significant change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (k) Requirements to control and report any slug discharges and notify the City immediately of any changes at its facility affecting potential for a Spill or Slug Discharge and to notify the POTW immediately in the event of a slug, spill or accidental discharge to the POTW;
- (l) Statements of applicable administrative, civil and criminal penalties for the violation of Pretreatment Standards and Requirements, the permit, this Code, and any applicable compliance schedule;
- (m) Requirements to reapply for a new permit prior to expiration of the existing permit;
- (n) Additional monitoring to be reported;
- (o) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (p) Closure requirements for permitted facilities undergoing partial or complete closure activities to ensure closure activities are completed and wastes have been properly disposed and remaining access to sanitary and storm sewers are protected;
- (q) Other conditions as deemed appropriate by the City Manager to ensure compliance with this Code.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-67; Code 1965 § 25-62)

13.04.410 Industrial Pretreatment Program – Industrial Discharge Permit Modification.

The Industrial User shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. The notification of an Industrial Discharge Permit Modification does not stay any wastewater discharge permit condition. The City may modify an Industrial Discharge Permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;
- (b) To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of the Industrial Discharge Permit issuance;
- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) Information indicating that the permitted discharge may pose a threat to the POTW, City personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the Industrial Discharge Permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the Industrial Discharge Permit application or in any required reporting;
- (g) To reflect a transfer of the facility ownership and/or operation to a new owner/operator; or
- (h) To correct typographical or other errors in the Industrial Discharge Permit.
- (i) Upon request of the Permittee, provided such request does not result in a violation of any applicable Pretreatment Standards or Requirements, or this Code. The filing of a request by the Permittee for a permit modification does not stay any permit condition.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-67; Code 1965 § 25-62)

13.04.420 Industrial Pretreatment Program – Industrial Discharge Permit Revocation.

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

- (a) Failure of an Industrial User to accurately and/or truthfully report any information on any City required form and/or application and/or disclose and/or report the wastewater constituents and characteristics of any discharge; or

- (b) Failure of the Industrial User to report significant changes in operations or wastewater constituents and characteristics as required; or
- (c) Refusal of access to the Industrial User's premises for the purpose of inspection or monitoring; or
- (d) Falsification of records, reports or monitoring results; or
- (e) Tampering with monitoring equipment; or
- (f) Misrepresentation or failure to fully disclose all relevant facts in the Industrial Discharge Permit application; or
- (g) Failure to pay fines or penalties; or
- (h) Failure to pay sewer charges, surcharges, or pretreatment programs fees; or
- (i) Failure to meet compliance schedules; or
- (j) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (k) Failure to provide required reports, including but not limited to, a wastewater survey, baseline monitoring report, 90-day compliance report, permit application, self-monitoring report or other permit required reports or notifications within the timeframe required by the City; or
- (l) Violation of any Pretreatment Standard or Requirement, or any terms of the Industrial Discharge Permit or this Code.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-68; Code 1965 § 25-62)

13.04.430 Industrial Pretreatment Program – Recordkeeping.

- (a) All Industrial Users shall retain, and make available for inspection and copying, all records, reports, monitoring or other data, applications, permits and all other information and documentation required by this Code including documentation associated with Best Management Practices.
- (b) Industrial Users shall retain such records and shall keep such records available for inspection for at least three (3) years. This recordkeeping period shall be extended automatically for the duration of any litigation concerning the Industrial User's compliance with any provision of this Code, or when the Industrial User has been specifically and expressly notified of a longer records retention period by the City Manager.
- (c) Written reports will be deemed to have been submitted on the date postmarked by the public or private delivery service. For reports which are not mailed, postage

prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

Reports received by fax or email shall be deemed submitted only if:

- (1) The report that is faxed or emailed is deemed complete by the City;
- (2) The report contains an affirmative statement and signature of the Authorized Representative that such report being faxed or emailed is being sent by the Authorized Representative; and
- (3) The original, signed report is mailed and received within five (5) days by the City.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-68; Code 1965 § 25-62)

13.04.440 Industrial Pretreatment Program – Sample Collection and Analytical Methods.

(a) Sample Collection.

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

(b) Sample Type.

