

RESOLUTION 15-14

**A RESOLUTION OF THE TOWN OF MILLIKEN, WELD COUNTY, COLORADO
ADOPTING THE TOWN OF MILLIKEN SEWER CODE**

Recitals

The Board of Trustees of the Town of Milliken has determined that it is in the best interests of the citizens of the Town to adopt the Town of Milliken Sewer Code in order to provide standardized regulations for the construction and use of the Town's sewer system.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN THAT THE TOWN OF MILLIKEN SEWER CODE IS ADOPTED AS A CODE OF THE TOWN.

At the regular meeting of the Board of Trustees on June 10, 2015, this resolution was passed by the Board of Trustees with a vote of _____ in favor and _____ opposed.

TOWN OF MILLIKEN

Milt Tokunaga, Mayor

ATTEST:

Cheryl Powell, Town Clerk

Published:
Approved as to form:

R. B. Fickel II, Attorney

TOWN OF MILLIKEN SEWER CODE

Article V - Wastewater Department

- 13-5-1 Wastewater Department Created
- 13-5-1-1 Definitions
- 13-5-2 Authority of Wastewater System Operations
- 13-5-3 Buildings Must Be Connected With Wastewater
- 13-5-4 Permit Required for Connection
- 13-5-5 Application for Permit
- 13-5-6 Tapping Fee and Maintenance
- 13-5-7 Requirements for Private Wastewater
- 13-5-8 Only Town or Licensed Contractors and/or Plumbers Can Perform Work – Inspection Fee
- 13-5-9 Connections Outside Corporate Limits
- 13-5-10 Duty to Make Sewer Connections Before Paving
- 13-5-11 Wastewater Fee
- 13-5-12 Method of Collection
- 13-5-13 Wastewater Fund
- 13-5-14 Stoppage of Wastewaters Prohibited
- 13-5-15 Grease Interceptors, Oil Separators and Sand Interceptors
- 13-5-15-1 Interceptors—Design installation, operation and maintenance.
- 13-5-16 Industrial Wastes
- 13-5-17 Industrial Pollutants
- 13-5-17-1 Industrial Pretreatment Progress & Enforcement Response Plan
- 13-5-17-2 General Discharge Prohibitions
- 13-5-17-3 National Categorical Pretreatment Standards
- 13-5-17-4 Compliance with State Requirements
- 13-5-17-5 Local Limitations and Discharge Standards
- 13-5-17-6 Town’s Right of Revision
- 13-5-17-7 Confidentiality of Information
- 13-5-17-8 Dilution of Discharge as Substitute for Treatment Prohibited
- 13-5-17-9 Pretreatment Facilities, Accidental Discharge/Slug Control
- 13-5-17-10 Hauled Waste
- 13-5-17-11 Wastewater Discharge Permit Application & Issuance
- 13-5-17-12 Reporting Requirements for Permittee Pretreatment Standards
- 13-5-17-13 Inspection and Sampling
- 13-5-17-14 Pretreatment
- 13-5-17-15 Administration Enforcement Actions
- 13-5-17-16 Publications of Violations
- 13-5-17-17 Harmful Discharges
- 13-5-17-18 Charges and Fees
- 13-5-17-19 Measurements, Testing & Sampling Requirements
- 13-5-17-20 Affirmative Defenses to Discharge Violations
- 13-5-17-21 Civil and Criminal Penalties

13-5-1 Wastewater Department Created

There is hereby created and established within the Town of Milliken (Town) a Wastewater Department which shall have charge and control of the construction, operation, maintenance, protection, regulation, and supervision of the Wastewater System of the Town.

13-5-1-1 Definitions

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

Accidental discharge means any unintended or unplanned discharge in violation of the prohibitions and limitations of the Pretreatment Program, the Town wastewater discharge permit, or the National Categorical Pretreatment Standards.

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

Approval Authority means the Director of the Water Quality Control Division of the Colorado Department of Health or the Regional Administrator of the United States Environmental Protection Agency (EPA).

Authorized representative of industrial user means all reports and information submitted pursuant to the requirements of this pretreatment program shall be signed and certified by an authorized representative of the industrial user as follows:

- a. A responsible officer of the corporation, typically the president, secretary, treasurer, or vice president of the corporation in charge of principal business activity or decision making functions of the corporation:
- b. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or
- c. A duly authorized representative of an individual designated in this definition, if such representative is responsible for the overall operations of the facilities from which any direct or indirect discharge originates.

Biochemical oxygen demand (B.O.D.) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

Categorical user means an industrial user who is subject to National Categorical Pretreatment Standards under 40 CFR 403.6 and CFR Chapter I, Subchapter N. *CDPS* means Colorado Discharge Permit System, which operates in lieu of the NPDES.

CFR means the Code of Federal Regulations, as amended, or as may be subsequently amended.

Control Authority means and shall refer to the approved Town industrial pretreatment program, as administered by the Director, under the provisions of CFR 403.11.

Director means the Director of Public Works or Wastewater Superintendent of the Town, or, where appropriate, the term may also refer to a duly authorized official of the Town such as the Pretreatment Coordinator.

Direct Discharge means the discharge of treated or untreated wastewater directly into the waters of the State.

Enforcement Authority means the Regional Enforcement Division of the EPA or the Director of the Water Quality Control Division of the Colorado Department of Health.

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

Existing Source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 3013 of the Act.

Grab Sample means a sample which is taken from a waste stream with regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Indirect Discharge means the discharge or the introduction of nondomestic pollutants into the TOMWWF from any source regulated under section 3013(b) or (c) of the Act (33 U.S.C. 13113).

Industrial User means the source of indirect discharge into the TOMWWF or anything other than domestic waste. This includes all significant industrial users, other industrial process, trade or business as distinct from domestic waste.

Instantaneous Maximum Allowable Discharge Limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the TOMWWF, its treatment processes or operations or its sludge processes, use or disposal, and therefore is a cause of a violation of the Town's CDPS permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Medical Waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Pollutant Discharge Elimination System (NPDES) Permit means a wastewater permit issued pursuant to Section 402(b) of the Act.

National Pretreatment Standard, Pretreatment Standard or Standard means any regulation containing pollutant discharge limits promulgated by EPA, in accordance with Section 3013(b) and (c) of the Act, which applies to industrial users. The term includes prohibitive limits established pursuant to Section 403.5 [of 40CFR].

National Prohibited Discharge Standards or Prohibited Discharges means any regulation developed under the authority of Section 3013 (b) of the Act and Section 403.5 of 40 CFR, and as outlined in Subsection 13-5-14 of this Code under prohibited discharges.

New Source means:

a. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 3013 (c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- i. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - ii. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - iii. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- b. Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (a) ii or iii above, but otherwise alters, replaces, or adds to existing process or production equipment.
- c. Construction of a new source, as defined under this paragraph, has commenced if the owner or operator has begun, or caused to begin, as part of a continuous on-site construction program:
- i. Any placement, assembly, or installation of facilities or equipment; or
 - ii. Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - iii. Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts, which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this paragraph.

