

1 | **ARTICLE 26-600. - INDUSTRIAL WASTE DISCHARGE** Attachment "A"

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20 | Sec. 26-601. ~~— Purpose; Policy; Applicability and Authority of the City.~~

21 |  
22 | (a) *Purpose.* This ~~article~~ Article sets forth uniform requirements for Industrial Users of the  
23 | city City's Publicly Owned Treatment Works (POTW) wastewater systems (WWS)  
24 | and enables the city City to comply with applicable State and federal laws, including the  
25 | Clean Water Act (33 U.S.C. Section 1251 et seq.) of 1977, and the federal General  
26 | Pretreatment Regulations (40 CFR, Part 403), ~~all as amended~~ and the City's Montana  
27 | Pollutant Discharge Elimination System (MTPDES) permit. The objectives of this ~~article~~  
28 | Article are to:

- 29 |  
30 | (1) Prevent the introduction of pollutants into the POTW municipal wastewater  
31 | system which will interfere with or upset the operation of the POTW wastewater  
32 | system treatment plant, or interfere with sludge use or disposal contaminate  
33 | treatment plant sludge with toxic or hazardous materials.
- 34 | (2) Prevent the introduction of incompatible pollutants into the POTW municipal  
35 | wastewater system and the wastewater system treatment plant which may pass  
36 | through the system without adequate treatment and into receiving waters or the  
37 | atmosphere or otherwise be incompatible with the system.
- 38 | (3) Prevent water quality violations resulting from direct discharges into waters of the  
39 | State, or violations of the Montana Pollution Discharge Elimination System  
40 | permit for the wastewater system treatment plant.
- 41 | (4) Improve the opportunity to recycle and reclaim wastewaters and sludges from the  
42 | system.
- 43 | (5) Provide for equitable distribution of the costs of the program.
- 44 | (6) To provide for and promote the general health, safety and welfare of the citizens  
45 | residing within the City and connecting jurisdictions. ~~Establish and maintain a data~~

46 ~~base and inspection program sufficient to determine compliance with pretreatment~~  
47 ~~requirements.~~

48 (7) Enhance the efficiency and cost-effective operation of the POTW wastewater  
49 system.

50 (8) Protect the health and safety of ~~city~~ City residents and wastewater system workers  
51 and the general public.

52 (9) Protect the municipal wastewater system and wastewater treatment plant from  
53 physical damage.  
54

55 (b) *Policy.* This ~~article~~ Article provides for the regulation of industrial users, contributors or  
56 users of the ~~city~~ City's wastewater system through implementation and enforcement the  
57 development of the an I-industrial Ppretreatment pProgram. The City is authorized to ,  
58 including issuance of industrial discharge permits to -significant industrial users, and  
59 through enforcement of Pretreatment Standards and Requirements, general requirements  
60 for the significant industrial users. This article authorizes monitor discharges to the  
61 POTW, require industrial user monitoring and reporting and take other actions to meet  
62 the objectives of this Article.ing and enforcement activities, requires user reporting, The  
63 Industrial Pretreatment Program protects the wastewater system treatment and hydraulic  
64 capacity, improves the ability to serve existing and new customers within the service area  
65 of the wastewater system, outlines fees and charges for the equitable distribution of costs  
66 resulting from the program established herein, and establishesed penalties and remedies  
67 for violations of Ppretreatment Standards and Rrequirements.  
68

69 (c) *Applicability.* ~~This article, Any Industrial User, the discharge from which directly or~~  
70 indirectly enters the City's POTW from areas within or without the boundaries of the  
71 City, shall be bound by this Article as amended. This Article may be enforced against  
72 any Industrial User. the Act (as defined in section 26-602), and all adopted supplemental  
73 rules and regulations apply within the City of Billings and to persons outside the city who  
74 are, by contract or agreement with the city, users of the city's wastewater system. It shall  
75 be unlawful for any Industrial User to discharge any domestic or non-domestic wastewater  
76 into any natural waterway, any surface drainage, or storm drain in any area under the  
77 jurisdiction of the City. No industrial wastewater shall be discharged to the POTW unless  
78 done so in compliance with the provisions of this Article. Where an owner of property  
79 leases premises to a person as a tenant under any rental or lease agreement, if either the  
80 owner or the tenant is an Industrial User, either or both may be held responsible for  
81 compliance with the provisions of this Article. Except as otherwise provided herein, the  
82 Administrator or theirhis designee, shall implement, administer and enforce the  
83 provisions of this-artiele Article.  
84  
85

86 (d) Authority of the City.

87  
88 (1) Except as otherwise specified, the City Administrator shall administer,  
89 implement, and enforce the provisions of this Article. Any powers granted to or  
90 duties imposed upon the City Administrator may be delegated by the City  
91 Administrator to other City personnel.

92  
93 (2) The City shall attempt to notify in writing any Industrial User whom they have cause  
94 to believe is subject to a Categorical Pretreatment Standard or Requirement, or other  
95 applicable requirements promulgated by the EPA under the provisions of Section  
96 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of  
97 the Solid Waste Disposal Act. Failure of the City to so notify industrial users shall  
98 not relieve said industrial users from the responsibility of complying with applicable  
99 requirements. It is the responsibility of Significant Industrial Users to apply for and  
100 receive a permit prior to discharge, whether or not the Industrial User has been  
101 identified and formally requested to do so.

102  
103 (3) If wastewaters containing any pollutant, including excess flow, or as otherwise  
104 defined in this Article, are discharged or proposed to be discharged to the POTW,  
105 the City may take any action necessary to:

106  
107 (i) Prohibit the discharge of such wastewater;

108  
109 (ii) Require an Industrial User to demonstrate that in-plant facility modifications  
110 will reduce or eliminate the discharge of such substances in conformity with  
111 this Article;

112  
113 (iii) Require treatment, including but not limited to storage facilities or flow  
114 equalization necessary to reduce or eliminate the potential for a discharge to  
115 violate this Article;

116  
117 (iv) Require the Industrial User making, causing or allowing the discharge to pay  
118 any additional cost or expense incurred by the City for handling, treating,  
119 disposing or remediation costs as a result of wastes discharged to the  
120 wastewater treatment system;

121  
122 (v) Require the Industrial User to apply for and obtain a permit;

123  
124 (vi) Require timely and factual reports from the Industrial User responsible for  
125 such discharge; or

126  
127 (vii) Take such other action as may be necessary to meet the objectives of this  
128 Article.

129  
130 ~~(Ord. No. 85-4663, § 1, 9-9-85; Ord. No. 91-4886, § 1, 9-9-91)~~

131  
132  
133 Sec. 26-602. - Definitions.

134  
135 Unless the context specifically indicates otherwise, the words and terms used herein are defined  
136 and shall be interpreted for purposes of this ~~article~~ Article ~~and the rules and regulations~~ as  
137 follows:

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~~Accidental discharge means the unintentional and temporary discharge to the wastewater system of the prohibited waters or wastes, including those described in sections 26-604 and 26-606 or Chapter 22 of the rules and regulations.~~

~~Act or The Act means the Federal Water Pollution Control Act, Public Law 92-500, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq., and including amendments thereto by the Clean Water Act of 1977, Public Law 95-217, 33 U.S.C. section 466, et. seq., and as subsequently amended.~~

~~Administrator means the ~~city~~ City of Billings Administrator ~~of the City of Billings~~ or ~~their~~ his designee.~~

~~Approval Authority is the Rregional Aadministrator for Region 8, ~~of the~~ Environmental Protection Agency.~~

~~Authorized Rrepresentative of ~~the a significant~~ Iindustrial Uuser iincludes:~~

(a) If the Industrial User is a corporation:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

(2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including any person having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Industrial Discharge Permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local government facility: A city or district or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individuals described in paragraphs a. through c, above, may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a position responsible for the overall operation of the

184 facility from which the discharge originates or having overall responsibility for  
185 environmental matters for the company, and the written authorization is submitted to  
186 the City.

- 187  
188  
189 ~~(1) — A principal executive officer of at least the level of vice president having full actual~~  
190 ~~authority to act on behalf of the corporation, if the significant industrial user is a~~  
191 ~~corporation.~~  
192 ~~(2) — A general partner or proprietor if the significant industrial user is a partnership or~~  
193 ~~proprietorship, respectively.~~  
194 ~~(3) — A duly authorized representative of the individual designated above if such representative~~  
195 ~~is responsible for the overall operation of facilities from which any discharge originates.~~

196  
197 Best Management Practices (BMPs) are schedules of activities, prohibitions of practices,  
198 maintenance procedures, and other management practices to implement the General and Specific  
199 Prohibitions listed in Section 26-604 of this Article. BMPs may also include, but are not limited to,  
200 treatment requirements, operating procedures, and practices to control plant site runoff, spillage or  
201 leaks, sludge or waste disposal, or drainage from raw material storage. BMPs shall be considered  
202 Local Limits and Pretreatment Standards for the purposes of this Article and Section 307(d) of the  
203 Act (40 CFR Section 403.5(c)(4)).

204  
205 Biochemical Oxygen Demand (BOD<sub>5</sub>) is the quantity of oxygen utilized in the biochemical  
206 oxidation of organic matter under standard laboratory procedure over a period of five (5) days at  
207 twenty degrees (20°) Celsius and expressed in terms of milligrams per liter (mg/L).

208  
209 Categorical Industrial User is an Industrial User subject to a Categorical Pretreatment Standard.

210  
211 Categorical Pretreatment Standard or Categorical Standard means any regulation containing  
212 pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the  
213 Act (33 U.S.C. Section 1317) that apply to a specific category of industrial users and that appear in  
214 40 CFR chapter I, subchapter N, Parts 405-471.

215  
216 ~~Categorical standards means national categorical pretreatment standards or pretreatment~~  
217 ~~standard.~~

218  
219 City means the City of Billings, Montana.

220  
221 Code means ~~the Code of Ordinances of~~ the City of Billings, Montana City Code.

222  
223 Composite sample is a representative flow-proportioned sample generally collected within a  
224 twenty-four (24) hour period and combined according to flow. Time-proportional sampling may  
225 be approved or used by the District where time-proportional samples are believed representative  
226 of the discharge.

227  
228 Control Authority means the City of Billings.

229

230 Cooling water means:

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232 (a) Contact. Water used for cooling purposes which comes in contact with any raw material,  
233 intermediate product, waste product or finished product.

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

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

242

243 ~~Council~~ means the city City Cecouncil of the City of Billings, Montana.

244

245 Daily Maximum Discharge Limit is the maximum allowable concentration of a pollutant(s) that may  
246 be discharged during a twenty-four (24) hour period or as specified in an industrial user discharge  
247 permit. Where daily maximum limitations are expressed in units of mass, the discharge is the total  
248 mass discharged over the sampling period.

249

250 ~~Department~~ means the Ppublic Wworks Department of the City of Billings.

251

252 Director is the City of Billings Director of Public Works or designee that supervises the operation of  
253 the Publicly Owned Treatment Works and who is charged with certain duties and responsibilities  
254 under this Article, or their duly authorized representative.