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

- (1) Except as indicated in subparagraph (2) below, the Industrial User must collect representative wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is required by the City. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the permitted discharge. For the reports required by GJMC 13.04.450(a), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.
- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, total recoverable petroleum hydrocarbons and volatile organic compounds must be obtained using grab collection techniques. Using protocols, including appropriate preservation, specified in 40 CFR Part

136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composited samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous local limits, including pH.

(c) Analytical Requirements.

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

(d) Records shall include for all samples:

- (1) The date, exact place, method, and time of sampling and the name of the person(s) taking the samples; and
- (2) The number, size and bottle type (plastic or glass) for each analyses; and
- (3) The sample type (grab or composite); and
- (4) The date and time the sample was relinquished to and received by the testing laboratory; and
- (5) The date, time and type of sample preservative added; and
- (2) The date(s) and time analyses were performed; and
- (3) The name of the person performing the analyses; and
- (4) The analytical techniques/methods used, including method detection limits and Quality Assurance /Quality Control (QA/QC) sample results; and
- (5) Calibration and maintenance records; and
- (6) All chain-of-custody records; and
- (7) The results of such analyses.

(e) The laboratory performing the sample analyses that certifies the validity of the sample analyses with EPA criteria required to be submitted to the City must sign and attach the following certification statement with each such lab report or information to the City:

"I certify that these analyses and resulting report(s) were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly analyze all samples and accurately report the results. I further certify that all analyses were performed in accordance with

methods approved for wastewater analyses under the latest version of 40 CFR Part 136. Based on my inquire of the person or persons who manage the system, or those persons directly responsible for analyzing the wastewater samples and generating the report(s), the analyses, report and information submitted is, to the best of my knowledge and belief, true, accurate and complete.”

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-67; Code 1965 § 25-62)

13.04.450 Industrial Pretreatment Program – Reporting and Notification Requirements.

(a) Self-Monitoring Reports (SMR) for all Significant Industrial Users.

- (1) Any Significant Industrial User or other Industrial User required by the City, subject to a federal, state, or City Pretreatment Standard or Requirement must submit Self-Monitoring Reports (SMR), at a frequency determined by the City but no less than once per six (6) months, indicating the nature, concentration (e.g. minimum, average and maximum) of pollutants in the discharge which are limited by Pretreatment Standards and the flow (e.g. minimum, average and maximum daily flows) for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the Industrial User must submit documentation required by the City or the Pretreatment Standard necessary to determine compliance status of the Industrial User. All Self-Monitoring Reports must be signed and certified in accordance with GJMC 13.04.450(g).
- (2) All wastewater samples must be representative of the Industrial User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that the sample results are unrepresentative of its discharge.
- (3) If an Industrial User monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City, using the methods and procedures prescribed in GJMC 13.04.440, the results of this monitoring shall be included in the Self-Monitoring Report.
- (4) The sampling and analyses required for the reporting outlined above may be performed by the City in lieu of the permittee. Where the City itself makes arrangements with the Industrial User to collect all the information required for the report, the Industrial User will not be required to submit the report.

(b) Requirements for New Categorical Industrial Users

- (1) Baseline Monitoring Reports (BMR) – Categorical Industrial Users.

- (i) Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR Section 403.6(a)(4), whichever is later, existing Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the City a Baseline Monitoring Report (BMR) which contains the information listed in GJMC 13.04.390(f).
 - (ii) At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Pretreatment Standard, shall submit to the City a Compliance Report which contains the information listed in GJMC 13.04.390(f). A New Source shall report the method of pretreatment it intends to use to meet applicable Pretreatment Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged from regulated process streams and other non-process streams.
- (2) 90-Day Compliance Reports – Categorical Industrial Users.
- (i) New Sources: All New Sources subject to existing Categorical Pretreatment Standards shall submit a report to the City within ninety (90) days from the date of first discharge to the POTW demonstrating actual and continuing compliance with those Standards.
 - (ii) Existing Sources: All Existing Sources required to comply with newly promulgated Categorical Pretreatment Standards shall submit a report to the City within ninety (90) days of the date on which compliance is required with those Standards demonstrating that actual and continuing compliance with such Standards has been achieved.
 - (iii) Such 90-day Compliance Report shall contain at a minimum the information required in GJMC 13.04.390(f), subparagraphs (6), (7), (10), (11), (12) and (13).