Pass Through means an industrial user discharge that exits the TOMWWF to waters of the United States in quantities or concentrations which, alone or in conjunction with other discharges, causes a TOMWWF NPDES permit violation.

pH means a measure of how acidic or basic a substance is. The pH scale runs from 0 (most acidic) to 14 (most basic). The center of the range (7) indicates the substance is neutral, neither acidic nor basic.

POTW – Publicly owned treatment works.

Pollutant means any dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat, wrecked or discarded equipment; rock; sand;

cellar dirt; and industrial, municipal, and agricultural waste discharged into 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 to a less harmful State prior to, or in lieu of, discharging or otherwise introducing such pollutants into the TOMWWF. The reduction or alteration can be obtained by physical process, biological process, or by other process or means, except as prohibited by Section 403.6(b) of 40 CFR.

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

Pretreatment Standards or Standards means prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited Discharge Standards or Prohibited Discharges means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Subsection 13-7-17-5 of this Code.

Publicly Owned Treatment Works or POTW means a treatment works as defined by Section 502(4) of the Act. The Town of Milliken's wastewater facility is a POTW.

Septic Tank Waste means any sewage from holding tanks, such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.)

Shall and *may* means "shall" is mandatory; "may" is permissive.

Significant Industrial User (SIU) means any industrial user of the Town's wastewater facilities who is:

- a. A categorical user;
- b. A user who discharges greater than five (5) percent of the average dry weather hydraulic or organic capacity of the TOMWWF; or
- c. A user who discharges more than twenty-five thousand (25,000) gallons per day (GPD) of process wastewater (excluding noncontact process water, sanitary, cooling and boiler blow down) and who, although under twenty-five thousand (25,000) GPD, employs any process which generates any toxic pollutants or

other substances suspected of having an adverse impact on the POTW, as determined by the EPA or the Director.

d. An industrial user may be reclassified as a significant industrial user at any time depending upon the severity of violations or changes in discharge characteristics, as well as promulgation of new categorical standards. These industrial users may be removed from the list of significant industrial users if a facility has no reasonable potential to violate any pretreatment standard and has achieved consistent compliance to the satisfaction of the director.

Slug Load or Slug means any discharge of significant increase or volume, or a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Subsection 13-5-17-2 of this Code.

Standard Industrial Classification (SIC) Code means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.

Suspended Solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

Toxic Pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of the Act, Section 3013(a), or other federal, State, or local regulations.

U.S.C. means the United States Code.

User means any person using or connected to the Town's POTW.

Wastewater means the spent water of a community, including garbage, household, commercial, institutional, and industrial wastes, sewage, and the typical contents of sanitary sewers. From the standpoint of source, it may be any combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater Discharge Permit means and shall refer to a discharge permit issued by the Town to the user who is a source of nondomestic pollutants introduced into the TOMWWF, which pollutants may interfere with, pass through, or be otherwise incompatible with such works, and the user is, therefore, an “industrial user”. Such permits will be issued for a specific period of time not to exceed three (3) years.

Wastewater Facilities means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

13-5-2 Authority of Wastewater System Operations

The Public Works Department in consultation with the Town Administrator and Town Engineer shall have charge of the maintenance and operation of the Wastewater System, supervise the laying of extensions and new Wastewater facilities, and see that the provisions of this Code are complied with.

13-5-3 Buildings Must Be Connected With Wastewater

All buildings located within the Town and within 400 feet of any established Wastewater line, which are used for residence or business purposes, or in which persons congregate or are employed, must be connected with the Town sewage system, and all drainage or plumbing fixtures therein shall be connected therewith. It shall be unlawful for any person to maintain within the Town any vault, closet, privy or cesspool, except temporary privies at construction sites authorized by building official. No down spout, sump pump, roof or surface drainage or similar drainage or seepage-related flows may be connected with the Town Wastewater System.

13-5-4 Permit Required for Connection

It shall be unlawful for any person to open, uncover, or in any manner make connection with any Wastewater main or line of the Town, or to lay drain or Wastewater pipes on any premises or in any street or alley in the Town without obtaining a written permit therefore.

13-5-5 Application for Permit

Application for such permits shall be made in writing to the building department by the licensed utility contractor and/or plumber who will perform the work, on forms furnished for that purpose. Such application must contain or be accompanied by plans and specifications covering the construction of the Wastewater facilities and which are sufficient to determine whether such work will comply with the provisions of this Code. Upon the approval of the said application by the building department and the presentation of a receipt from the Town Clerk showing that the proper fees have been paid, the Town shall issue the required Wastewater permit.

13-5-6 Tapping Fee and Maintenance

Any person, upon the application for a permit to connect with the Town Wastewater System shall, at the time of making such application, pay to the Town Clerk the current fees assessed to subject premises pursuant to the Municipal Code of the Town of Milliken. Furthermore, the property owner shall pay for the installation and maintenance of the entire service line to the Town main at the owner's sole expense together with the costs, if any, of the repairs to the oil or concrete surfacing of a street.

With regard to a Wastewater tap outside the corporate limits the aforesaid fee shall increase proportionately by the square of the radius of the water tap serving the location in the event said water tap exceeds three-fourths inch, except as otherwise be established in the Town's fee schedule. The aforesaid tap fees shall be charged for each dwelling or occupied unit to be served, notwithstanding the fact that a lesser number of taps are installed to adequately service the particular location.

13-5-7 Requirements for Private Wastewaters

Every private Wastewater line which is connected with the Town Wastewater System shall meet the requirements of the Town of Milliken approved Design Standards and Specifications as set forth in the Municipal Code.

13-5-8 Only Town or Licensed Contractors and/or Plumbers Can Perform Work – Inspection Fee

No person other than Municipal employees or a contractor and/or plumber licensed by the Town shall be allowed to do any work in connection with any Wastewater facilities in the Town, except the digging and backfilling of trenches. No person other than the Town shall be allowed to make a tap in a Town Wastewater main, unless the tap is inspected by the Town or its designee, and the applicable inspection fee is paid to the Town.

13-5-9 Connections Outside Corporate Limits

No permit for a private Wastewater System for serving lots or parcels of land outside of the corporate limits of the Town to connect to the Town Wastewater System shall be issued unless it is expressly agreed by the applicant that all provisions of the applicable Uniform Building Code and the State Plumbing Code, and all other provisions of applicable Codes shall be complied with. Applicant must sign a contract agreeing to annex when property becomes contiguous to the corporate limits.

13-5-10 Duty to Make Wastewater Connections Before Paving

Before any Wastewater line is laid in an area to be paved or hard-surfaced, the owners of all lots abutting thereon shall make proper sewage connection with such Wastewater facilities, whether the immediate use thereof is required or

not. Until used, such connecting Wastewater facilities shall be supplied with a proper covering or cap sufficient to prevent the escape of Wastewater gas.