255

256 ~~Discharge is the direct or indirect introduction of treated or untreated wastewater into the waters~~  
257 ~~of the State of Montana, either through the municipal wastewater system and wastewater system~~  
258 ~~treatment plan, or through a point source into state waters.~~

259

260 Domestic Sewage is domestic (sanitary) wastewater from residential sources including, but not  
261 limited to wastewater from kitchen, bath, and laundry facilities; or wastewater from the personal  
262 sanitary conveniences (toilets, showers, bathtubs, fountains, noncommercial sinks and similar  
263 structures) of commercial, industrial or institutional buildings, provided that the wastewater exhibits  
264 characteristics that are similar to those of wastewater from normal residential activities.

265

266 ~~Domestic wastes or sanitary wastes means liquid wastes:~~

267

268 (1) ~~From the noncommercial preparation, cooking and handling of food; or~~

269 (2) ~~Containing human excrement and similar matter from the sanitary conveniences of~~  
270 ~~dwelling, commercial buildings, industrial facilities and institutions.~~

271

272 ~~Environmental P~~rotection Agency or EPA means the United States Environmental Protection  
273 Agency, or where appropriate, the term may also be used as a designation for the Aadministrator  
274 or other duly authorized official of said Agency.

275

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

280  
281 *Grab sample* means a sample which is taken from a waste stream on a one-time basis with no  
282 regard to the flow in the waste stream and over a period of time not to exceed fifteen (15)  
283 minutes without consideration of time.

284  
285  
286 Gravity Grease Interceptor is a plumbing appurtenance or appliance that is installed in a sanitary  
287 drainage system to intercept FOG (fats, oil and grease) from a wastewater discharge and is designed  
288 for gravity separation considering calculated retention times and volumes for each facility. This is  
289 an in-ground interceptor that is located outside the facility.

290  
291 Grease Trap is a device designed to retain grease from one to a maximum of four fixtures per  
292 International Plumbing Code. A Grease Trap is not appropriate for use on heated water (e.g.  
293 dishwasher) or in-line to a waste disposal unit (e.g., garbage disposal and garbage grinders). A  
294 Grease Trap is a small, indoor device. Grease Traps are not approved for installation in food  
295 service establishments that prepare food on site, or serve catered food and have a dishwasher or a  
296 garbage disposal.

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299 ~~*Harmful contribution* means an actual or threatened discharge or introduction of industrial~~  
300 ~~wastes to the wastewater system which presents or may present an imminent or substantial~~  
301 ~~endangerment to the health and welfare of persons, or to the environment; or which inhibits or~~  
302 ~~interferes with the physical or lawful operation of the wastewater system; or which causes the~~  
303 ~~city or the wastewater treatment plant to violate any condition of its Montana Pollutant~~  
304 ~~Discharge Elimination System permit; or which causes the city to expend effort and resources~~  
305 ~~beyond that normally required.~~

306  
307  *Holding tank waste*  means any waste from holding tanks such as vessels, chemical toilets,  
308 campers, trailers, recreational vehicles, septic tanks or septage haulers.

309  
310 Indirect Discharge or Discharge is the introduction of pollutants into a POTW from any non-  
311 domestic source regulated under Section 307(b), (c) or (d) of the Act (including holding tank  
312 waste discharged into the system).

313  
314 *Industrial* means of or pertaining to industry, manufacturing, agriculture, commerce, trade, or  
315 business, as distinguished from domestic or residential.

316  
317 ~~*Industrial Ddischarge Ppermit* is a permit issued to an Industrial User that limits and/or prohibits~~  
318 ~~the discharge of pollutants or flow to the POTW and establishes other Pretreatment Standards~~  
319 ~~and Requirements document as set forth in Ssections 26-606-26-607 and 26-609 and of this~~  
320 ~~article Article and the applicable adopted rules and regulations which licenses and conditions the~~  
321 ~~nature and amount of contribution of industrial wastes into the wastewater system.~~

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~~*Industrial User is a source of Indirect Discharge.* means any person or source that introduces or discharges wastewater from industrial processes into the wastewater system, or any nondomestic user or source regulated under Section 307(b), (c), or (d) of the Clean Water Act.~~

~~*Industrial (non-domestic) waste* is the liquid or solid wastes from industrial manufacturing processes, trade or business activities producing non-domestic or non-residential sewage as distinct from domestic wastewater.~~

~~*Industrial wastes or wastewater* means all liquid or water-carried wastes other than domestic or sanitary wastes. The term includes, by way of example and not by limitation, the trade wastes produced by food processing and bottling plants, food manufacturing plant, slaughtering plants, tallow works, plating works, disposal services, industrial cleaning plants, fertilizer plants, car and truck washing operations, vehicle repair facilities, commercial laundries and cleaning establishments, cooling plants, industrial plants, factories, feedlots, and chemical treatment installations.~~

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

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

- ~~(a) Inhibits or disrupts the POTW treatment processes, or operations or its sludge processes, use or disposal; and~~
- ~~(b) Therefore, is a cause of violation of any requirement of the City’s MPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resources Conservation and Recovery Act (RCRA); any State regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solids Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.~~

~~*Interference* means the inhibition or disruption of the wastewater system treatment processes or operations which causes a violation of any requirement of the wastewater system’s Montana Pollutant Discharge Elimination System Permit, or of the requirements of any agency with jurisdiction over discharges by the wastewater treatment plant into the receiving waters. The term also includes contamination of treatment plant sludge byproducts.~~

366 Local Limits mean any regulation containing pollution discharge limits promulgated by the City in  
367 accordance with 40 CFR Section 403.5(c) and (d), which are deemed to be Pretreatment Standards  
368 and contained in Section 26-604(c) of this Article.

369 ~~Local limits means discharge limitations as established by the city.~~

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372 Montana Ppollutant Ddischarge Eelimination Ssystem (MPDES) permit is a permit issued  
373 pursuant to Section 402 of the Act (33 U.S.C. Section 1342), allowing discharge of pollutants  
374 from point sources into navigable waters of the United States or waters of the State of Montana.

375  
376 ~~National categorical pretreatment standards or pretreatment standard means any regulation~~  
377 ~~containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b)~~  
378 ~~and (c) of the Clean Water Act (33 U.S.C. Section 1317) which applies to a specific category of~~  
379 ~~primary industrial users.~~

380  
381 ~~National prohibitive discharge standard or prohibitive discharge standard means any federal~~  
382 ~~regulation developed under the authority of Section 307(b) of the Clean Water Act, including the~~  
383 ~~General Pretreatment Regulations (40 CFR Section 403.5).~~

384  
385 New Ssource means

386  
387 (a) Any building, structure, facility or installation from which there is or may be a  
388 Discharge of pollutants, the construction of which commenced after the publication of  
389 proposed Pretreatment Sstandards under Section 307(c) of the Act which will be  
390 applicable to such source if such Sstandards are thereafter promulgated in accordance  
391 with that section, provided that:

- 392  
393 (1a) The building, structure, facility or installation is constructed at a site at which no  
394 other source is located; or  
395 (2b) The building, structure, facility or installation totally replaces the process or  
396 production equipment that causes the discharge of pollutants at an existing source;  
397 or  
398 (3e) The production or wastewater generating processes of the building, structure,  
399 facility or installation are substantially independent of an existing source at the  
400 same site. In determining whether these are substantially independent, factors such  
401 as the extent to which the new facility is integrated with the existing plant, and the  
402 extent to which the new facility is engaged in the same general type of activity as the  
403 existing source should be considered.

404  
405 (b) Construction on a site at which an existing source is located results in a modification rather  
406 than a New Source if the construction does not create a new building, structure, facility or  
407 installation meeting the criteria of paragraphs (a)(2) or (a)(3) of this definition but otherwise  
408 alters, replaces, or adds to existing process or production equipment.

409  
410 (c) Construction of a New Source as defined under this paragraph has commenced if the owner  
411 or operator has:

412  
413 (1) Begun, or caused to begin as part of a continuous onsite construction program:

414  
415 (i) Any placement, assembly, or installation of facilities or equipment; or

416  
417 (ii) Significant site preparation work including clearing, excavation, or removal  
418 of existing buildings, structures, or facilities which is necessary for the  
419 placement, assembly, or installation of new source facilities or equipment;  
420 or

421  
422 (2) Entered into a binding contractual obligation for the purchase of facilities or  
423 equipment which are intended to be used in its operation within a reasonable time.  
424 Options to purchase or contracts which can be terminated or modified without  
425 substantial loss, and contracts for feasibility, engineering, and design studies do not  
426 constitute a contractual obligation under this paragraph.

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428  
429 *Pass ~~T~~through* means a discharge which exits the WWTP into water of the United States ~~the~~  
430 receiving stream in quantities or concentrations which, alone or in conjunction with a discharge  
431 or discharges from other sources, is a cause of a violation of any requirement of the ~~city~~ City's  
432 MPDES permit, including an increase in the magnitude or duration of a violation.

433  
434 *Person* means any individual, partnership, co-partnership, firm, company, corporation, group,  
435 association, trust, estate, governmental entity, political subdivision, or any other legal entity, or  
436 their legal representatives, agents, or assigns. ~~The masculine gender shall include the feminine,~~  
437 ~~and the singular shall include the plural where indicated by the context.~~

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439  
440 pH is the intensity of acid or base condition of the solution expressed as the logarithm (base 10) of  
441 the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution and  
442 reported as Standard Units (SU).

443  
444 ~~*Pollution* means the alteration of the chemical, physical, biological, or radiological integrity of~~  
445 ~~water by human activity.~~

446  
447 *Pollutant* means any dredged soil, solid waste, incinerator residue, filter backwash, sewage,  
448 garbage, septic waste, sewage sludge, munitions, chemical wastes, biological materials,  
449 radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended  
450 (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded ~~charged~~ equipment, rock, sand, cellar dirt,  
451 and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g.,  
452 pH, temperature, TSS, turbidity, color, BOD<sub>5</sub>, COD, toxicity, or odor) discharged into or with  
453 water.

454  
455 *Pollution* means the alteration of the chemical, physical, biological, or radiological integrity of  
456 water by human activity.

458 ~~Pretreatment or treatment~~ means the reduction of the amount of pollutants, the elimination of  
459 pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu  
460 of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration  
461 may be obtained by physical, chemical or biological processes, process changes or by other  
462 means, except as prohibited by 40 CFR Section 403.6(d). Appropriate pretreatment technology  
463 includes control equipment, such as equalization tanks or facilities, for protection against surges  
464 or slug loadings that might interfere with or otherwise be incompatible with the POTW.  
465 However, where wastewater from a regulated process is mixed in an equalization facility with  
466 unregulated wastewater or with wastewater from another regulated process, the effluent from the  
467 equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40  
468 CFR Section 403.6(e).

~~the alteration of the rate of their introduction into the wastewater system, or the alteration of the~~  
470 ~~nature of pollutant properties in wastewater to a less harmful state, prior to or in lieu of~~  
471 ~~discharging or otherwise introducing such pollutants into a wastewater system. The reduction or~~  
472 ~~alteration can be achieved by physical, chemical or biological processes, process changes, or by~~  
473 ~~other means, except as prohibited by 40 CFR Section 403.6(d).~~

474  
475 *Pretreatment Requirement* means any substantive or procedural requirement related to  
476 Ppretreatment, other than a including national-Ceategorical Ppretreatment Sstandards, imposed  
477 on an Iindustrial Uuser.