(3) Sampling and Monitoring Requirements

For sampling required in support of Baseline Monitoring and 90-day Compliance Reports in paragraph (b)(1) and (b)(2) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical representative sampling data do not exist. Where historical data are available, the City may authorize a lower minimum.

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

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

- (1) The City performs sampling at the Industrial User's facility at a frequency of at least once per month.
 - (2) The City performs sampling at the Industrial User's facility between the time when the Industrial User performs its initial sampling and the time when the Industrial User receives the results of this sampling. It is the sole responsibility of the Industrial User to verify if the City has performed this sampling.
- (d) Slug and Spill Discharges - Notification and Plan Development.
- (1) Each Industrial User shall provide protection from spills and slug discharges of pollutants regulated under this Code. Facilities to prevent the discharge of spills or slug discharges shall be provided and maintained at the Industrial User's expense.
 - (2) It is the responsibility of the Industrial User to comply with the reporting requirements in this section
 - (3) Each permitted Industrial User shall immediately report all spills to the City that occurs within the boundaries of the Industrial User's facility and property whether or not the spill results in a discharge to the POTW.
 - (4) The City shall evaluate whether each Significant Industrial User needs a Slug/Spill Discharge Control Plan or other action to control spills and slug discharges. The City may require an Industrial User to develop, submit for approval, and implement a Slug/Spill Discharge Control Plan or take such other action that may be necessary to control spills and slug discharges.
 - (5) A Slug/Spill Discharge Control Plan shall address, at a minimum, the following:
 - (i) Detailed plans (schematics) showing facility layout and plumbing representative of operating procedures;
 - (ii) Description of contents and volumes of any process tanks;
 - (iii) Description of discharge practices, including non-routine batch discharges;
 - (iv) Listing of stored chemicals, including location and volumes;

- (v) Procedures for immediately notifying the City of any spill or Slug Discharge;
 - (vi) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response; and
 - (vii) Any other information as required by the City.
- (6) Notice to employees. A prominent notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who work in any area where an accidental or slug discharge may occur or originate are advised of the emergency notification procedures.
- (e) Reports of Potential Problems – Slug Discharges.
- (1) In the case of any changes at its facility affecting the potential for a Slug Discharge as defined in GJMC 13.04.360(a), or any actual discharge, including, but not limited to, spills, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a discharge that may cause potential problems for the POTW, the Industrial User shall immediately telephone and notify the City of the incident. This notification shall include all of the following:
 - (i) Name of the facility
 - (ii) Location of the facility
 - (iii) Name of the caller
 - (iv) Date and time of discharge
 - (v) Date and time discharge was halted
 - (vi) Location of the discharge
 - (vii) Estimated volume of discharge
 - (viii) Estimated concentration of pollutants in discharge
 - (ix) Corrective actions taken to halt the discharge
 - (x) Method of disposal if applicable
 - (2) Within five (5) working days following such discharge, the Industrial User shall, unless waived by the City, submit a detailed written report that includes all of the information contained in (e)(1) above and any other information describing the cause(s) of the discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property;

nor shall such notification relieve the Industrial User of any fines, penalties, or other liability which may be imposed pursuant to this Code.

(f) Reports for Industrial Users other than Significant Industrial Users.

If the City deems it necessary to assure compliance with provisions of this Code, any Industrial User of the POTW may be required to submit an Industrial Discharge Permit Application, questionnaire or other reports and notifications in a format and timeframe as specified by the City.

(g) Signatory Certification.

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

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

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

- (2) If the Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this Section and meeting the definition in GJMC 13.04.360(a) must be submitted to the City prior to or together with any reports to be signed by an Authorized Representative.

(h) Compliance Schedules.

Should any schedule of compliance be established in accordance with the requirements of this Code, the compliance schedule shall be as specified in GJMC 13.04.390(f)(10).

(i) Change in Discharge or Operations.