13-5-11 Wastewater Fee

Each property upon which there is located any building connected with the Wastewater System of the Town shall be required to pay all applicable usage fees as set forth in the Town's fee schedule.

13-5-12 Method of Collection

All Wastewater usage charges shall be added to and made a part of the monthly utility billing and shall be paid in the same manner and shall be subject to the same rules, regulations and penalties as provided for payment of utility bills. All Wastewater charges shall also constitute a lien upon any lots, land, building or premises served, and in the event said charges shall not be paid when due, the Town Clerk shall certify such delinquent charges and applicable expenses to the county commissioners of Weld County and said charges shall be collected in the manner as though they were part of the taxes.

13-5-13 Wastewater Fund

The revenue derived from the connections to the Wastewater System shall be placed in the treasury of the Town and shall be kept in a separate fund to be known as the "Wastewater Fund". If said revenue is placed in such separate fund, it shall not be paid out or distributed except for the purposes of operating, renewing, improving or extending the Wastewater System and the payment of salaries of the employees engaged in operating said Wastewater System or for retiring the bonded indebtedness upon said Wastewater System; provided, however, that the Board may transfer monies to the general fund to pay for the Town's administrative costs such as utility billing, management and issuance of permits.

13-5-14 Stoppage of Wastewaters Prohibited

It shall be unlawful for any person to place or cause to be placed any solids or insoluble matter of any kind or nature whatsoever within any Wastewater facilities belonging to the Town, or any part thereof, or within any connection thereto.

13-5-15 Grease Interceptors, Oil Separators and Sand Interceptors

Grease interceptors, oil separators and sand interceptors shall be installed on the building drain of the following users of the sewer system:

- A. All commercial establishments engaged in the preparation and sale of foodstuffs to the general public such as restaurants, cafes, lunch counters, cafeterias, bars, kitchens in hotels, hospitals, factories or other profit or nonprofit organizations providing food services;
- B. Establishments engaged in automatic and coin-operated laundries, car washes, filling stations, commercial garages or similar businesses, including those having wash or grease racks;
- C. All establishments operating a commercial garbage grinder;

D. Dairies, slaughterhouses, commercial processing plants and other similar sources of grease and fat byproducts, unless such establishments are otherwise regulated by a discharge permit issued under this chapter;

E. Any other users producing quantities of grit, sand, grease, fat or other materials which have the potential of causing partial or complete obstruction of the building sewer or other areas in the sewer system, require excessive maintenance of sewer lines or impede the transmission or treatment of sewage.

13-5-15-1 Interceptors—Design installation, operation and maintenance.

All interceptors shall be designed and installed in accordance with the requirements of the currently adopted International Plumbing Code and any amendments thereto, including any design standards, and the design standards, such that excessive amounts of grease, oil, sand, and other inert solids are effectively prevented from entering the Wastewater System. All other requirements of the International Plumbing Code, including safety considerations, access provisions for maintenance and cleaning, design of vents and covers, and types of construction materials shall be applicable. All interceptors shall be installed, maintained, repaired and operated by the discharger at his or her own expense. The installation shall be kept in continuous operation at all times, and shall be inspected and cleaned on a regular basis as required for efficient operation, by a service contractor qualified to perform such cleaning and inspection. Bioremediation may be used in addition to regular maintenance provided that the grease does not pass through the interceptor and cause blockages or excessive maintenance requirements. Certificates of inspection and maintenance shall be kept on the premises.

13-5-16 Industrial Wastes

It shall be unlawful for any person to throw, deposit, or in any manner introduce into the Town Wastewater System any petroleum products, volatiles, acids, highly alkaline solutions, industrial wastes, or any other matter or thing which shall in any way be injurious to the system or to the treatment process at the Wastewater treatment plant, or which shall in any way increase the cost of operation or maintenance of the system or the treatment plant; provided, however, that where any such materials will not injure the Wastewater System but will merely increase the cost of the operation and maintenance of the sewage plant, the board may charge a special fee for the purpose of recovering the added maintenance and operation costs occasioned thereby.

It shall be the affirmative duty of any person who owns or operates a business which creates industrial wastes or pollutants to disclose all applicable and relevant information related to those pollutants to the Town prior to conducting any operations and as deemed necessary by the Wastewater Department during the continued operations of the business.

13-5-17 Industrial Pollutants

13-5-17-1 Industrial Pretreatment Program and Enforcement Response Plan

A. General Requirements

1. The Town of Milliken Industrial Pretreatment Program, sets forth uniform requirements for discharges into the Town of Milliken Wastewater Treatment Facilities (TOMWWF) POTW. This program allows the Town of Milliken to comply with all applicable State and federal laws under the Clean Water Act of 191313 (33 United States Code 1251 et seq.), the General Pretreatment Regulations for Source of Pollution (40 Code of Federal Regulations Part 403), and the Colorado Water Quality Control Act, sections 25-8-01 through 25-8-1303 C.R.S., (1982 and 1985 under the following sections 25-8-202: 25-8-205: and 25-8-508 (1989 Repl. Vol. and 1992 Supp.)) The objectives of the Program are to:

1. Prevent the introduction of pollutants into the TOMWWF that will interfere with the operation of the system or contaminate the resulting sludge;
2. Prevent the introduction of pollutants into the TOMWWF that will pass through TOMWWF, inadequately treated, into the receiving waters or the atmosphere, or otherwise be incompatible with TOMWWF.
3. Protect both TOMWWF personnel and the general public who may be affected by wastewater and sludge from the TOMWWF.
4. Promote reuse and recycling of industrial wastewater and sludge from the TOMWWF.
5. Provide for fees for equitable distribution of the cost of operation, maintenance, and improvement of TOMWWF; and
6. Enable the Town of Milliken to comply with the National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other federal or State laws to which TOMWWF is subject.

This program shall apply to all users of TOMWWF. The Regulation authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. Except as otherwise provided herein, the Director of Public Works, Wastewater Superintendent, and Pretreatment Coordinator shall administer, implement and enforce the provisions of the Industrial Pretreatment Program.