478  
479 *Pretreatment Standard, National Pretreatment Standard, or Standard* means any regulation  
480 containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b)  
481 and (c) of the Act, which applies to Industrial Users. The term includes prohibitive discharge limits,  
482 local limits, and Best Management Practices that are or may be established by the City. In cases of  
483 differing standards or regulations, the most stringent standard shall apply.

484  
485 *Publicly Owned Treatment Works (POTW)* means a treatment works as defined by Section 212 of  
486 the Act (33 U.S.C 1292), which is owned by the City. This definition includes any devices or  
487 systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage  
488 or industrial wastes of a liquid nature and any sewers, pipes or other conveyances which convey  
489 wastewater to the treatment plant. The term also means the municipality having jurisdiction over  
490 the Indirect Discharges to and the discharges from the treatment works.

491  
492 *Rules and Regulations* means all rules and regulations promulgated by the Aadministrator for  
493 administration and operation of the municipal water and wastewater utilities as provided for in  
494 Section 26-101 of the Billings, Montana City Code.

495  
496 *Septage* means the mixed liquid and solid contents pumped from septic tanks used for receiving  
497 primarily segregated domestic wastes or wastes from sanitary conveniences.

498  
499 *Significant Industrial User (SIU):* Except as provided in paragraphs (c) and (d) of this definition, a  
500 Significant Industrial User is:

501  
502 (a) An Industrial User subject to Categorical Pretreatment Standards; or  
503

- 504 (b) An Industrial User that:  
505  
506 (1) Discharges an average of twenty-five thousand gallons per day (25,000 gpd) or  
507 more of process wastewater to the POTW (excluding sanitary, noncontact cooling,  
508 and boiler blowdown wastewater);  
509  
510 (2) Contributes a process wastestream which makes up five percent (5%) or more of the  
511 average dry weather hydraulic or organic capacity of the POTW treatment plant; or  
512  
513 (3) Is designated as such by the City on the basis that the Industrial User has a  
514 reasonable potential for adversely affecting the POTW's operation or for violating  
515 any Pretreatment Standard or Requirement.  
516

517 (c) The City may determine that an Industrial User subject to Categorical Pretreatment  
518 Standards is a Non-Significant Categorical Industrial User rather than a Significant  
519 Industrial User upon a finding that the Industrial User never discharges more than one  
520 hundred gallons per day (100 gpd) of total categorical wastewater (excluding sanitary, non-  
521 contact cooling and boiler blowdown wastewater, unless specifically included in the  
522 Pretreatment Standard) and the following conditions are met;  
523

- 524 (1) The Industrial User, prior to the City's finding, has consistently complied with all  
525 applicable Categorical Pretreatment Standards and Requirements;  
526  
527 (2) The Industrial User annually submits the certification statement as found in 40 CFR  
528 403.12(g) together with any additional information necessary to support the  
529 certification statement; and  
530  
531 (3) The Industrial User never discharges any untreated concentrated wastewater.  
532

533 (d) Upon finding by the City that an Industrial User meeting the criteria in Section B of this  
534 definition has no reasonable potential for adversely affecting the POTW's operation or for  
535 violating any Pretreatment Standards or Requirement, the City may at any time, on its own  
536 initiative or in response to a petition received from an Industrial User, and in accordance  
537 with 40 CFR 403.8(f)(2), determine that such Industrial User is not a Significant Industrial  
538 User.  
539

540 ~~Significant industrial user is any user of the city's wastewater collection, treatment and disposal~~  
541 ~~system who:~~  
542

- 543 ~~(a) — Is subject to categorical standards as defined herein; or~~  
544 ~~(b) — Discharges an average of twenty five thousand (25,000) gallons per day or more of~~  
545 ~~process wastewater to the WWS, excluding sanitary, noncontact cooling and boiler~~  
546 ~~blowdown wastewater; or~~  
547 ~~(c) — Contributes a process wastestream which makes up five (5) percent or more of the~~  
548 ~~average dry weather hydraulic or organic capacity of the WWTP; or~~

549 (d) — ~~Is designated as such by the city on the basis that the industrial user has a potential for~~  
550 ~~adversely affecting the WWS or for violating any pretreatment standard or requirement.~~

551  
552 ~~Significant violator means an industrial user who is in significant noncompliance by violating~~  
553 ~~one or more of the following criteria:~~

554  
555 (a) — ~~Chronic violations of wastewater discharge limits, defined as those in which sixty-six~~  
556 ~~(66) percent or more of all of the measurements taken during a six-month period exceed,~~  
557 ~~by any magnitude, the daily maximum limit or the average limit for the same pollutant~~  
558 ~~parameter;~~

559 (b) — ~~Technical review criteria (TRC) violations, defined as those in which thirty-three (33)~~  
560 ~~percent or more of all of the measurements for each pollutant parameter taken during a~~  
561 ~~six-month period equal or exceed the product of the daily maximum limit or the average~~  
562 ~~limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2~~  
563 ~~for all other pollutants except pH);~~

564 (c) — ~~Any other violation of a pretreatment effluent limit (daily maximum or longer-term~~  
565 ~~average) that the administrator determines has caused, alone or in combination with other~~  
566 ~~discharges, interference or pass-through, including endangering the health of city~~  
567 ~~personnel or the general public;~~

568 (d) — ~~Any discharge of a pollutant that has caused imminent endangerment to human health,~~  
569 ~~welfare or the environment or has resulted in the city's exercise of its emergency~~  
570 ~~authority specified herein to halt or prevent such a discharge;~~

571 (e) — ~~Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule~~  
572 ~~milestone contained in a local control mechanism or enforcement order for starting~~  
573 ~~construction, completing construction or attaining final compliance;~~

574 (f) — ~~Failure to provide, within thirty (30) days after the due date, required reports such as~~  
575 ~~baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring~~  
576 ~~reports and reports on compliance with compliance schedules;~~

577 (g) — ~~Failure to accurately report noncompliance; or~~

578 (h) — ~~Any other violation or group of violations which the administrator determines will~~  
579 ~~adversely affect the operation or implementation of the local pretreatment program.~~

580  
581 ~~Slug *Discharge* means any discharge at a flow rate or concentration, which could cause a~~  
582 ~~violation of the Specific Prohibitions in Section 26-604(b). A Slug Discharge is any discharge of a~~  
583 ~~non-routine, episodic nature, including but not limited to an accidental spill or a non-customary~~  
584 ~~batch discharge, or a discharge which exceeds the hydraulic or design of an Industrial Users~~  
585 ~~treatment system or any part of the treatment unit including a discharge which has a reasonable~~  
586 ~~potential to cause Interference or Pass Through or in any other way violate an applicable~~  
587 ~~Pretreatment Standard or Requirement or an Industrial Discharge Permit issued by the City.~~  
588 ~~pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge of such~~  
589 ~~volume or strength as to cause interference in the WWS.~~

590  
591 ~~Source means any building, structure, facility, or installation from which there may be a~~  
592 ~~discharge of pollutants.~~

593

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

597  
598 *State* means the State of Montana.

599  
600 *Total Suspended Solids* is the total suspended matter, expressed in milligrams per liter, that floats on  
601 the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by  
602 laboratory filtering in accordance with procedures approved in 40 CFR Part 136, as amended.

603  
604 *Toxic pollutant* includes, but is not limited to, any pollutant or combination of pollutants listed as  
605 toxic in regulations promulgated by the Administrator of the EPA under the provisions of  
606 Section 307(a) of the Act or as otherwise listed in 40 CFR Part 122, Appendix D ~~other applicable~~  
607 ~~laws.~~

608  
609 ~~*User* means any person who discharges, causes, or permits the discharge or introduction of~~  
610 ~~wastewater into the wastewater system.~~

611  
612 *Wastewater* or *sewage* means the liquid and water-carried industrial or domestic wastes from  
613 dwellings, commercial buildings, industrial facilities and institutions ~~together with any~~  
614 ~~groundwater, surface water and storm water that may be present,~~ whether treated or untreated,  
615 which ~~are is~~ discharged into or permitted to enter the POTW wastewater system.

616  
617 *Wastewater treatment plant (WWTP)* is that portion of the waste water system designed to  
618 provide treatment to wastewater.

619  
620 ~~*Wastewater system (WWS)* means wastewater treatment works as defined by Section 212 of the~~  
621 ~~Act (33 U.S.C. Section 1292) which are owned by the city, or which are managed and operated~~  
622 ~~by the city; includes any sewers that convey wastewater to the WWTP from within the WWTP~~  
623 ~~service area, but excludes pipes, sewers, or other conveyances not directly or indirectly~~  
624 ~~connected to the treatment facility. For the purposes of this article, WWS shall also include any~~  
625 ~~sewers that convey wastewaters to the WWS from persons or sources outside the city who are,~~  
626 ~~by contract or agreement with the city or connecting sanitation districts, users of the city's WWS.~~

627  
628 *Waters of the State* means all streams, lakes, ponds, marshes, watercourses, waterways, wells,  
629 springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or  
630 accumulations of water, surface or underground, natural or artificial, public or private, which are  
631 contained within, flow through, or border upon the state or any portion thereof.  
632 (Ord. No. 85-4663, § 2, 9-9-85; Ord. No. 06-5356, § 14, 1-9-06)

633  
634 Sec. 26-603. - Abbreviations.

635  
636 The following abbreviations shall have the designated meanings for the purposes of this ~~article~~  
637 Article and the supplemental Rrules and Rregulations:

638  
639 *BMCC*: Billings, Montana City Code.