- (1) Every permitted Industrial User shall file a notification with the City a minimum of ten (10) working days prior to any planned significant change or within 24 hours of any unplanned significant change in operations or wastewater characteristics. A significant change shall be a change equal to or greater than twenty percent (20%) in the mass of a pollutant or volume

of flow discharged to the POTW. In addition, this notification shall include changes to:

- (i) Adding or removing processing, manufacturing or other production operations;
 - (b) New pollutants used which may be discharged; and
 - (c) Changes in the listed or characteristic hazardous waste for which the Industrial User has submitted or is required to submit information to the City under this Code and 40 CFR Section 403.12 (p) as amended.
- (2) Known or anticipated facility closure. The Industrial User is required to notify the City at least thirty (30) days prior to facility shutdown or closure which might alter the character, nature, quality or volume of its wastewater.
- (j) Notification of the Discharge of Hazardous Wastes
- (1) Any Industrial User shall notify the City of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification to the City shall be made immediately, but not to exceed twenty-four (24) hours, after becoming aware of the discharge.

Such notification must include all of the following:

- (i) The name of the hazardous waste as set forth at 40 CFR Part 261;
 - (ii) The EPA hazardous waste number;
 - (iii) The type of discharge (continuous, batch, or other);
 - (iv) An identification of the hazardous constituents contained in the wastes;
 - (v) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
 - (vi) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;
 - (vii) Certification that the Industrial User has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and
 - (viii) Signatory certification as required by GJMC 13.04.450(g).
- (2) Within five (5) working days following such discharge, the Industrial User shall, unless waived by the City, submit a detailed written report that

includes all of the information contained in (j)(1)(i) – (viii) above and any other information describing the cause(s) of the discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, penalties, or other liability which may be imposed pursuant to this Code.

- (2) Any Industrial User shall notify the EPA Regional Waste Management Division City Manager, and state hazardous waste authorities, in writing, of the discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261 and meets the reporting criteria specified at 40 CFR 403.12(p). Notification to the State and EPA is the responsibility of the Industrial User and shall be made as required under 40 CFR Section 403.12(p). The Industrial User shall copy the City on all notifications made to the State and EPA.
- (3) In the case of any new regulation under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the Industrial User must notify the City, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (4) This provision does not create a right to discharge any substance not otherwise approved by the City or allowed to be discharged by this Code, a permit issued hereunder, or any applicable federal or State law.

(k) Requests for Information

- (1) A permittee shall furnish to the City, within the timeframe set by the City Manager, any information which the City may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating an Industrial Discharge Permit, or to determine compliance with the Industrial Discharge Permit or this Code. A permittee shall also, upon request, provide to the City, within the timeframe required by the City Manager, copies of any records that are required by the Industrial Discharge Permit or this Code. Failure to provide information within the timeframe specified shall be a violation of this Code.
- (2) When requested by the City, any Industrial User shall submit information to the City Manager regarding industrial processes, nature and characteristics of wastes and wastewaters generated at the industrial facility, method of disposal of wastes, or other information required by the City Manager to meet the responsibilities under this Code, State law and 40 CFR Part 403. Failure to provide information within the timeframe specified shall be a violation of this Code.

(l) Confidential Information - Disclosure of Information and Availability to the Public.

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

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

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

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-68; Code 1965 § 25-62)

13.04.460 Industrial Pretreatment Program – Sector Control Programs.

(a) Authority.

The City may establish specific sector control programs for Industrial Users to control specific pollutants as necessary to meet the objectives of this Code. Pollutants subject to these sector control programs shall generally be controlled using Best Management Practices (BMPs).

(b) Facility Identification and Compliance.

The City shall implement procedures to identify Industrial Users for inclusion into applicable sector control programs. Once identified and included into one or more sector control program, the facility shall be required to comply with the applicable sector control program requirements.

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

The City shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other change that could change the nature, properties, or volume of wastewater discharge, to ensure that current sector control program requirements are incorporated and implemented.

(d) The Industrial User subject to a Sector Control Program shall inform the City prior to:

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

(e) Inspections.

- (1) The City may conduct inspections of any facility with or without notice for the purpose of determining applicability and/or compliance with Sector Control Program requirements.
- (2) If any inspection reveals non-compliance with any provision of a Sector Control Program requirement, corrective action shall be required pursuant to the applicable Sector Control Program.
- (3) Inspection results will be provided in writing to the facility upon request.

(f) Closure.

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

(g) Enforcement and Compliance.