13-5-17-2 General Discharge Prohibitions

A. No person shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the Town's wastewater facilities. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, State, or local pretreatment standards or requirements. A user may not contribute the following substances to the Town's wastewater facilities:

1. Any liquids, solids, or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the wastewater facilities, including, but not limited to, waste streams with a closed cup flashpoint of less than sixty (60) degrees centigrade (one hundred forty (140) degrees Fahrenheit) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromides, carbides, hydrides, sulfides or any other substance that the Town, the State, or the EPA has notified the user is a fire or a hazard to POTW or any part of the Town's wastewater facilities.
2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease; garbage with particles greater than one-half (½) inch in any dimension; animal guts or tissues; paunch manure; bones; hair; hides or meshings; entrails; whole blood; feathers; ashes; cinders; sand; spent lime; stone or marble dust; metal; glass; straw; shavings; grass clippings; rags; spent grains; spent hops; wastepaper; wood; plastics; gas; tar, asphalt residues; residues from refining or processing of fat, oil, grease, fuel or lubricating oil; mud; or glass grinding or polishing wastes.
3. Any wastewater having a pH less than 5.5 or higher than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the wastewater facilities.
4. Any wastewater containing toxic pollutants and/or hazardous waste, as defined by the Resource Conservation Recovery Act (RCRA), in sufficient quantity, either singly or by interaction with other pollutants, so as to injure or interfere with any wastewater treatment process, which constitutes a hazard to humans or animals which creates a toxic effect in the receiving waters of the wastewater facilities, or which exceeds the limitations set forth in a categorical pretreatment standard.
5. Any corrosive, noxious or malodorous liquid, gas, or solid which, either singly or by interaction with other waste, is sufficient to create a public nuisance or hazard to life or health; or is sufficient to prevent entry into the sewers for maintenance and repair; or which releases obnoxious gases, forms suspended solids which interfere with the collection system, or which creates a condition deleterious to the structures or treatment processes of the wastewater facilities.

6. Any substance which may cause the wastewater facilities' effluent, or any other product of the wastewater facilities such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance be discharged to the wastewater facilities cause the Town to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, or the Toxic Substances Control Act of the United State Congress; or State criteria applicable to the sludge management method being used at the Town's POTW.

7. Any substance which is not amenable to treatment or reduction by the wastewater treatment works or which will cause the Town to violate its CDPS permit or the water quality standards for the Big Thompson River.

8. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to dye wastes, and vegetable tanning solutions.

9. Any wastewater having a temperature of fifty-four and four-tenths (54.4) degrees centigrade (one hundred thirty (130) degrees Fahrenheit) or more at the point of discharge to the wastewater facilities, or which will inhibit biological activity in the POTW, resulting in interference therewith.

10. Any pollutants including oxygen-demanding pollutants, including but not limited to BOD, released at a flow rate or pollutant concentration which will cause interference with the wastewater facilities. In no case shall a slug be discharged having a flow rate or contained concentrations or quantities of pollutants that exceed, for any time period longer than fifteen (15) minutes, more than five (5) times the average twenty-four-hour concentration, quantities, or flow during normal operations.

11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director in compliance with applicable State or federal regulations.

12. Wastewater containing more than one hundred (100) milligrams per liter of petroleum oil, non-biodegradable cutting oils or products of mineral oil origin; containing oil and grease concentrations or amounts from industrial facilities violating National Categorical Pretreatment Standards, if any; or containing floatable fats, wax, grease or oils.

13. Any wastewater containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such a degree that any such material

received in the composite wastewater at the POTW exceeds the limits established by the director for such materials.

14. Wastewater which, alone or in combination with other wastewater, is not amenable to treatment or reduction by the POTW and the processes employed by the Town, or which is amenable to treatment only to such degree that the POTW effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

15. Any wastewater, which causes a hazard to human life or creates a public nuisance.

16. Any trucked or hauled pollutant, except at discharge points designated by the POTW and in accordance with the regulations outlined in the Town's rules and regulations for trucked septic waste.

17. Sludges, screenings, or other residues from the pretreatment of industrial wastes.

18. Medical wastes, except as specifically authorized by the director or superintendent in a wastewater discharge permit.

19. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

20. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.

21. Any pollutant in such quantity that, by itself or in conjunction with other indirect discharges, results in a violation of stream standards as set by the State water quality control commission.

22. Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) milligrams per liter.

23. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director or authorized representative of the Town.

24. A. Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five (5) percent or any single reading over ten (10) percent of the lower explosive limit of the meter. Pollutants, substances, or wastewater prohibited

by this Code shall not be processed or stored in such a manner that they could be discharged to the POTW.

B. The director may set limitations lower than the limitations established in this Subsection if, in his or her opinion, more severe limitations are necessary to meet the objectives of this Subsection. In forming his or her opinion as to the acceptability of the waste or wastewater, the director shall give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials and construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment works, degree of treatability of the waste in the wastewater treatment works, and other similar factors which he or she considers to be pertinent.

C. If the director determines that a user is discharging or proposes to discharge wastewater to the wastewater facilities which contains the substances or possesses the characteristics enumerated in paragraph (A) of this Subsection and which, in the judgment of the director, may have a deleterious effect upon the wastewater facilities, processing equipment or receiving waters, or which may otherwise create a hazard to life or health or constitute a public nuisance, the director may:

1. Reject the wastes;

2. Require pretreatment to an acceptable condition for discharge to the wastewater facilities; and

3. Require control over the quantities and rates of discharge.

If the director chooses an option described in paragraph (C)(2) and/or (3) of this Subsection, he or she shall require the user to obtain a Town wastewater discharge permit following the procedures provided in the Pretreatment Program.

13-5-17-3 National Categorical Pretreatment Standards

Upon the promulgation of the National Categorical Pretreatment Standards for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under the Town of Milliken Industrial Pretreatment Program for sources in that subcategory, shall immediately supersede the limitations imposed by the Pretreatment Program. The director shall notify all affected users of the applicable reporting requirements pursuant to 40 CFR 403.12. Such national standards, and as amended, are hereby adopted by reference as if fully set forth herein. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 through 4131 are hereby incorporated.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6 (c).

B. When wastewater subject to categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined wastewater formula in 40 CFR 403.6 (e).

C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the EPA when developing the categorical pretreatment standard.

D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

13-5-17-4 Compliance with State Requirements

Requirements and limitations on discharges established by the State shall apply in any case where they are more stringent than national requirements and limitations or those in this Pretreatment Program. Such State standards, and as amended, are located at 5 CCR 1002-20, and hereby adopted by reference as if fully set forth herein.

13-5-17-5 LOCAL LIMITATIONS AND DISCHARGE STANDARDS

A. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following maximum allowable discharge limits using twenty-four hour flow proportional composite or grab sampling:

Pollutant Composite Sample (mg/L)

Arsenic, Total 0.036
Cadmium, Total 0.026
Chromium, Total 2.0136
Copper, Total 1.019
Lead, Total 0.132
Mercury, Total 0.0002
Molybdenum, Total 0.081
Nickel, Total 0.323
Selenium, Total 0.028
Silver, Total 0.554
Zinc, Total 1.105

Pollutant Grab Sample (mg/L)

Cyanide, Total .03
pH 6.0-9.0 s.u

B. The Town has established the following limits for Benzene and BTEX referenced in the EPA publication, "Model NPDES Permit for Discharges Resulting for the Cleanup of Gasoline Released from Underground Storage Tanks", June 1989: Benzene: 50 ug/l
BETX: 1350 ug/l

C. The Town has established limits for ammonia and total Kjeldahl nitrogen.

Pollutant Composite Sample (mg/L)

Ammonia 25

Total Kjeldahl Nitrogen 30

D. The Town has established limits for BOD5 and TSS. Each parameter will have both a "13-day maximum average" (based on a calendar week) and a "daily maximum". Oil & Grease limit is a "daily maximum" limit only.