640 BMP: Best Management Practice.  
641 BOD<sub>5</sub>: Biochemical Oxygen Demand.  
642 CFR: Code of Federal Regulations.  
643 ~~COD: Chemical oxygen demand.~~  
644 EPA: Environmental Protection Agency.  
645 LEL: Lower Explosive Limit  
646 mg/LA: milligrams per liter.  
647 MPDES: Montana Pollutant Discharge Elimination System.  
648 POTW: Publicly Owned Treatment Works  
649 SIC: Standard Industrial Classification.  
650 SIU: Significant Industrial User  
651 SNC: Significant Noncompliance  
652 TSS: Total Suspended Solids  
653 ~~WWS: Wastewater system.~~  
654 WWTP: Wastewater Treatment Plant.  
655 U.S.C.: United States Code.  
656 ~~TSS: Total suspended solids.~~  
657 ~~(Ord. No. 85-4663, § 3, 9-9-85)~~  
658  
659 Sec. 26-604. — Prohibited Discharges and Limitations~~General discharge prohibitions.~~  
660  
661 ~~(a) — *Unlawful discharge.* It shall be unlawful to discharge any industrial wastewater or~~  
662 ~~polluted waters into any natural outlet within the City of Billings, or within any area~~  
663 ~~under the jurisdiction of the city, except where suitable treatment has been provided, and~~  
664 ~~except as authorized by the administrator in accordance with the provisions of this article.~~  
665 ~~(b) — *Harmful contributions.* No person or user shall introduce, discharge, or cause to be~~  
666 ~~discharged into the municipal wastewater system or WWTP, any pollutant or wastewater~~  
667 ~~which may cause interference with the operation or performance of the WWS, or which~~  
668 ~~constitutes a harmful contribution to the WWS, or which may pass through the WWS so~~  
669 ~~as to cause the WWS to violate terms of its MPDES permit or other applicable laws and~~  
670 ~~regulations. These general prohibitions apply to all users of the WWS, whether or not the~~  
671 ~~user is subject to national categorical pretreatment standards or any other national, state,~~  
672 ~~or local pretreatment standards or requirements, including specific pollutant limitations~~  
673 ~~developed pursuant to section 26-606 of this article.~~  
674  
675 (a) General Prohibitions  
676  
677 An Industrial User may not introduce into a POTW any pollutant(s) which cause Pass  
678 Through or Interference. These General Prohibitions and the Specific Prohibitions in  
679 paragraph (b) of this Section apply to each Industrial User introducing pollutants into a  
680 POTW whether or not the Industrial User is subject to other Pretreatment Standards or  
681 Requirements.  
682  
683 (b) The following Specific Prohibitions apply to the discharge of wastewater to the POTW from  
684 all industrial users:  
685

- 686 (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not  
687 limited to, wastestreams with a closed cup flashpoint of less than 140 degrees  
688 Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR Section  
689 261.21. The Administrator may require industrial users with the potential to  
690 discharge flammable, combustible or explosive substances to install and maintain  
691 an approved combustible gas detection meter or explosion hazard meter. No two  
692 successive readings on an explosion hazard meter at the point of discharge shall  
693 be more than five percent (5%), nor any one reading more than ten percent (10%),  
694 of the Lower Explosive Limit (LEL) of the meter.  
695  
696 (2) Pollutants which will cause corrosive structural damage to the POTW, but in no case  
697 discharges with pH lower than 5.5 or greater than 12.5.  
698  
699 (3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in  
700 the POTW resulting in the Interference.  
701  
702 (4) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a  
703 discharge at a flow rate and/or pollutant concentration which will cause Interference  
704 with the POTW.  
705  
706 (5) Heat in amounts which will inhibit biological activity in the POTW resulting in  
707 Interference, but in no case heat in such quantities that the temperature at the POTW  
708 Treatment Plant exceeds 40 degrees Celsius (104°F) unless the EPA, upon request  
709 of the POTW, approves alternate temperature limits.  
710  
711 (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in  
712 amounts that will cause Interference or Pass Through.  
713  
714 (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the  
715 POTW in a quantity that may cause acute worker health and safety problems.  
716  
717 Any discharge containing a toxic, poisonous or infectious substance in sufficient  
718 quantity to injure or interfere with any sewage treatment process, constitute a  
719 hazard to humans or animals, pollutants which result in the presence of toxic  
720 gases, vapors, or fumes within the POTW in a quantity that may cause worker  
721 health and safety problems or create any hazard in the receiving waters of the  
722 POTW.  
723  
724 (8) Any trucked or hauled pollutants, except as approved by the City in writing and  
725 discharged at the WWTP septage receiving station.  
726  
727 (9) Any water or waste containing free or floating oil and grease, or any discharge  
728 containing animal fat or grease by-product in excess of one hundred milligrams per  
729 liter (100 mg/L) except:  
730

- 731                    (i) A food service establishment that has installed and is properly operating and  
732                    maintaining a grease interceptor and implementing required BMPs; or  
733
- 734                    (ii) An Industrial User that is permitted as for trucked and hauled waste and  
735                    discharges its waste at a discharge point specified by the City and in full  
736                    compliance with its permit.  
737
- 738                    (10) Removing wastes collected in a grease trap, grease/sand interceptor, waste collection  
739                    tank or other treatment device and reintroducing any portion of the wastes back into  
740                    the wastewater collection system either directly or indirectly.  
741
- 742                    (11) Stormwater drainage from ground resulting in Infiltration and Inflow (I&I)  
743                    through the Industrial User's service line(s) or surface, roof drains, catch basins,  
744                    unroofed area drains (e.g. commercial car washing facilities) or any other source  
745                    unless otherwise approved by the Administrator. Specifically prohibited is the  
746                    connection of roof downspouts, exterior foundation drains, areaway drains, or  
747                    other sources of surface runoff or ground water to a building sewer or building  
748                    drain which in turn is connected directly or indirectly to the City's wastewater  
749                    collection system. No person shall connect or discharge water from underground  
750                    drains, sump pump discharges, natural springs and seeps, water accumulated in  
751                    excavation or grading or any other water associated with construction activities  
752                    unless specifically authorized by the Administrator.  
753
- 754                    (12) Any substance which may cause the POTW's effluent, sludge, or residue to be  
755                    unsuitable for, or interfere with, the reclamation or reuse process.  
756
- 757                    (13) A Slug Discharge as defined in Section 26-602.  
758
- 759                    (14) Any substance which will cause the POTW to violate the MPDES permit or the  
760                    receiving water quality standards.  
761
- 762                    (15) Any pollutant discharged directly into a manhole or other opening in the POTW  
763                    unless specifically authorized by the City or as otherwise permitted under this  
764                    Article. Prohibited is the opening of a manhole or discharging into any opening in  
765                    violation of this Article.  
766
- 767                    (16) Liquid wastes from chemical toilets, and trailers, campers or other recreational  
768                    vehicles which have been collected and/or held in tanks or other containers shall not  
769                    be discharged into the POTW except at locations authorized by the City to collect  
770                    such wastes.  
771
- 772                    (17) No chemicals, materials, or substances, including but not limited to, paints, solvents,  
773                    boiler or water treatment chemicals, sludges, chemicals, or wastes shall be stored in  
774                    proximity to a floor drain or other sewer openings. Containers shall be clearly  
775                    labeled and stored in a place where the chemicals, materials, substances or wastes, in  
776                    case of leakage or rupture of the container, cannot enter the wastewater collection

777 system. The storage of any chemicals, materials, substances or wastes that leak or  
778 have potential to leak or discharge into the wastewater collection system which may  
779 create an explosion hazard or in any way have a deleterious effect to the POTW or  
780 constitute a nuisance or a hazard to POTW personnel, the general public, the  
781 environment, or the receiving stream shall be prohibited.  
782

783 (18) Any water contaminated as a result of discharge from aboveground and/or  
784 underground gasoline, diesel fuels, fuel oil, kerosene, and jet fuel tanks, tank  
785 accessories, and/or pipelines without applying for and obtaining a permit prior to  
786 discharge.  
787

788 (19) Any wastes containing detergents, surface-active agents, or other substances in  
789 concentrations which cause excessive foaming in the POTW or cause or contribute  
790 to Interference or Pass Through.  
791

792 (20) Wastes that have been collected and/or held in a tank or other container and where  
793 such wastes fail to comply with any Pretreatment Standard.  
794

795 (21) Any radioactive substance, the discharge of which, does not comply with limits  
796 established by the District or other regulations set forth by the Montana Department  
797 of Environmental Quality or that violates any applicable federal standards.  
798

799 (22) Any water or waste which contains grease or oil or any other substances that will  
800 solidify or become discernibly viscous at temperatures between thirty-two degrees  
801 (32°) Fahrenheit (0° Celsius) and one hundred fifty degrees (150°) Fahrenheit (65.5°  
802 Celsius).  
803

804 (23) Any garbage that has not been properly shredded.  
805

806 (24) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar,  
807 plastics, wood, paunch manure or any other solid or viscous substance capable of  
808 causing obstruction to the flow in sewers, or other Interference with the proper  
809 operation of the POTW.  
810

811 (25) Any discharge containing suspended solids of such character and quantity that  
812 unusual attention or expense is required to handle such materials at the WWTP.  
813

814 (26) Any noxious or malodorous gas or substance capable of creating a public  
815 nuisance.  
816

817  
818 ~~(c) Prohibited discharges. In addition to the prohibited waters or wastes described above, a~~  
819 ~~user shall not introduce or discharge the following substances into the WWS:~~  
820

821 ~~(1) Any wastewater containing toxic pollutants in sufficient quantity to exceed the~~  
822 ~~limitation set forth in a national categorical pretreatment standard.~~

823 (2) — Any substance which may cause the WWS's treatment plant effluent or any other  
824 products such as residues, sludges, or scums to be unsuitable for reclamation or  
825 reuse.

826 ~~(d) — Discharge relative to sludge use or use disposal. No person or user shall discharge a  
827 pollutant into the WWS which may cause the WWS or its management agency to be in  
828 noncompliance with any sludge use or disposal laws, or regulations, including Section  
829 405 of the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic  
830 Substances Control Act, or any state criteria applicable to sludge management.~~

831 ~~(e) — Excessive discharge. Except where expressly authorized to do so by an applicable  
832 categorical pretreatment standard, no significant industrial user shall increase the use of  
833 process water or dilute industrial wastewater with tap water, unpolluted water, sanitary  
834 sewage, or any other liquid dilutants as a partial or complete substitute for adequate  
835 pretreatment to achieve compliance with the limitations contained in the national  
836 categorical pretreatment standards, or with any other pollutant specific limitation  
837 developed by the city or state.~~

838 ~~(Ord. No. 85-4663, § 4, 9-9-85)~~

839 ~~Sec. 26-605. — Accidental discharges; protection; notice.~~

841  
842 ~~(a) — Protection facilities and plan. Each significant industrial user shall provide adequate  
843 protection against sludge discharges, accidental discharge or slug discharge of the  
844 prohibited waters or wastes described in section 26-604 of this article, or other substances  
845 regulated by this article. Facilities to prevent accidental discharge and slug discharge of  
846 prohibited waters or wastes shall be provided and maintained at the user's own cost and  
847 expense. Detailed plans showing facilities and operating procedures to provide this  
848 protection, unless already provided, shall be submitted to the city for review and shall be  
849 approved by the city before construction of the accidental discharge or slug discharge  
850 prevention facility. All significant industrial users shall submit such a plan within ninety  
851 (90) days after passage of this article [Ordinance Number 85-4663, adopted September 9,  
852 1985] or after being permitted as a significant industrial user, whichever is later. No  
853 significant industrial user who commences contribution to the WWS after the effective  
854 date of this article [Ordinance Number 85-4663, adopted September 9, 1985] and  
855 applicable adopted rules and regulations shall be permitted to introduce pollutants into  
856 the system until accidental discharge and slug discharge procedures and facilities have  
857 been approved by the city. Review and approval of such plans and operating procedures  
858 shall not relieve the significant industrial user from any responsibility to pretreat as  
859 necessary to meet the industrial pretreatment requirements of this article. The city may  
860 periodically review and evaluate the adequacy of and need for improvements to existing  
861 facilities and procedures.~~

862 ~~(b) — Notice of accidental or slug discharge. In the case of an accidental discharge or slug  
863 discharge, it is the responsibility of any industrial user to immediately telephone and  
864 notify the city of the incident. The notification shall include the location of discharge,  
865 type of waste or wastes, concentration, volume, duration, time of episode, and corrective  
866 actions undertaken.~~

867 ~~(1) — Within five (5) days following an accidental discharge or slug discharge, the  
868 industrial user shall submit to the city a detailed written report describing the~~

869 cause of the discharge and the measures taken or planned by the industrial user to  
870 prevent similar future occurrences. Such notification shall not relieve the  
871 industrial user of any expense, loss, damage, or other liability which may be  
872 incurred as a result of damage to the WWS, fish kills, or any other damage to  
873 person or property; nor shall such notification relieve the industrial user of any  
874 fines, civil penalties, or other liability which may be imposed by this article or  
875 other applicable law.