- (i) These requirements form a part of this Code. Enforcement of this regulation is governed by the express terms herein and the enforcement provisions of GJMC 13.04.480.
- (ii) Any extraordinary costs incurred by the City due to Interference, damage, Pass Through, or maintenance necessary in the treatment and/or collection system shall be paid by the Industrial User to the City. The direct costs of all labor, equipment and materials incurred in rectifying the Interference or damage, including reasonable attorney's fees, shall be billed directly to the owner or the Industrial User by the City, and such costs shall become part of the total charges due and owing to the City and shall constitute a lien on the Industrial User until paid in full.

13.04.470 Industrial Pretreatment Program – Fees.

- (a) There shall be a fee imposed by the City to provide for the payment to the sewer fund, by Industrial Users of the POTW, of 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) Applicable charges and fees include, but are not limited to:
 - (1) Industrial Discharge Permit applications;
 - (2) Industrial Discharge Permits;
 - (3) Reimbursement of costs of implementing the Industrial Pretreatment Program;
 - (4) Monitoring, inspection and surveillance activities;
 - (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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 2892, 2-21-96. Code 1994 § 38-66; Code 1965 § 25-61)

13.04.480 Industrial Pretreatment Program – Compliance and Enforcement.

- (a) Enforcement Response Plan.

The City may adopt policies and procedures as set forth in the City's Enforcement Response Plan for carrying out the provisions of this Code.

- (b) Publication of Industrial Users in Significant Noncompliance.

The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Significant Industrial Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. In addition, any Industrial User found to be in Significant Noncompliance with (3), (4) or (8) shall also be published in the newspaper.

The following criteria shall be used to define Significant Noncompliance:

- (1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, a numeric Pretreatment Standard or Requirement, including instantaneous limits;
 - (2) Technical Review Criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD₅, TSS, FOG and 1.2 for all other pollutants except pH);
 - (3) Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the City Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of City personnel or the general public;
 - (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
 - (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;
 - (6) Failure to provide, within thirty (30) days after the due date, required reports such as Baseline Monitoring Reports, ninety-day Compliance Reports, periodic Self-Monitoring Reports and reports on compliance with compliance schedules;
 - (7) Failure to accurately report noncompliance; or
 - (8) Any other violation or group of violations which may include a violation of Best Management Practices, which the City Manager determines may adversely affect the operation or implementation of the local pretreatment program.
- (c) Administrative Enforcement Actions.

(1) Notice of Violation (NOV).

When the City finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon the Industrial User a written Notice of Violation. Within ten (10) working days of the receipt of such notice, or at a time period specified by the City, an explanation of the violation and a plan for the satisfactory correction of prevention thereof, to include specific required actions, shall be submitted by the Industrial User to the City. Submission of such a plan in no way relieves the Industrial User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(2) Suspension of Service.

- (i) Endangerment to Health or Welfare of the Community: The City, through other than a formal notice to the affected Industrial User, may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW of the City or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.
- (ii) Endangerment to Environment or Treatment Works: The City, after written notice to the discharger may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW, wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.
- (iii) Any Industrial User notified of a suspension of the wastewater treatment service and/or revocation of an Industrial Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The City may reinstate the Industrial Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge.

A detailed written statement submitted by the Industrial User describing the causes of the harmful contribution and the measure taken to prevent any future occurrence shall be provided to the City within five (5) days of the date of occurrence. Suspension of service shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

(3) Administrative Order.

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

(4) Consent Order.

The City may enter into a Consent Order, assurances of compliance, or other similar documents establishing an agreement with any Industrial User responsible for noncompliance. Such documents shall include specific actions to be taken by the Industrial User to correct the noncompliance within a time period specified by the document. A Consent Order may include penalties, supplemental environmental projects, or other conditions and requirements as agreed to by the City and the Industrial User. Issuance of a Consent Order shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

(5) Cease and Desist Order

(i) When the City Manager finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, an Order issued hereunder or any other Pretreatment Standard or Requirement, or that the Industrial User's past compliance history indicates that violations are likely to recur, the City Manager may issue an Order to the Industrial User

directing it to cease and desist all such violations and directing the Industrial User to:

- (A) Immediately comply with all requirements;
- (B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(ii) Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

(6) Administrative Fines.

(i) When the City finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, Order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such Industrial User in an amount not to exceed ten thousand dollars (\$10,000) per day per violation. Such fines shall be assessed on a per-violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(ii) A lien against the Industrial User's property shall be sought for unpaid charges, fines, and penalties.