Pollutant Composite Sample (mg/L)

BOD5 300 Daily

BOD5 250 13-Day Average

TSS 300 Daily

TSS 250 13-Day Average

Oil and Grease 35 Daily

13-5-17-6 Town's Right of Revision

The Town may establish, by ordinance, more stringent limitations or requirements on discharges to the wastewater facilities, if the POTW finds it necessary to comply with the objectives of this Code. The limitations and requirements shall, upon passage of such ordinance, become part of all existing permits issued pursuant to this Code.

13-5-17-7 Confidentiality of Information

A. Information and data pertaining to a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction, unless the user specifically requests and is able to demonstrate, to the satisfaction of the director, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

B. When requested by the person furnishing a report and approved by the director, the portions of a report which might disclose trade secrets or secret

processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Pretreatment Program, the CDPS permit, or National Categorical Pretreatment standards enforcement; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the persons furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

C. Except in the case of an emergency or danger of significant impact on the Wastewater System, information accepted by the director as confidential shall not be transmitted by the director to any governmental agency or to the general public until and unless a five (5) working day written notification is given the user.

13-5-17-8 Dilution of Discharge as Substitute for Treatment Prohibited

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards or in any other pollutant specific limitation developed by the State or Town.

13-5-17-9 Pretreatment Facilities, Accidental Discharges/Slug Control Plan

A. Users shall provide wastewater treatment as necessary to comply with this Pretreatment Program and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Subsection 13-5-17-3 of this Code within the time limitations specified by the EPA, the State, or the director, whichever are more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the director for review, and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town under the provisions of the Pretreatment Program.

B. Each his/her/person who uses or produces harmful wastes in the course of its business or which is a source of indirect discharge shall provide protection from accidental or slug discharges of prohibited materials or other substances regulated by this Pretreatment Program. The director shall inspect and evaluate at least every year, to determine whether each SIU needs a plan to control such discharges. Facilities to prevent such discharge of prohibited materials and other substances, where required by the director, shall be provided and maintained at the owner's or user's own cost and expense.

The plan shall contain, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges.
2. Description of stored chemicals.
3. Procedures for immediately notifying the director of any accidental or slug discharge.
4. Procedures to prevent adverse impact from accidental spills, including inspections and maintenance of stored areas, handling and transfer of material, loading and unloading operations, control of plant site runoff, workers training, building of containment structure or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures for emergency response.

C. The director, before construction of the facility, shall review such plan. No such users who commence contribution to the wastewater facilities after the effective date of the ordinance enacting this Pretreatment Program shall be permitted to introduce pollutants into the system until the director has reviewed the accidental discharge procedures. Review of such plans and operating procedures shall not relieve such user from the responsibility to modify the user's facility as necessary to meet the requirements of this Pretreatment Plan. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the director of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. Failure to notify the director is a violation of this Code.

D. **Written Notice.** Within five (5) days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user from its, his, her obligation to pay for any expense, loss, damage or other liability which may be incurred as a result of damage to the wastewater facilities, fish kills, or any other damage to a person or property; nor shall such notifications relieve the user of any fines, civil penalties or other liability which may be imposed by this Code or other applicable law.

E. A notice shall be permanently posted on such user's bulletin board or other prominent place, advising employees of whom to call in the event of an accidental discharge. Employers shall ensure that all employees who may cause or suffer such an accidental discharge to occur are advised of the emergency notification procedure.

13-5-17-10 Hauled Waste

A. Septic tank waste may be introduced into the POTW only at locations designated by the director and at such times and methods as are established by the director. Such waste shall not violate Subsection 13-5-17-2 of this Code or any other requirements established by the Town. The director may require septic tank waste haulers to obtain wastewater discharge permits.

B. The director shall require haulers of industrial waste to obtain wastewater discharge permits. Unless such requirement is waived in writing by the Town pretreatment coordinator, haulers of industrial waste shall notify the POTW a minimum of twenty-four (24) hours prior to the anticipated discharge at the POTW. The director may require generators of hauled industrial wastes to obtain wastewater discharge permits. The director may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Code.

C. Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

13-5-17-11 Wastewater Discharge Permit Application and Issuance

A. *Wastewater analysis.* When requested by the director, a user must submit information on the nature and characteristics of its wastewater within one (1) month of the request. The director is authorized to prepare a form for this purpose and the users shall at least annually update this information or more frequently as and when their discharge varies in quantity or quality.

B. *Wastewater discharge permit requirement*

1. Required for significant users. All significant users proposing to connect to, or to contribute to, the wastewater facilities shall obtain a town wastewater discharge permit before connecting to, or contributing to, the wastewater facilities.

2. The director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Code.

C. Wastewater discharge permitting: existing connections. Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Code, and who wishes to continue such discharges in the future, shall, within two (2) months of the effective date, apply to the director for a wastewater discharge permit in accordance with Paragraph E of this Subsection, and shall not cause or allow discharges to the POTW to continue after two (2) months of the effective date of this Code, except in accordance with a wastewater discharge permit issued by the director; except that the provisions of this Subsection shall not affect significant industrial users with currently existing contracts with the Town until the expiration of the contracts.

D. Wastewater discharge permitting: new connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit in accordance with Paragraph E of this Subsection, must be file at least three (3) months prior to the date upon which any discharge will begin or recommence.

E. Permit application content. Users required to obtain a Town wastewater discharge permit shall complete and file with the director an application in the form prescribed by the director. Current users shall apply for a Town wastewater discharge permit within one (1) month after the effective date of the ordinance enacting this Code, and proposed new users shall apply at least three (3) months prior to connecting to, or contributing to, the wastewater facilities. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

1. Name, address, and location, if different from the address.
2. Standard industrial classification number.
3. Wastewater constituents and characteristics as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR 136 as amended.
4. Time and duration of discharge.
5. Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any.

6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation.

7. Description of activities, facilities and plant processes on the premises, including all materials, which are or could be discharged.

8. Where known, the nature and concentration of any pollutants in the discharge which are limited by any National Categorical Pretreatment Standard, State standard or Town standard, and a Statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether changes in operation and maintenance or additional pretreatment is required for the user to meet applicable pretreatment standards.

9. Requirements for notification of the director and the POTW in advance of any substantial change in volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which the industrial user has submitted initial notification under 40 CFR 12(p).

a. The schedule shall contain dates for the commencement and completion of construction and operation of additional pretreatment facilities and procedures required for the users 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.).

b. No increment referred to in paragraph (E)(9)(a) of this Code shall exceed nine (9) months.

c. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director, including, as a minimum, whether or not the user complied with the increment of progress to be met on such date and, if not, the date on which the user expects to comply with this increment of progress, the reason for the delay, if any, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the director.