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

881 (Ord. No. 85 4663, § 5, 9 9 85; Ord. No. 91 4886, § 3, 9 9 91)

882  
883 **Sec. 26 606. — Specific pollutant limitations.**

884 (a) — No person shall discharge into the WWS any wastewater containing pollutants generally  
885 prohibited by section 26 604 of this article and specifically prohibited herein, pollutants  
886 in excess of specific pollutant limitations as contained in any industrial discharge permit,  
887 or limitations imposed by national categorical pretreatment standards or local limits.

888 (b) — No user shall discharge or cause to be discharged any of the following described  
889 pollutants into the WWS:

890  
891 (1) — Any liquid or vapor having a temperature higher than the lesser of (a) one  
892 hundred forty (140) degrees Fahrenheit or (b) that which, alone or in combination  
893 with other discharges, causes the influent at the WWTP to exceed one hundred  
894 four (104) degrees Fahrenheit;

895 (2) — Any discharge containing more than one hundred parts per million, by weight, of  
896 fat, oil or grease;

897 (3) — Any gasoline, benzene, naphtha, fuel oil or other pollutants which create a fire or  
898 explosion hazard in the WWS, including, but not limited to, wastestreams with a  
899 closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or  
900 sixty (60) degrees Centigrade using the test methods specified in 40 CFR 261.21.

901 (4) — Any garbage that has not been properly shredded;

902 (5) — Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar,  
903 plastics, wood, paunch manure or any other solid or viscous substance capable of  
904 causing obstruction to the flow in sewers, or other interference with the proper  
905 operation of the WWS;

906 (6) — Any discharge having a pH lower than 5.5 or higher than 9.0, or having any other  
907 corrosive property capable of causing damage or hazard to structures, equipment  
908 and personnel of the WWS;

909 (7) — Any discharge containing a toxic, poisonous or infectious substance in sufficient  
910 quantity to injure or interfere with any sewage treatment process, constitute a  
911 hazard to humans or animals, pollutants which result in the presence of toxic  
912 gases, vapors, or fumes within the WWS in a quantity that may cause worker  
913 health and safety problems or create any hazard in the receiving waters of the  
914 WWS;

- 915 ~~(8) Any discharge containing suspended solids of such character and quantity that~~  
 916 ~~unusual attention or expense is required to handle such materials at the WWTP;~~  
 917 ~~(9) Any noxious or malodorous gas or substance capable of creating a public~~  
 918 ~~nuisance;~~  
 919 ~~(10) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a~~  
 920 ~~discharge of such volume or strength as to cause interference in the WWS;~~  
 921 ~~(11) Any petroleum oil, solvents, nonbiodegradable cutting oil or products of mineral~~  
 922 ~~oil origin in amounts that will cause interference or pass through;~~  
 923 ~~(12) Any trucked or hauled pollutants, except for septage or trucked waste specifically~~  
 924 ~~approved by the city, both of which are to be discharged at the septage receiving~~  
 925 ~~station at the WWTP.~~

927 (c) It shall be unlawful for any Significant Industrial User to discharge, deposit, cause, or allow  
 928 to be discharged any waste or wastewater which No user shall discharge or cause to be  
 929 discharged any of the following pollutants into the WWS exceeds the following limits at  
 930 levels in excess of those noted:  
 931  
 932

<u>Pollutant</u>	<u>Daily Maximum Discharge Limit <sup>(1)</sup></u>	<u>Units</u>
<u>Arsenic</u>	<u>2.51.33</u>	<u>#/day</u>
<u>Cadmium</u>	<u>13.90.03</u>	<u>mg/l</u>
<u>Chromium</u>	<u>35.327.25</u>	<u>mg/l</u>
<u>Chromium VI</u>	<u>3.39</u>	<u>mg/l</u>
<u>Copper</u>	<u>2.05.18</u>	<u>mg/l</u>
<u>Cyanide</u>	<u>2.60.66</u>	<u>mg/l</u>
<u>Lead</u>	<u>2.21.04</u>	<u>mg/l</u>
<u>Mercury</u>	<u>0.150.0057</u>	<u>mg/l</u>
<u>Nickel</u>	<u>26.88.87</u>	<u>mg/l</u>
<u>Selenium</u>	<u>0.03.87</u>	<u>#/day</u>
<u>Silver</u>	<u>1.1.80</u>	<u>mg/l</u>
<u>Zinc</u>	<u>1.124.87</u>	<u>mg/l</u>
<u>BTEX</u>	<u>0.75</u>	<u>mg/l</u>
<u>Methylene Chloride</u>	<u>0.80</u>	<u>mg/l</u>
<u>Tetrachloroethene</u>	<u>1.6</u>	<u>mg/l</u>

933

<del>Arsenic ..... 2.5 mg/l</del>	<del>Mercury ..... 0.15 mg/l</del>
<del>Cadmium ..... 13.9 mg/l</del>	<del>Nickel ..... 26.8 mg/l</del>
<del>Chromium ..... 35.3 mg/l</del>	<del>Selenium ..... 0.0 mg/l</del>
<del>Copper ..... 2.0 mg/l</del>	<del>Silver ..... 1.1 mg/l</del>
<del>Cyanide ..... 2.6 mg/l</del>	<del>Zinc ..... 1.1 mg/l</del>
<del>Lead ..... 2.2 mg/l</del>	

934 (1) All pollutants shown in the Table are total.

935  
936 (d) Dilution is prohibited as a substitute for treatment and shall be a violation of this Article.  
937 Except where expressly authorized to do so by an applicable Pretreatment Standard or  
938 Requirement, no Industrial User shall ever increase the use of process water, or in any  
939 other way attempt to dilute a Discharge as a partial or complete substitute for adequate  
940 treatment to achieve compliance with a Pretreatment Standard or Requirement. The City  
941 may impose mass limitations on industrial users which are using dilution to meet  
942 applicable Pretreatment Standards or Requirements or in other cases where the  
943 imposition of mass limitations is appropriate.

944  
945 (e) All industrial users subject to a Categorical Pretreatment Standard shall comply with all  
946 requirements of such Standard, and shall also comply with any limitations contained in this  
947 Article. Where the same pollutant is limited by more than one Pretreatment Standard, the  
948 limitations which are more stringent shall prevail. Compliance with Categorical  
949 Pretreatment Standards shall be the timeframe specified in the applicable Categorical  
950 Pretreatment Standard.

951  
952 (f) The City may establish more stringent pollutant limits, additional site-specific pollutant  
953 limits, Best Management Practices, or additional Pretreatment Requirements when, in the  
954 judgment of the City, such limitations are necessary to implement the provisions of this  
955 Article.

956  
957 (g) Promulgation of Standards.

958  
959 (1) Upon the promulgation of the federal Categorical Pretreatment Standard for a  
960 particular industrial subcategory, the federal Standard, if more stringent than  
961 limitations imposed by this Article for sources in that subcategory, shall  
962 immediately supersede the limitations imposed by this Article as required by the  
963 applicable Categorical Pretreatment Standard.

964  
965 (2) State requirements and limitations on discharges shall apply in any case where  
966 they are more stringent than federal Pretreatment Standards and Requirements or  
967 those in this Article.

968  
969 (Ord. No. 85-4663, § 6, 9-9-85; Ord. No. 91-4886, § 4, 9-9-91; Ord. No. 92-4906, § 2, 7-27-92;  
970 Ord. No. 97-5022, § 7, 5-27-97)

971  
972  
973 Sec. 26-605. – Pretreatment and Monitoring Facilities

974  
975 (a) Treatment Required: An Industrial User shall provide necessary wastewater treatment at  
976 the Industrial User's expense as required to comply with this Article and shall achieve  
977 compliance with all Pretreatment Standards and Requirements within the time limitations  
978 specified by the EPA, the State, or the City, whichever is more stringent. Detailed plans  
979 showing the pretreatment facilities and operating procedures shall be submitted to the

980 Administrator for review and shall be acceptable before discharge from the facility. The  
981 review of such plans and operating procedures will in no way relieve the Industrial User  
982 from the responsibility of modifying the facility as necessary to produce an effluent  
983 acceptable to the City under the provisions of this Article.

984  
985 (b) Wastewater Discharge Control: The City may require an Industrial User to restrict  
986 discharge during peak flow periods, designate that certain wastewater be discharged only  
987 into specified sewers, relocate and/or consolidate points of discharge, separate sewage  
988 wastestreams from industrial wastestreams, and such other conditions as may be  
989 necessary to protect the POTW and demonstrate the Industrial User's compliance with the  
990 requirements of this Article.

991  
992 (c) Flow Equalization: The City may require any Industrial User discharging into the POTW  
993 to install and maintain, on their property and at their expense, a suitable storage and flow-  
994 control facility to ensure equalization of flow. An Industrial Discharge Permit may be  
995 issued solely for flow equalization.

996  
997 (d) Monitoring Facilities: The City may require an Industrial User to install at the Industrial  
998 User's expense, suitable monitoring facilities, instrumentation or equipment that allows  
999 for the representative sampling and accurate observation of wastewater discharges.  
1000 Whether constructed on public or private property, the monitoring facilities shall be  
1001 constructed in accordance with the City's requirements and all applicable construction  
1002 standards and specifications. Monitoring equipment and structures shall be maintained in  
1003 proper working order and kept safe and accessible at all times to City personnel. The  
1004 monitoring equipment shall be located and maintained on the Industrial User's premises  
1005 outside of the building unless otherwise approved by the City. When such a location  
1006 would be impractical, the City may allow such facility to be constructed in the public  
1007 street or easement area, with the approval of the agency having jurisdiction over such  
1008 street or easement, and located so that it will not be obstructed by public utilities,  
1009 landscaping or parked vehicles.

1010  
1011 (e) Multitenant Buildings: When more than one Industrial User is able to discharge into a  
1012 common service line, the City may require installation of separate monitoring equipment  
1013 for each Industrial User.

1014  
1015 (f) Flow, pH, LEL and other appropriate meters and instrumentation: If the City determines  
1016 that an Industrial User needs to measure and report wastewater flow, discharge process  
1017 wastewaters necessitating continuous pH measurement or discharge wastewater that may  
1018 contain flammable substances may be required to install and maintain, at the Industrial  
1019 User's expense, approved meters, structures and equipment.

1020  
1021 (g) Unless approved by the Administrator in writing, no Industrial User shall cover any  
1022 manhole, sewer cleanout, or other openings in the wastewater collection system with  
1023 earth, paving, or otherwise render it inaccessible.

1024  
1025

1026 Sec. 26-606. – Industrial Discharge Permits

1027  
1028 (a) Permits Required.