(iii) Industrial Users desiring to appeal such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Such notice or appeal shall set forth the nature of the Order or determination being appealed, the date of such Order or determination, the reason for the appeal, and request a hearing pursuant to procedures outlined in GJMC 13.04.480 paragraphs (h) and (i).

(iv) Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the Industrial User.

(d) Judicial Enforcement Remedies.

(1) Injunctive Relief.

When the City finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, or Order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition a Court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate,

which restrains or compels the specific performance of the Industrial Discharge Permit, Order, or other requirement imposed by this Code on activities of an Industrial User. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the Industrial User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

(2) Civil Penalties.

- (i) An Industrial User who has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, or Order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty not to exceed ten thousand dollars (\$10,000) per day per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.
- (ii) The City may recover reasonable attorneys' fees (including the value of in-house counsel), court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (iii) In determining the amount of civil liability, the Court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the Industrial User's violation, corrective actions by the Industrial User, the compliance history of the Industrial User, and any other factor as justice requires.
- (iv) Actions for civil penalties shall be civil actions brought in the name of the City. The City must prove alleged violations by a preponderance of the evidence.
- (v) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

(3) Civil/Administrative Fine Pass Through.

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

(4) Criminal Prosecution

- (i) Any Industrial User that willfully or negligently violates any provision of this Code, any Orders or an Industrial Discharge Permit issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed twenty-five thousand dollars (\$25,000) and be subject to imprisonment for not more than one (1) year or both. Each day in which any such violation occurs or persists shall be deemed a separate and distinct offense.
- (ii) Any Industrial User that knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained pursuant to this Code, an Industrial Discharge Permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Code shall, upon conviction, be punishable by a fine not to exceed twenty-five thousand dollars (\$25,000) and be subject to imprisonment for not more than one (1) year, or both. In addition, these penalties may be sought for any person who maliciously, willfully, or negligently breaks, destroys, uncovers, defaces, tampers with, or otherwise destroys, or who prevents access to, any structure, appurtenance or equipment, or any part to the POTW. Each day in which any such violation occurs or persists shall be deemed a separate and distinct offense
- (iii) The City may refer violations that warrant criminal prosecution to the U.S. Attorney General's Office, State Attorney General's Office or USEPA Criminal Investigation Division or other appropriate agency. This referral shall not preclude the City from taking a parallel administrative or civil enforcement action.
- (iv) 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 in addition to any other penalties assessed.

(e) Remedies Nonexclusive.

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

(f) Public Nuisance.

Any violation of this Code, an Industrial Discharge Permit, or order issued hereunder, is hereby declared a Public Nuisance and shall be corrected or abated as directed by the City Manager or their designee. Any person(s) creating

a Public Nuisance shall be subject to the provisions of GJMC 8.08.010 of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

(g) **Duty to Halt or Reduce Activity.** Upon reduction of efficiency of operation, or loss or failure of all or part of the pretreatment equipment, the permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the pretreatment equipment fails or is reduced. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of its permit.

(h) **Administrative Appeal Procedure.**

An Industrial User may appeal the issuance of an Administrative Order and/or Administrative Fine within 10 working days of issuance of the Administrative Order or fine. Such appeal shall be filed with the City Manager and include written documentation setting forth in detail the factual and legal basis for the appeal by the Industrial User. The City Manager shall review the appeal within 10 working days of receipt. The City Manager may request further information from the Industrial User and/or City staff. The City Manager may, after review of the information, issue an Order requiring the Industrial User to comply, require modification to the existing enforcement action or hold a Show Cause Hearing as specified in GJMC 13.04.480(i). The enforcement action and/or fine shall remain in effect and fully enforceable during this administrative review process.

(i) **Show Cause Hearing.**

(1) The City Manager is authorized to order any Industrial User who violates any Pretreatment Standard or Requirement, an Industrial Discharge Permit, an enforcement action or any provision of this Code POTW to show cause why appropriate enforcement action should not be taken. In such case, a notice shall be served on the Industrial 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 Industrial User to show cause why the proposed enforcement action should not be taken.

(2) The notice of the hearing shall be served upon the Industrial User personally or by certified mail, return receipt requested, at least 10 working days before the hearing. Service may be made on any agent or the Authorized Representative of the Industrial User.