10. Each product produced, by type, amount, process, or processes and rate of production.

11. Type and amount of raw materials processed, in average and maximum per day.

12. Number and type of employees, hours of operation of the plant, and proposed or actual hours of operation of the pretreatment system.

13. Any other information, which is deemed by the director to be necessary to evaluate the permit application.

F. Permit issuance. The director shall issue a wastewater discharge permit to the applicant if the director finds that all of the following conditions have been met:

1. The proposed discharge of the applicant is in compliance with prohibitions and limitations of Subsections 13-5-17-3 through 13-5-17-19 of this Code.

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

3. The proposed discharge of the applicant would not result in a violation by the Town of the terms and conditions of its CDPS permit.

If the director finds that any of the conditions set out in Paragraph (F)(1) herein is not met, the director may issue a wastewater discharge permit to the applicant if the conditions set out in Paragraphs (F)(2) and (3) of this Subsection are met, and if the applicant submits and the director approves a schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to ensure compliance with the provisions of this Code.

G. Application signatories and certification. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification Statement:

"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 assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those 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 fine and imprisonment for knowing violations."

H. Permit denial hearing. In the event an application for a wastewater discharge permit is denied, the director shall notify the applicant in writing of such denial. Such notifications shall State the grounds for denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit. Upon receipt of notification of denial of a permit application, the applicant may request and

shall be granted a hearing to be held by the Town Administrator, or his or her designee. At such hearing, the applicant shall have the burden of establishing that the conditions set forth in this Subsection have been met, and that a permit should be issued. The Town Administrator may conduct the hearing or may designate a representative to:

1. Issue, in the name of the Town Administrator, subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved;
2. Take evidence;
3. Transmit a report of the hearing including transcripts and other evidence presented to the Town Administrator together with recommendations for action.

Testimony taken at any hearing shall be under oath and recorded. Upon review of the evidence by the Town Administrator, the Town Administrator shall make written findings of facts. Thereupon, the Town Administrator may issue a wastewater discharge permit, or may direct that such permit shall not be issued, or give such other or further orders and directives as necessary and appropriate.

1. *Permit conditions.* Town wastewater discharge permits shall be expressly subject to all provisions of this Code and all other applicable regulations, user charges and fees established by the Town.

1. Wastewater discharge permits must contain:

- a. A Statement that indicates wastewater discharge permit duration, which in no event shall exceed three (3) years.
- b. A Statement that the wastewater discharge permit is non-transferable without prior notification to the Town, in accordance with Paragraph (M) of this Subsection, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, State, and local law; and

e. A Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, State, or local law.

2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalizations;

b. 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;

c. Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharge to the POTW.

e. The unit charge or schedule of user charges and fees for the management of the wastewater discharge to the POTW;

f. Requirements for installation and maintenance of inspection and sampling facilities and equipment:

g. A Statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and State pretreatment standards, including other conditions as deemed appropriate by the director to ensure compliance with this Code, and State and federal laws, rules, regulations.

J. *Wastewater discharge permit appeals.* The director shall provide public notice of issuance of wastewater discharge permit.

Any person, including the user, may petition the director to reconsider the terms of a wastewater discharge permit within one (1) month of notice of its issuance.

1. Failure to submit a timely petition shall be deemed to be a waiver of the administrative appeal.

2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

4. If the director fails to act within one (1) month, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Nineteenth Judicial District Court of the State of Colorado.

K. *Permit modifications.* Upon promulgation of a National Categorical Pretreatment Standard and within the time prescribed therein, the Town wastewater discharge permit of users subject to such standards shall be deemed to be revised to require compliance with any part thereof which is more strict than existing standards or conditions of the permit. Where a user subject to a National Categorical Pretreatment Standard has not previously submitted an application for a wastewater discharge permit, the user shall apply for a wastewater discharge permit within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing wastewater discharge permit shall submit to the director, within one hundred eighty (180) days after the promulgation of an applicable National Categorical Pretreatment Standard, the information required by subsection (e) of this Code.

L. *Permit duration.* Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may State to expire on a specific date. The user shall apply for a permit reissuance a minimum of one hundred eighty (180) days prior to expiration of the user's existing permit. The terms and conditions of the permit may be subject to modifications by the Town during the term of the permit as limitations or requirements as identified in Paragraph (F) of this Subsection are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least one (1) month prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

M. Permit transfer.

1. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the director.

2. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days' advance written notice to the director and the director approves the wastewater discharge permit transfer. The notice to the director must include a written certification by the new owner or operator which:

a. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

b. Identifies the specific date on which the transfer is to occur; and

c. Requires that the permittee acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

3. Wastewater discharge permits shall be void upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

13-5-17-12 Reporting Requirements for Permittee Pretreatment Standards

A. Compliance date report. Within three (3) months following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the wastewater facilities, any user subject to pretreatment standards or requirements and sources that become categorical users, subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report indicating the nature and concentration of all pollutants in the discharge from the regulated processes which are limited by pretreatment standards or requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall State whether the applicable pretreatment standards or requirements are being met on a consistent basis and if not, what changes in operations and maintenance or additional pretreatment are necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This Statement shall

be signed by an authorized representative of the industrial user and certified to by a qualified professional engineer registered with the State. Users described above shall submit the information set forth below.

1. *Identifying information.* The name and address of the facility, including the name of the operator and owner.

2. *Environmental permits.* A list of any environmental control permits held by or for the facility.

3. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

4. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(a).

5. *Measurement of pollutants.*

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Paragraph (l) of this Subsection.

c. Sampling must be performed in accordance with procedures set out in Paragraph (l) of this Subsection.

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

7. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in

this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this Subsection must meet the requirements set out in Paragraph (B) of Subsection 13-5-17-11.

8. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with Paragraph (G) of Subsection 13-5-17-11.

B. *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by Paragraph (A) of this Subsection.

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

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

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

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

C. *Reports on compliance with categorical pretreatment standard deadline.* Within three (3) months following the date for final acceptance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in Paragraph (D) of this Subsection. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Paragraph (G) of Subsection 13-5-17-11.

D. Periodic compliance reports.

1. Any user subject to a National Categorical Pretreatment Standard, after the compliance date of such pretreatment standard, or, in the case of new source, after commencement of the discharge into the wastewater facilities, shall submit to the director during the months of June and December, unless required more frequently in the pretreatment standard or by the director, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported pursuant to Paragraph (A) of this Subsection. At the discretion of the director, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, and the like, the director may agree to alter the months during which the reports required by this subsection are to be submitted.
2. All significant industrial users shall, at a frequency determined by the director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Paragraph (G) of Subsection 13-5-17-11. The POTW may sample and analyze user discharges in lieu of, or in addition to, requiring the users to conduct sampling and analysis.
3. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
4. If a user subject to the reporting requirement in this Code monitors any pollutant more frequently than required by the director, using the procedures prescribed in Paragraph (I) of this Subsection, the results of this monitoring shall be included in the report.
5. The director may impose mass limitations on users, which are using flow equalization to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate. In such cases, the report required by Paragraph (D)(1) of this Subsection shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass, where requested by the director, limited by the applicable

pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable pretreatment standard.