1029  
1030 All Significant Industrial Users proposing to connect to, or discharge into, any part of the  
1031 wastewater system shall apply for and obtain an Industrial Discharge Permit prior and remit  
1032 payment for all fees required by Rule 24.7 of the Rules and Regulations to commencing  
1033 discharge to the POTW. A separate permit may be required for each Industrial User,  
1034 building or complex of buildings. Such Significant Industrial Users shall immediately  
1035 contact the City and obtain an Industrial Discharge Permit.

1036  
1037 (b) New Industrial Users: Applying for an Industrial Discharge Permit.

1038  
1039 Any Industrial User required to obtain an Industrial Discharge Permit who proposes to  
1040 begin or recommence discharging into the POTW must apply for and obtain such permit  
1041 prior to the beginning or recommencing of such discharge. The Industrial User shall file a  
1042 permit application on forms provided by the City containing the information specified in  
1043 Section 26-606(f) below. The completed application for the Industrial Discharge Permit  
1044 must be filed at least ninety (90) days prior to the date upon which any discharge will  
1045 begin or recommence.

1046  
1047 (c) Existing Industrial Users: Applying for an Industrial Discharge Permit Re-issuance.

1048  
1049 An Industrial User with an expiring Industrial Discharge Permit shall apply for a new  
1050 permit by submitting a complete permit application at least ninety (90) days prior to the  
1051 expiration of the Industrial User's existing permit. The Industrial User shall file a permit  
1052 application on forms provided by the City containing the information specified in Section  
1053 26-606(f) below. An Industrial User with an existing permit that has filed a complete and  
1054 timely application may continue to discharge as approved in writing by the City through an  
1055 administrative extension of the existing permit if the delay in permit issuance is not due to  
1056 any act or failure to act on the Industrial User's part.

1057  
1058 (d) Other Industrial Users.

1059  
1060 The City may require other Non-Significant Industrial Users to apply for and obtain  
1061 wastewater discharge permits or similar control mechanisms necessary to carry out the  
1062 purposes of this Article. The City may issue a zero discharge permit to prohibit the  
1063 discharge of some or all non-domestic process wastewater from an Industrial User.

1064  
1065 (e) Enforceability.

1066  
1067 Any violation of the terms and conditions of an Industrial Discharge Permit, failure to  
1068 apply for a permit as required, or discharging without a required permit shall be deemed a  
1069 violation of this Article and subjects the Industrial User to enforcement by the City.  
1070 Obtaining an Industrial Discharge Permit does not relieve a permittee of its obligation to  
1071 comply with all State and federal Pretreatment Standards or Requirements.

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(f) Permit Application Contents.

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

(1) Name of business, address of the facility, location of the discharge if different from facility address, and contact information of the Authorized Representative of the Industrial User.

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

(3) Description of Operations.

(i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production);

(ii) The Standard Industrial Classification(s) of the operation(s) carried out by such Industrial User;

(iii) A schematic process diagram, which indicates all process tanks, process lines, treatment systems, drains, and points of discharge to the POTW from the regulated process;

(iv) Types of wastes generated;

(v) A list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(vi) A list of hazardous waste(s) generated and a description of the storage area and procedures for the wastes;

(vii) Number of employees; and

(viii) Hours of operation, and proposed or actual hours of operation.

(4) Time and duration of discharges including the date the industrial user first began discharge or plans to discharge to the POTW.

(5) The location for sampling the wastewater discharges from the Industrial User.

(6) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process

1118 streams and other streams, as necessary, to allow use of the combined  
1119 wastestream formula set out in 40 CFR Section 403.6(e). For New Sources and  
1120 new permittees not currently discharging, an estimate of flows may be used for  
1121 meeting the requirements of the Baseline Monitoring Report required in Section  
1122 26-611(a).

1123  
1124 (7) Measurement of Pollutants.

- 1125  
1126 (i) The Pretreatment Standards applicable to each regulated process;  
1127  
1128 (ii) The results of sampling and analysis identifying the nature and  
1129 concentration, and/or mass of regulated pollutants in the discharge from  
1130 each regulated process where required by the Standard or by the City;  
1131  
1132 (iii) Instantaneous, daily maximum and long-term average concentrations, or  
1133 mass, where required, shall be reported;  
1134  
1135 (iv) The sample shall be representative of daily operations and shall be  
1136 collected in accordance with procedures set out in Section 26-610. Where  
1137 the Standard requires compliance with a BMP or pollution prevention  
1138 alternative, the Industrial User shall submit documentation as required by  
1139 the City or the applicable Standards to determine compliance with the  
1140 Standard; and  
1141  
1142 (v) Analyses must be performed in accordance with procedures set out in  
1143 Section 26-610(c).

1144  
1145 (8) A list of hazardous waste(s) generated and a description of the storage area and  
1146 procedures for the wastes.

1147  
1148 (9) Slug Discharge Control Plan for Significant Industrial Users and other industrial  
1149 users as described in Section 26-602 shall be submitted as required by the City.

1150  
1151 (10) Compliance Schedule. If additional pretreatment and/or Operation and  
1152 Maintenance (O&M) will be required to meet the Pretreatment Standards, the  
1153 shortest schedule by which the Industrial User will provide such additional  
1154 pretreatment and/or O&M. The completion date in this schedule shall not be later  
1155 than the compliance date established for the applicable Pretreatment Standard.

1156  
1157 The following conditions shall apply to this schedule:

- 1158  
1159 (i) The schedule shall contain increments of progress in the form of dates for  
1160 the commencement and completion of major events leading to the  
1161 construction and operation of additional pretreatment required for the  
1162 Industrial User to meet the applicable Pretreatment Standards (e.g. hiring  
1163 an engineer, completing preliminary plans, completing final plans,

1164 executing contract for major components, commencing construction,  
1165 completing construction, etc.). No such increment shall exceed nine (9)  
1166 months.

1167  
1168 (ii) Not later than fourteen (14) days following each date in the schedule and  
1169 the final date for compliance, the Industrial User shall submit a progress  
1170 report to the Administrator including, as a minimum, whether or not it  
1171 complied with the increment of progress to be met on such date and, if not,  
1172 the date on which it expects to comply with this increment of progress, the  
1173 reason for delay, and the steps being taken by the Industrial User to return  
1174 the construction to the schedule established. In no event shall more than  
1175 nine (9) months elapse between such progress reports to the  
1176 Administrator.

1177  
1178 (11) Certification. A statement, reviewed by an Authorized Representative of the  
1179 Industrial User and certified to by a qualified professional, indicating whether  
1180 Pretreatment Standards are being met on a consistent basis, and, if not, whether  
1181 additional operation and maintenance (O&M) and/or additional Pretreatment is  
1182 required for the Industrial User to meet the Pretreatment Standards and  
1183 Requirements.

1184  
1185 (12) Signatory Certification. All Industrial Discharge Permit applications and  
1186 certification statements must be signed by an Authorized Representative of the  
1187 Industrial User and contain the applicable certification statement(s) in Section 26-  
1188 611(h).

1189  
1190 (13) Any other information as may be deemed by the Administrator to be necessary to  
1191 evaluate the permit application.

1192  
1193 (g) Industrial Discharge Permit Issuance.

1194  
1195 (1) Permits shall be issued for a specified time period, not to exceed five (5) years. A  
1196 permit may be issued for a period of less than five (5) years at the City's discretion  
1197 or may be stated to expire on a specific date.

1198  
1199 (2) Where the City is establishing enforceable permit specific Pretreatment Standards or  
1200 Requirements, the permit shall be noticed for public comment for thirty (30) days in  
1201 a newspaper of general circulation that provides meaningful public notice. The City  
1202 shall consider all comments that are received prior to issuing the permit.

1203  
1204 (3) The City shall issue an Industrial Discharge Permit to the applicant if the City finds  
1205 that all of the following conditions are met:

1206  
1207 (i) The applicant has provided a timely and complete permit application to the  
1208 City;

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(ii) The proposed discharge by the applicant is in compliance with the limitations established in this Article;

(iii) The proposed operation and discharge of the applicant would permit the normal and efficient operation of the POTW; and

(iv) The proposed discharge by the applicant would not result in a violation by the City of the terms and conditions of its MPDES Permit or cause Pass Through or Interference.

(4) If the City finds that the condition set out in Subsection (3)(ii) of this Section is not met, the City may, at their discretion, issue an Industrial Discharge Permit to the applicant if the conditions set out in subsections (3)(i), (3)(iii) and (3)(iv) of this Section have been met and if the applicant submits, and the City approves, a compliance schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to assure compliance with applicable Pretreatment Standards. At no time shall a discharge be allowed to cause a violation of any General or Specific Prohibition established in Section 26-604 nor shall the final compliance date for a Categorical Pretreatment Standard be extended.

(5) Any person, including the Industrial User, may petition the City to reconsider the terms of an Industrial Discharge Permit within thirty (30) days of the permit issuance. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal. In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. The effectiveness of the Industrial Discharge Permit shall not be stayed pending the appeal. If the City does not act on such appeal within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider, not to issue an Industrial Discharge Permit, or not to modify a permit, shall be considered final administrative action for purposes of judicial review.

(h) Transferability. Industrial Discharge Permits are issued to a specific Industrial User for a specific operation. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new Industrial User, different premises, or a new or changed operation without the prior written approval of the City. Any succeeding owner shall comply with the terms and conditions of the existing permit until a new permit is issued. The Permittee shall notify the City at least fourteen (14) days prior to any change of ownership.

(i) Industrial Discharge Permit Conditions

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

- 1256 (1) A statement that indicates the permit's issuance date, expiration date and effective  
1257 date;
- 1258
- 1259 (2) A statement on permit transferability;
- 1260
- 1261 (3) The unit charge or schedule of user charges and fees for the wastewater to be  
1262 discharged into a public sewer;
- 1263
- 1264 (4) Limits on the average and/or maximum wastewater constituents and  
1265 characteristics including, but not limited to, effluent limits, including Best  
1266 Management Practices, based upon applicable Pretreatment Standards;
- 1267
- 1268 (5) Limits on average and maximum rate and time of discharge or requirements for  
1269 flow;
- 1270
- 1271 (6) Requirements for installation and maintenance of inspection and sampling  
1272 facilities and equipment;
- 1273
- 1274 (7) Self-monitoring, sampling, reporting, notification and record-keeping  
1275 requirements including, but not limited to, identification of the pollutants to be  
1276 monitored, sampling location, sampling frequency and sample type, based on  
1277 federal, state and local law;
- 1278
- 1279 (8) Best Management Practices (BMPs) to control specific pollutants as necessary to  
1280 meet the objectives of this Article;
- 1281
- 1282 (9) Compliance Schedules;
- 1283
- 1284 (10) Requirements for notification of the City of any new introduction of wastewater  
1285 constituents or any significant change in the volume or character of the  
1286 wastewater constituents being introduced into the wastewater treatment system;
- 1287
- 1288 (11) Requirements to control and report any slug discharges and notify the City  
1289 immediately of any changes at its facility affecting potential for a Spill or Slug  
1290 Discharge and to notify the POTW immediately in the event of a slug, spill or  
1291 accidental discharge to the POTW;
- 1292
- 1293 (12) Statements of applicable administrative, civil and criminal penalties for the  
1294 violation of Pretreatment Standards and Requirements, the permit, this Article,  
1295 and any applicable compliance schedule;
- 1296
- 1297 (13) Requirements to reapply for a new permit prior to expiration of the existing  
1298 permit;
- 1299
- 1300 (14) Additional monitoring to be reported;
- 1301