(3) The City Manager may conduct the Hearing or may appoint a Hearing Officer or may instead convene a Utility Hearing Board to conduct the hearing. 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, Utilities and Planning, and a connector

district representative if the appellant or respondent Industrial User is located within the jurisdiction of that District.

- (4) The Hearing Officer or Utility Hearing Board shall have the power to:
 - (i) Issue in the name of the City Council notices of hearings requiring the attendance and testimony of witnesses and the production of evidence.
 - (ii) Hold a quasi-judicatory hearing, and receive relevant evidence relating to compliance with the requirements set forth in this Code. 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 shall be upon the Industrial User. The standard of proof to be utilized by the City Manager or Utility Hearing Board in making its findings or recommendations shall be a preponderance of the evidence.
 - (iii) Determine and find whether just cause exists for not taking the proposed enforcement actions, or whether the order or action appealed is unwarranted.
 - (iv) 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.

- (5) Effect of Hearing.
 - (i) Findings and recommendations of the City Manager or Utility Hearing Board 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 City Manager or Utility Hearing Board within 30 days thereof, the City Council may conduct its own hearing, make its own findings, and issue its own Orders.
 - (ii) An Order consistent with findings and recommendations of the City Manager or Utility Hearing Board, 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 Industrial 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 and in compliance with all local, State and federal statutes and regulations. The Order may provide for imposition of appropriate charges for the cost to the City of the enforcement action, applicable liquidated damages and

administrative fines. Further Orders and directives, as are necessary and appropriate to enforce Industrial Discharge Permits and provisions of this Code, may be issued by the City Manager.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-68; Code 1965 § 25-62)

13.04.490 Industrial Pretreatment Program – Pretreatment authority outside of 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 POTW 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 the one established by this Code or have incorporated by reference the provisions of this Code.
- (b) The connector districts and the County shall also be requested to approve necessary revisions to existing sewer service agreements, joint agreements or enter into an Industrial Pretreatment Program-only agreement granting the City the right to administer and enforce the connector's pretreatment program on behalf of and as agent for the connector district or County.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3722 § 5, 2-16-05; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-70; Code 1965 § 25-65)

13.04.500 Industrial Pretreatment Program – Affirmative Defenses to Discharge Violations.

- (a) Upset.
 - (1) For the purposes of this Code, *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
 - (2) An Upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (3) below are met.

- (3) An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
 - (ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (iii) The Industrial User has submitted the following information to the City within twenty-four (24) hours of becoming aware of the Upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - (A) A description of the Indirect Discharge and cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (C) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - (4) In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an Upset shall have burden of proof.
 - (5) Industrial Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.
 - (6) Industrial Users shall control (decrease) production of all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.
- (b) Prohibited Discharge Standards.

An Industrial User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the specific prohibitions in any action brought against it alleging a violation of the Specific Prohibitions in GJMC 13.04.370, paragraphs (3), (4), (5), (6) or (7) where the Industrial User demonstrates that:

- (1) It did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference; and
 - (2) The Industrial User had accurately disclosed the concentration of the pollutant(s) causing the Pass Through or Interference in applications, reports, or other required documents as required; and either:
 - (i) A local limit designed to prevent Pass Through and/or Interference, as the case may be was developed for each pollutant in the Industrial User's discharge that caused Pass Through or Interference, and the Industrial User was in compliance with each such local limit directly prior to and during the Pass Through or Interference; or
 - (ii) If a local limit designed to prevent Pass Through and/or Interference, as the case may be, has not been developed for the pollutant(s) that caused the Pass Through or Interference, the Industrial User's discharge directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the Industrial User's prior discharge activity when the POTW was regularly in compliance with the POTW's CPDS permit requirements and, in the case of Interference, applicable requirements for sewage sludge use or disposal.
- (c) Bypass.
- (1) For purposes of this Subsection:
 - (i) Bypass means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.
 - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - (2) Bypass not violating applicable Pretreatment Standards or Requirements. An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this Section but are reportable under Section 13.040.450 (a), (c), (d), (i) and (j), as appropriate.
 - (3) Notice.