6. Additional information. The director may require any user of the wastewater facilities to provide information needed to determine compliance with this Code. These requirements may include:

- a. The wastewater discharge peak rate and volume over a specified time period;
- b. Chemical analysis of wastewaters;
Information on raw materials, processes and products affecting wastewater volume and quality;
- c. A quantity and disposition of specific liquid, sludge, oil solvent or other materials important to sewer use control;
- d. A plot plan of sewers on the user's property showing sewer and pretreatment facility location;
- e. Details of wastewater pretreatment facility.
- f. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

E. Reports of changed conditions. Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least forty-five (45) days before the change.

1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Subsection 13-5-17-11 of this Code.
2. The director may issue a wastewater discharge permit under Subsection 13-5-17-11 of the Code or modify an existing wastewater discharge permit under Paragraph (K) of Subsection 13-5-17-11 in response to changed conditions or anticipated changed conditions.
3. For purposes of this requirement, significant changes include, but are limited to, flow increases of twenty (20) percent or greater, or the discharge of any previously unreported pollutant.

F. Reports of potential problems

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary

batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

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

3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Paragraph (F)(1) above. Employers shall ensure that all employees who may cause such discharge to occur are advised of the emergency notification procedure.

G. Reports from unpermitted users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports as the director may require.

H. Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within one (1) month after becoming aware of the violation. The user is not required to repeat the testing if the director monitors at the user's facility at least once a month, or the director samples between the user's initial sampling and when the user receives the results of the sampling.

I. Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of the wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

J. Sample collection.

1. Except as indicated in subsection (2) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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

K. *Timing.* Written reports will be deemed to have been submitted on the date postmarked.

L. *Record keeping.* Users subject to the reporting requirements of this Code shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by the Code and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town or where the user has been specifically notified of a longer retention period by the director.

M. *Monitoring facilities.*

1. The director shall have the right to enter the premises of any user with 24 hr notice to determine whether the user is complying with all requirements of this Code and any wastewater discharge permit or order issued hereunder. Users shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

a. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director is permitted to enter without delay for the purposes of performing specific responsibilities.

b. The director shall have the right to set up on the user's property of require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

c. The director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated semiannually to ensure their accuracy.

d. 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 user at the written or verbal request of the director and shall be replaced. The costs of clearing such access shall be borne by the user.

e. Unreasonable delays in allowing the director access to the user's premises shall be a violation of this Code.

2. When required by the director, the owner of any property serviced by a building sewer carrying industrial waste shall install a suitable structure, together with such necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the director. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. The meters, appurtenances and structures shall be made available to the director at all times.

3. All holders of a Town wastewater discharge permit shall provide and operate, at their own expense, monitoring facilities to allow inspection sampling and measurement of the building sewer or internal drainage systems. The monitoring facility should normally be situated on public property just outside the user's lot line, but the director may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in an alternate location which is readily accessible to the Town.

4. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the permit holder.

A. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the director's requirements and all applicable portions of this Code. Construction shall be completed within three (3) months following written notification by the director, unless another date is specified in the wastewater discharge permit.

13-5-17-13 Inspection and Sampling

A. The application for or use of the Town's Wastewater Facilities specifically implies that the Town is given the consent by the owner and/or user to have full and unrestricted access to the facilities creating the sewage. The Town may inspect the facilities with 24 hours notice of any user to ascertain whether the purposes of this Code are being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Town or its representatives ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or records copying in the performance of any of its duties. The Town, the State Department of Public Health and the Environment and the EPA shall have the right to set up, within the user's property, such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry in the user's premises, the user shall make necessary arrangements with the user's security guard so that, upon presentation of suitable identification, personnel from the Town, the State department of public health and the environment and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

B. If the director 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 Town 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, then the director may seek issuance of a search warrant from the appropriate municipal court or Nineteenth Judicial District Court of the State of Colorado. The refusal by a user to allow access is unlawful and illegal.

To enforce the provisions of this Code the Town may elect to immediately seal and stop the sewer flows coming from that property and the user impliedly consents to such action and waives any claim for damages as a result thereof.

13-5-17-14 Pretreatment

A. Users shall provide wastewater pretreatment as required to comply with this Code and shall comply with all National Categorical Pretreatment Standards within the time limitations specified by the pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the director shall be provided, operated and maintained at user's expense and shall be maintained continuously in satisfactory and effective operation. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the director for review, and shall be acceptable to the

director before the construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the director under the provisions of this Code. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the director prior to the user's initiation of the changes.

B. All records relating to compliance with National Categorical Pretreatment Standards shall be made available to officials of the EPA or approval authority upon request, subject to any limitations contained in State statutes.

C. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the CDPS program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data," as defined by 40 CFR 2.302, will not be recognized as confidential information and will be available to the public without restriction.

13-5-17-15 Administration Enforcement Actions

The director may take the following types of enforcement actions in response to a user's noncompliance with this Code, a wastewater discharge permit, or any other applicable federal, State, or local pretreatment standard or requirement. The remedies provided for in this Code are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan; however, the director may take other action against any user when the circumstances warrant.

Further, the director is empowered to take more than one (1) enforcement action against any noncompliant user.

A. *Notice of violation.* Whenever the director finds that any user has violated or is violating any provision of this Code or the Town's wastewater discharge permit, or any prohibition, limitation or requirement contained therein, the

director may serve upon such person a written notice stating the nature of the violation. Within ten (10) days of the service of the notice, the user thereof shall submit a plan for the satisfactory permanent correction to the director. The provisions of this Subsection are not a prerequisite to the filing of any legal action regarding a violation of any Subsection of this Code or the Town wastewater discharge permit, but may be used alternatively to, or concurrently with, the provisions of this Subsection.

B. *Consent orders.* The director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Paragraphs (D) and (E) of this SubSection and shall be judicially enforceable.

C. *Show cause hearing.* The director may order a user which has violated, or continues to violate, any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

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

E. *Cease and desist orders.* When the director finds that a user has violated, or continues to violate, any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and
2. 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.
3. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

F. *Administrative Fines.*

1. When the director finds that a user has violated, or continues to violate, any provisions of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not to exceed two thousand six hundred fifty dollars (\$2,650), and imprisonment for up to one (1) year, or both such fine and imprisonment, pursuant to C.R.S. Section 31-16-101 (2). 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, or portion thereof, during the period of violation.
2. Falsifying information. Any person who knowingly makes any false Statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Code, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Code, shall, upon conviction, be punished by a fine of three hundred dollars (\$300.00) and/or by imprisonment up to ninety (90) days.
3. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten (10) percent of the unpaid balance, and interest shall accrue thereafter at a rate of one (1) percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
4. Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within one (1) month of being notified of the fine. Where a request has merit, the director may convene a hearing on the matter. In the event the user's appeal is

successful, the payment, together with any interest accruing thereto, shall be returned to the user. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

5. Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other actions against the user.