- 1302 (15) Requirements for the installation of pretreatment technology, pollution control, or  
1303 construction of appropriate containment devices, designed to reduce, eliminate, or  
1304 prevent the introduction of pollutants into the treatment works;  
1305  
1306 (16) Closure requirements for permitted facilities undergoing partial or complete closure  
1307 activities to ensure closure activities are completed and wastes have been properly  
1308 disposed and remaining access to sanitary and storm sewers are protected;  
1309  
1310 (17) Other conditions as deemed appropriate by the City to ensure compliance with all  
1311 applicable Pretreatment Standards and Requirements.  
1312  
1313

1314 (j) Industrial Discharge Permit Modification

1315  
1316 The City may modify an Industrial Discharge Permit for good cause, including, but not  
1317 limited to, the following reasons:

- 1318  
1319 (1) To incorporate any new or revised federal, state, or local Pretreatment Standards  
1320 or Requirements;  
1321  
1322 (2) To address significant alterations or additions to the Industrial User's operation,  
1323 processes, or wastewater volume or character since the time of the Industrial  
1324 Discharge Permit issuance;  
1325  
1326 (3) A change in the POTW that requires either a temporary or permanent reduction or  
1327 elimination of the authorized discharge;  
1328  
1329 (4) Information indicating that the permitted discharge poses a threat to the POTW,  
1330 City personnel or the receiving waters;  
1331  
1332 (5) Violation of any terms or conditions of the Industrial Discharge Permit;  
1333  
1334 (6) Misrepresentations or failure to fully disclose all relevant facts in the Industrial  
1335 Discharge Permit application or in any required reporting;  
1336  
1337 (7) To reflect a transfer of the facility ownership and/or operation to a new  
1338 owner/operator;  
1339  
1340 (8) To correct typographical or other errors in the Industrial Discharge Permit; or  
1341  
1342 (9) Upon request of the Permittee, provided such request does not result in a violation of  
1343 any applicable Pretreatment Standards or Requirements or this Article. The filing of  
1344 a request by the Permittee for a permit modification does not stay any permit  
1345 condition.

1346  
1347 (k) Industrial Discharge Permit Revocation

1348  
1349 A violation of the conditions of a permit, this Article or of applicable State and federal  
1350 regulations may be reason for revocation of such permit by the City. Upon revocation of the  
1351 permit, any wastewater discharge from the affected Industrial User shall be considered  
1352 prohibited and in violation of this Article. Grounds for revocation of a permit include, but  
1353 are not limited to, the following:

1354  
1355 (1) Failure of an Industrial User to accurately disclose or report the wastewater  
1356 constituents and characteristics of any discharge;

1357  
1358 (2) Failure of the Industrial User to report significant changes in operations or  
1359 wastewater constituents and characteristics as required;

1360  
1361 (3) Denial of access to the Industrial User's premises for the purpose of inspection or  
1362 monitoring;

1363  
1364 (4) Falsification of records, reports or monitoring results;

1365  
1366 (5) Tampering with monitoring equipment;

1367  
1368 (6) Misrepresentation or failure to fully disclose all relevant facts in the Industrial  
1369 Discharge Permit application;

1370  
1371 (7) Failure to pay fines or penalties;

1372  
1373 (8) Failure to pay sewer charges, surcharges, or pretreatment programs fees;

1374  
1375 (9) Failure to meet compliance schedules;

1376  
1377 (10) Failure to provide advance notice of the transfer of business ownership of a  
1378 permitted facility; or

1379  
1380 (11) Failure to provide required reports, including but not limited to, a wastewater  
1381 survey, baseline monitoring report, 90-day compliance report, permit application,  
1382 self-monitoring report or other permit required reports or notifications within the  
1383 timeframe required by the City.

1384  
1385 Sec. 26-607. Recordkeeping

1386  
1387 (a) All Industrial Users shall retain, and make available for inspection and copying, all  
1388 records, reports, monitoring or other data, applications, permits and all other information  
1389 and documentation required by this Article including documentation associated with Best  
1390 Management Practices.

1391  
1392 (b) Industrial users shall retain such records and shall keep such records available for  
1393 inspection for at least three (3) years. This recordkeeping period shall be extended

1394 automatically for the duration of any litigation concerning the Industrial User's  
1395 compliance with any provision of this Article, or when the Industrial User has been  
1396 specifically and expressly notified of a longer records retention period by the  
1397 Administrator.

1398  
1399 (c) Written reports will be deemed to have been submitted on the date postmarked. For reports  
1400 which are hand delivered, the date of receipt of the report shall govern.

1401  
1402  
1403 Sec. 26-608. Confidential Information.

1404  
1405 (a) All records, reports, data or other information supplied by any person or Industrial User as a  
1406 result of any disclosure required by this Article or information and data from inspections  
1407 shall be available for public inspection except as otherwise provided in this Section, 40 CFR  
1408 Section 403.14 and the laws of the State of Montana.

1409  
1410 (b) These provisions shall not be applicable to any information designated as a trade secret by  
1411 the person supplying such information. Materials designated as a trade secret may include,  
1412 but shall not be limited to, processes, operations, style of work or apparatus or confidential  
1413 commercial or statistical data. Any information and data submitted by the Industrial User  
1414 which is desired to be considered a trade secret shall have the words, "Confidential Business  
1415 Information," stamped on each page containing such information. The Industrial User must  
1416 demonstrate to the satisfaction of the City that the release of such information would divulge  
1417 information, processes or methods of production entitled to protection as trade secrets of the  
1418 Industrial User.

1419  
1420 Information designated as a trade secret pursuant to this Section shall remain confidential  
1421 and shall not be subject to public inspection except as ordered by a district court judge or  
1422 Supreme Court of the State of Montana. Such information shall be available only to  
1423 officers, employees or authorized representatives of the City charged with implementing and  
1424 enforcing the provisions of this Article and properly identified representatives of the U.S.  
1425 Environmental Protection Agency and the Montana Department of Environmental Quality.

1426  
1427 Effluent data from any Industrial User whether obtained by self-monitoring, monitoring by  
1428 the City or monitoring by any state or federal agency, shall not be considered a trade secret  
1429 or otherwise confidential. All such effluent data shall be available for public inspection.

1430  
1431  
1432 Sec. 26-609 Reserved.

1433  
1434 Sec. 26-610 Sample Collection and Analytical Methods

1435  
1436 (a) Sample Collection.

1437  
1438 Compliance determinations with respect to prohibitions and limitations in this Article may  
1439 be made on the basis of either grab or composite samples of wastewater as specified by the

1440 City. Such samples shall be taken at a point or points which the City determines to be  
1441 suitable for obtaining a representative sample of the discharge. Composite samples may be  
1442 taken over a twenty-four (24) hour period, or over a longer or shorter time span, as  
1443 determined by the City to meet specific circumstances.

1444  
1445 (b) Sample Type.

1446  
1447 Samples collected to satisfy reporting requirements must be based on data obtained  
1448 through appropriate sampling and analysis performed during the period covered by the  
1449 report, and based on data that is representative of conditions occurring during the  
1450 reporting period.

1451  
1452 (1) Except as indicated in subparagraphs (2) and (3) below, the Industrial User must  
1453 collect representative wastewater samples using twenty-four (24) hour flow  
1454 proportional composite sampling techniques, unless time-proportional composite  
1455 sampling or grab sampling is required by the City. Where time-proportional  
1456 composite sampling or grab sampling is authorized by the City, the samples must  
1457 be representative of the permitted discharge.

1458  
1459 (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and  
1460 volatile organic compounds must be obtained using grab collection techniques.  
1461 Using protocols (including appropriate preservation) specified in 40 CFR Part 136  
1462 and appropriate EPA guidance, multiple grab samples collected during a twenty-  
1463 four (24) hour period may be composited prior to the analysis as follows: for  
1464 cyanide, total phenols, and sulfides the samples may be composited in the  
1465 laboratory or in the field; for volatile organics and oil and grease, the samples  
1466 may be composited in the laboratory. Composited samples for other parameters  
1467 unaffected by the compositing procedures as documented in approved EPA  
1468 methodologies may be authorized by the City, as appropriate. In addition, grab  
1469 samples may be required to show compliance with instantaneous local limits,  
1470 including pH.

1471  
1472 (3) For sampling required in support of Baseline Monitoring and 90-day Compliance  
1473 reports required in Section 26-611, a minimum of four (4) grab samples must be  
1474 used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic  
1475 compounds for facilities for which historical representative sampling data do not  
1476 exist. Where historical data are available, the City may authorize a lower  
1477 minimum. For the reports required by Section 26-611(a), the Industrial User is  
1478 required to collect the number of grab samples necessary to assess and assure  
1479 compliance with applicable Pretreatment Standards and Requirements.

1480  
1481 (c) Analytical Requirements.

1482  
1483 All pollutant analysis, including sampling techniques, to be submitted as part of an  
1484 Industrial Discharge Permit application, report, permit or other analyses required under  
1485 this Article shall be performed in accordance with the techniques prescribed in 40 CFR

1486 Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical  
1487 Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical  
1488 techniques for the pollutant in question, or where the EPA determines that the Part 136  
1489 sampling and analytical techniques are inappropriate for the pollutant in question,  
1490 sampling and analyses shall be performed by using validated analytical methods or any  
1491 other applicable sampling and analytical procedures, including procedures suggested by  
1492 the City or other parties approved by the EPA.

1493  
1494 (d) Records shall include for all samples:

- 1495  
1496 1. The date, exact place, method, and time of sampling and the name of the  
1497 person(s) taking the samples;
- 1498  
1499 2. The date(s) analyses were performed;
- 1500  
1501 3. Who performed each analysis;
- 1502  
1503 4. The analytical techniques/methods used, including method detection limits and  
1504 QA/QC sample results;
- 1505  
1506 5. Calibration and maintenance records;
- 1507  
1508 6. All chain-of-custody records; and
- 1509  
1510 7. The results of each analysis.

1511  
1512  
1513 Sec. 26-611. Reporting and Notification Requirements.

1514  
1515 (a) Periodic Compliance Reports – All Significant Industrial Users.

- 1516  
1517 (1) Any Significant Industrial User or other Industrial User required by the City,  
1518 subject to a federal, state, or City Pretreatment Standard or Requirement must  
1519 submit reports, at a frequency determined by the City but no less than once per six  
1520 (6) months, indicating the nature, concentration of pollutants in the discharge  
1521 which are limited by Pretreatment Standards and the average and maximum daily  
1522 flows for the reporting period. In cases where the Pretreatment Standard requires  
1523 compliance with a Best Management Practices (BMPs) or pollution prevention  
1524 alternatives, the Industrial User must submit documentation required by the City  
1525 or the Pretreatment Standard necessary to determine compliance status of the  
1526 Industrial User. All periodic compliance reports must be signed and certified in  
1527 accordance with Section 26-611(h).
- 1528  
1529 (2) All wastewater samples must be representative of the Industrial User's discharge.  
1530 Wastewater monitoring and flow measurement facilities shall be properly  
1531 operated, kept clean, and maintained in good working order at all times. The

1532 failure of an Industrial User to keep its monitoring facility in good working order  
1533 shall not be grounds for the Industrial User to claim that the sample results are  
1534 unrepresentative of its discharge.