- (i) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the City Manager, if possible, at least ten (10) days before the date of the bypass.
 - (ii) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the City Manager within twenty four (24) hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.
- (4) Prohibition of Bypass.
- (i) Bypass is prohibited, and the City Manager may take enforcement action against an Industrial User for a bypass, unless;
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (C) The Industrial User submitted notices as required under paragraph 3 of this Section.
 - (ii) The City Manager may approve an anticipated bypass, after considering its adverse effects, if the City Manager determines that it will meet the three (3) conditions listed in paragraph (4)(i) of this Section.

2. Section 13.12.230, Appeals procedure, is hereby amended as follows:

13.12.230 Appeals procedure. Any decision rendered by the City Manager under this chapter may be appealed within 10 days by the permittee to the Utility Hearing Board in accordance with the rules and procedures established by GJMC 13.04.480.

3. Section 13.16.020, Definitions, is hereby amended as follows:

13.16.020 Definitions.

Industrial pretreatment. "Pretreatment" as defined in GJMC 13.04.360.

Industrial pretreatment program. Administration of uniform requirements to prevent the introduction of pollutants into the system pursuant to GJMC 13.04.350 through 13.04.500.

Permit. "Colorado Discharge Permit System" (CDPS permit CO-0040053), issued pursuant to Section 402 of the Federal Water Pollution Control Act, also known as the Clean Water Act, allowing discharge of pollutants into navigable waters of the United States or waters of the State of Colorado.

Persigo Wash Wastewater Treatment Plant or plant. The facility described in the current CDPS permit numbered CO-0040053.

Plant investment fee. A fee paid to the City to recover costs of construction of the system as outlined in GJMC 13.04.280 through 13.04.300, which sections describes payment, amount, and formula for computing the fee.

Service charge. Monthly sewer service charge or rental on each lot, parcel of land, building or premises having any connection to the system as set forth in GJMC 13.04.250 through 13.04.270 and 13.04.310 through 13.04.340, which sections describes such charges, their computation, and administration.

All other definitions contained within this section shall remain in full force and effect.

4. Section 13.16.030, Financial requirements and accounting, subsection (k) Rate setting, is hereby amended as follows:

13.16.030 Financial requirements and accounting.

(k) **Rate Setting.** The Manager shall establish rates, fees, and charges sufficient to generate annual revenues to meet the requirements of the bonds and to fulfill the policies and decisions as evidenced in the 10-year plan. The Manager will submit to the City Council for its review, approval, modification or denial, and shall submit to the County Commissioners, its recommended user charges, tap and plant investment fees to be charged within the system. The user charges and fees will be uniform for those similarly situated within the system as determined by the City Council.

The amount of plant investment fees is intended to recover the cost of construction of interceptor lines and sewage treatment works as described in the Grand Junction and Mesa County predesign report for wastewater treatment facilities and interceptor sewers dated August 1977 (GJMC 13.04.300).

Rates and fees sufficient to meet the obligations and financial requirements of the bonds and capital improvement needs of the system are projected in the 10-year plan. Rates shall be amended from time to time as deemed necessary by the Manager having considered the policy that annual incremental rate increases are preferred over larger increases implemented less frequently.¹

The Manager shall, in addition to the independent periodic rate analyses outlined below, annually review and recommend rates to meet system and bond requirements.

As outlined in Mesa County Resolution MCM 92-160, if the City or the County deem necessary, the Manager, not less than once every five years, will cause an independent professional engineer to prepare an analysis of the rates and fees. A rate analysis was completed in June of 1985 by ARIX Engineering. In May of 1991 another was completed by CH2M-Hill Engineers.

Sewer use charges and plant investment fees shall be charged on the basis of EQUs. An EQU is an "equivalent residential unit" as defined in the City Code.

GJMC 13.04.250 and 13.04.300 et seq. shall govern rate administration.

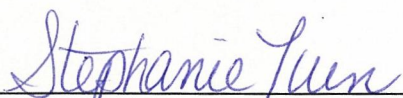
Introduced on first reading and ordered published in pamphlet form this 20th day of March, 2013.

Passed, adopted and ordered published in pamphlet form this 3rd day of April, 2013.



President of the Council

ATTEST:




City Clerk



I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4574 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 20th day of March, 2013 and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 3rd day of April, 2013, at which Ordinance No. 4574 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 10th day of April 2013.



Stephanie Tuin, MMC
City Clerk

Published: March 22, 2013
Published: April 5, 2013
Effective: May 5, 2013