G. Emergency Suspensions. The director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated, to the satisfaction of the director, that the period of endangerment has passed, unless the termination proceedings in Paragraph (H) of this Subsection are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under Paragraph (C) of this Subsection. Nothing in this Subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this Subsection.

H. Termination of discharge. In addition to the other provisions of this Code, any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;

2. Failure to accurately report the wastewater constituents and characteristics of its discharge;

3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the pretreatment standards in Subsection 13-5-17-3 of this Code.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Paragraph (C) of this Subsection why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

1. *Revocation of permit.* The director may revoke a wastewater discharge permit for good cause, including but not limited to, the following reasons:

1. Failure to notify the director of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the director of changed conditions pursuant to Paragraph (E) of Subsection 13-5-17-11;
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports;
5. Tampering with monitoring equipment;
6. Refusing to allow the director timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;
12. Failure to provide advance notice of the transfer of business ownership of a permitted facility;

13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Code; or

14. Failure to accurately report the wastewater constituents and characteristics of its discharge.

13-5-17-16 Publications of Violations

A. Any discharge of pollutant that has imminent endangerment of human health/welfare or to the environment and has resulted in the POTW exercise of its emergency authority to halt or prevent such a discharge.

B. Failure to provide reports for compliance schedules, self-monitoring data, permit application data, or categorical standards (baseline monitoring reports, ninety-day compliance reports, and periodic reports).

C. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone, or in combination with other discharge, interference (e.g. sludge loads) or pass through, or endangered the health of the POTW personnel or the public.

D. Failure to report noncompliance.

E. Violations of a compliance schedule milestone contained in a load control order, for starting construction, completing construction or attaining final compliance by three (3) months or more after the scheduled date.

F. Any other violation or group of violations, which the control authority determines adversely affect the operation or implementation of the local pretreatment program or the POTW considers to be significant.

13-5-17-17 Harmful Discharges

The director may suspend the wastewater treatment service and/or a wastewater discharge permit when such an actual or threatened discharge presents or may present imminent or substantial endangerment to the health or welfare of persons or to the environment, or causes interference to the POTW, or causes the Town to violate any conditions of its CDPS permit.

13-5-17-18 Charges and Fees

The Town may, by resolution of the board of trustees, adopt charges and fees in its municipal fee schedule, which may include:

A. Fees for reimbursement of costs of setting up and operating the program described herein;

B. Fees for monitoring, inspecting, and surveillance procedures;

- C. Fees for reviewing accidental discharge procedures and construction;
- D. Fees for permit applications;
- E. Fees for filing appeals;
- F. Other fees as the Town may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this Code and are separate from all other fees chargeable by the Town.

13-5-17-19 Measurements, Testing and Sampling Requirements

All measurements, sampling, testing and analyses of the characteristics of waters and wastewaters to which reference is made in this Code shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater or the EPA Manual of Methods for Chemical Analysis of Water and Waste.

13-5-17-20 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 the categorical pretreatment standards because of factors beyond the reasonable control of the 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. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the user can identify the cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

c. The user has submitted the following information to the director 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):

- i. A description of the indirect discharge and cause of noncompliance.
- ii. The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

6. Users shall control 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.

7. If a user establishes an affirmative defense of an upset, the user shall still be responsible for reimbursing the Town for all its costs and related expenses.

B. *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Subsection 13-5-17-21 of this Code if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town was regularly in compliance with its CDPS permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements. Pursuant to 40 CFR Section 403.5(a)(2), the affirmative defense outlined in Paragraph (B) of this Subsection does not apply to the specific prohibitions in Paragraphs (C)(1), (3), and (6) of Subsection 13-5-17-21.

C. Bypass.

1. For the purposes of this Code;

a. "Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility.

b. "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. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs (C)(3) and (C)(4) of this Subsection.

3. Notice a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the director at least ten (10) days before the date of the bypass, if possible.

b. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the 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 recurrence of the bypass. The director may waive the written report on a case by-case basis if the oral report has been received within twenty-four (24) hours.

4. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The user submitted notices as required under Paragraph (C)(3) of this Subsection. The director may approve an anticipated bypass, after considering

its adverse effects, if the director determines that it will meet the three (3) conditions listed in Paragraph (C)(4) of this Subsection.

13-5-17-21 Civil and Criminal Penalties

A. Injunction. When the director finds that a user has violated, or continues to violate, any provision of this Code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the Nineteenth Judicial District of the State of Colorado through the Town's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Code on activities of the user. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the 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 the user.

B. Civil Penalties. Any user who is found to have failed to comply with any provision of this Code, or the orders, rules, regulations and permits issued thereunder, shall be fined a civil penalty in an amount up to ten thousand dollars (\$10,000.00) per day for each violation/offense, pursuant to the authority of 25-8-608(1) C.R.S., as amended, and the Federal Water Pollution Control Act, commonly referred to as the "Clean Water Act". Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. 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 user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires. In addition to the penalties provided herein, the Town may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Code or orders, rules, regulations and permit issued pursuant to this Code.

C. Criminal Penalties.

1. A user who discharges any pollutant into the Town's POTW commits criminal pollutions if such discharge violates any provision of this Code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, and the discharge is made:

- a. With criminal negligence or recklessly, in which case the user shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars (\$300.00) per violation, per day, or imprisonment for not more than ninety (90) days for each violation, or both such fine or imprisonment;

b. Knowingly or intentionally, in which case the user shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars (\$300.00) per violation, per day, or imprisonment, or both such fine and imprisonment for not more than ninety (90) days for each violation.

2. A user who 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, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Code shall, upon conviction, be punished by a fine of not more than three hundred dollars (\$300) per violation, per day, or imprisonment for not more than six (6) months or both.

3. If two separate offenses under this Code occur in two (2) separate occurrences during a period of two (2) years, the maximum fine for the second offense shall be double the amounts specified in Paragraphs (C)(1) and (C)(2) of this Subsection.

4. Performance Bonds. The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Code, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Town, in a sum not to exceed the value determined by the director to be necessary to achieve consistent compliance.

5. Liability Insurance. The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Code, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

6. Water supply severance. Whenever a user has violated or continues to violate any provision of this Code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

7. Contractor listing. Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Town. Existing contracts for the sale of goods or services to the Town held by a user found to

be in significant noncompliance with pretreatment standards or requirements may be terminated at the direction of the director.

D. *Enforcement.* The remedies provided for in this Code are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's Industrial Pretreatment Program; however, the director may take other action against any user when the circumstances warrant. Further, the director is empowered to take more than one (1) enforcement action against any noncompliant user.