1535  
1536 (3) If an Industrial User subject to the reporting requirement in this section monitors  
1537 any regulated pollutant at the appropriate sampling location more frequently than  
1538 required by the City, using the methods and procedures prescribed in Section 26-  
1539 610, the results of this monitoring shall be included in the report.

1540  
1541 (4) The sampling and analyses required for the reporting outlined above may be  
1542 performed by the City in lieu of the permittee. Where the City itself makes  
1543 arrangements with the Industrial User to collect all the information required for the  
1544 report, the Industrial User will not be required to submit the report.

1545  
1546 (b) Baseline Monitoring Reports (BMR) – Categorical Industrial Users.

1547  
1548 (1) Within either one hundred eighty (180) days after the effective date of a  
1549 Categorical Pretreatment Standard, or the final administrative decision on a  
1550 category determination under 40 CFR Section 403.6(a)(4), whichever is later,  
1551 existing industrial users currently discharging to or scheduled to discharge to the  
1552 POTW shall submit to the City a report which contains the information listed in  
1553 paragraph (2) below. At least ninety (90) days prior to commencement of their  
1554 discharge, New Sources, and sources that become Categorical Industrial Users  
1555 subsequent to the promulgation of an applicable Categorical Pretreatment  
1556 Standard, shall submit to the City a report which contains the information listed in  
1557 paragraph (2) below. A New Source shall report the method of pretreatment it  
1558 intends to use to meet applicable Pretreatment Standards. A New Source also  
1559 shall give estimates of its anticipated flow and quantity of pollutants to be  
1560 discharged from regulated process streams and other non-process streams.

1561  
1562 (2) Industrial users described above shall submit the information set forth below.

1563  
1564 (i) All information required in Section 26-606(f).

1565  
1566 (ii) Measurement of pollutants.

1567  
1568 (A) The Industrial User shall take a minimum of one (1) representative  
1569 sample to compile the data necessary to comply with the  
1570 requirements of this paragraph.

1571  
1572 (B) Samples shall be taken immediately downstream from  
1573 pretreatment facilities if such exist or immediately downstream  
1574 from the regulated process if no pretreatment exists. If other  
1575 wastewaters are mixed with the regulated wastewater prior to  
1576 pretreatment, the Industrial User should measure the flows and  
1577 concentrations necessary to allow use of the combined wastestream

1578 formula in 40 Section CFR 403.6(e) in order to evaluate  
1579 compliance with the Pretreatment Standards. Where an alternate  
1580 concentration or mass limit has been calculated in accordance with  
1581 40 CFR Section 403.6(e) this adjusted limit along with supporting  
1582 data shall be submitted to the City.

1583  
1584 (C) Sampling and analysis shall be performed in accordance with  
1585 Section 26-610.

1586  
1587 (D) The City may allow the submission of a BMR which utilizes only  
1588 historical data so long as the data provides information sufficient to  
1589 determine the need for industrial pretreatment measures.

1590  
1591 (E) The BMR shall indicate the time, date, and place of sampling and  
1592 methods of analysis, and shall certify that such sampling and  
1593 analysis is representative of normal work cycles and expected  
1594 pollutant discharges to the POTW.

1595  
1596 (F) Signature and Report Certification. All baseline monitoring  
1597 reports must be signed in accordance with Section 26-611(h) and  
1598 signed by an Authorized Representative as defined in Section 26-  
1599 602.

1600  
1601 (c) 90-Day Compliance Reports – Categorical Industrial Users.

1602  
1603 (1) New Sources: All New Sources subject to existing Categorical Pretreatment  
1604 Standards shall submit a report to the City within ninety (90) days from the date of  
1605 first discharge to the POTW demonstrating actual and continuing compliance with  
1606 those Standards.

1607  
1608 (2) Existing Sources: All Existing Sources required to comply with newly promulgated  
1609 Categorical Pretreatment Standards shall submit a report to the City within ninety  
1610 (90) days of the date on which compliance is required with those Standards  
1611 demonstrating that actual and continuing compliance with such Standards has been  
1612 achieved.

1613  
1614 (3) Such 90-day Compliance Report shall contain at a minimum the information  
1615 required in Section 26-606(f) subparagraphs (6), (7), (10), (11), (12), and (13).

1616  
1617  
1618 (d) 24 Hour Notice and 30 Day Re-sampling.

1619  
1620 If sampling performed by an Industrial User indicates a violation of this Article, the  
1621 Industrial User shall notify the City within twenty-four (24) hours of becoming aware of the  
1622 violation. The Industrial User shall also repeat the sampling and analysis and submit the

1623 results of the repeat analysis to the City within thirty (30) days after becoming aware of the  
1624 violation. The Industrial User is not required to resample if the following occurs:

1625  
1626 (1) The City performs sampling at the Industrial User's facility at a frequency of at least  
1627 once per month.

1628  
1629 (2) The City performs sampling at the Industrial User's facility between the time when  
1630 the Industrial User performs its initial sampling and the time when the Industrial  
1631 User receives the results of this sampling. It is the sole responsibility of the  
1632 Industrial User to verify if the City has performed this sampling.

1633  
1634 (e) Slug Discharge Control Plan.

1635  
1636 (1) Each Industrial User shall provide protection from accidental and slug discharges  
1637 of pollutants regulated under this Article. Facilities to prevent the discharge of  
1638 spills or slug loads shall be provided and maintained at the Industrial User's  
1639 expense.

1640  
1641 (2) The City shall evaluate whether each Significant Industrial User needs a Slug  
1642 Discharge Control Plan or other action to control spills and slug discharges. The  
1643 City may require an Industrial User to develop, submit for approval, and  
1644 implement a Slug Discharge Control Plan or take such other action that may be  
1645 necessary to control spills and slug discharges.

1646  
1647 (3) A Slug Discharge Control Plan shall address, at a minimum, the following:

1648  
1649 (i) Detailed plans (schematics) showing facility layout and plumbing  
1650 representative of operating procedures;

1651  
1652 (ii) Description of contents and volumes of any process tanks;

1653  
1654 (iii) Description of discharge practices, including non-routine batch discharges;

1655  
1656 (iv) Listing of stored chemicals, including location and volumes;

1657  
1658 (v) Procedures for immediately notifying the City of any spill or Slug  
1659 Discharge. It is the responsibility of the Industrial User to comply with the  
1660 reporting requirements in Section 26-611(f);

1661  
1662 (vi) Procedures to prevent adverse impact from any accidental or Slug  
1663 Discharge. Such procedures include, but are not limited to, inspection and  
1664 maintenance of storage areas, handling and transfer of materials, loading  
1665 and unloading operations, control of plant site runoff, worker training,  
1666 building of containment structures or equipment, measures for containing  
1667 toxic organic pollutants, including solvents, and/or measures and  
1668 equipment for emergency response; and

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(vii) Any other information as required by the City.

(4) Notice to employees. A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who work in any area where an accidental or slug discharge may occur or originate are advised of the emergency notification procedures.

(f) Reports of Potential Problems – Slug and Spills.

(1) In the case of any changes at its facility affecting potential for a Slug Discharge as defined in Section 26-602 or any actual discharge, including, but not limited to, spills, accidental discharges, discharges of a nonroutine, episodic nature, a non-customary batch discharge, or a discharge that may cause potential problems for the POTW, the Industrial User shall immediately telephone and notify the City of the incident. This notification shall include:

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

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

(g) Reports for Non-Significant Industrial Users.

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

(h) Signatory Certification.

1715  
1716 All reports and other submittals required to be submitted to the City shall include the  
1717 following statement and signatory requirements.

1718  
1719 1. The Authorized Representative of the Industrial User signing any application,  
1720 questionnaire, any report or other information required to be submitted to the City  
1721 must sign and attach the following certification statement with each such report or  
1722 information submitted to the City.

1723  
1724 "I certify under penalty of law that this document and all attachments were  
1725 prepared under my direction or supervision in accordance with a system  
1726 designed to ensure that qualified personnel properly gather and evaluate the  
1727 information submitted. Based on my inquiry of the person or persons who  
1728 manage the system or the persons directly responsible for gathering the  
1729 information, the information submitted is, to the best of my knowledge and  
1730 belief, true, accurate, and complete. I am aware that there are significant  
1731 penalties for submitting false information, including the possibility of a fine and  
1732 imprisonment for knowing violations."

1733  
1734 2. If the Authorized Representative is no longer accurate because a different individual  
1735 or position has responsibility for the overall operation of the facility, or overall  
1736 responsibility for environmental matters for the company, a new authorization  
1737 satisfying the requirements of this Section and meeting the definition in Section 26-  
1738 602 must be submitted to the City prior to or together with any reports to be signed  
1739 by an Authorized Representative.

1740  
1741 (i). Compliance Schedules.

1742  
1743 Should any schedule of compliance be established in accordance with the requirements of  
1744 this Article, the following conditions shall apply to such schedule:

1745  
1746 (1) The schedule shall contain increments of progress in the form of dates for the  
1747 commencement and completion of major events leading to the construction and  
1748 operation of additional pretreatment required for the Industrial User to meet the  
1749 applicable Categorical Pretreatment Standards (e.g., hiring an engineer, completing  
1750 preliminary plans, completing final plans, executing contract for major components,  
1751 commencing construction, completing construction, etc.);

1752  
1753 (2) No increment referred to above shall exceed nine (9) months;

1754  
1755 (3) Not later than fourteen (14) days following each date in the schedule and the final  
1756 date for compliance, the Industrial User shall submit a progress report to the City  
1757 including, at a minimum, whether or not it complied with the increment of progress  
1758 to be met on such date and, if not, the date on which it expects to comply with this  
1759 increment of progress, the reason for delay, and the steps being taken by the

1760 Industrial User to return the construction to the schedule established. In no event  
1761 shall more than nine (9) months elapse between such progress reports to the City.

1762  
1763 (j) Change in Discharge or Operations.

1764  
1765 (1) Every permitted Industrial User shall file a notification with the City a minimum of  
1766 fourteen (14) days prior to any planned significant change in operations or  
1767 wastewater characteristics. A significant change shall be a change equal to or  
1768 greater than twenty percent (20%) in the mass of a pollutant or volume of flow  
1769 discharged to the POTW. In addition, this notification shall include changes to:

1770  
1771 (i) Adding or removing processing, manufacturing or other production  
1772 operations.

1773  
1774 (ii) New pollutants used which may be discharged.

1775  
1776 (iii) Changes in the listed or characteristic hazardous waste for which the  
1777 Industrial User has submitted or is required to submit information to the City  
1778 under this Article and Section 26-611(k).

1779  
1780 (2) Known or anticipated facility closure. The Industrial User is required to notify the  
1781 City at least thirty (30) days prior to facility shutdown or closure which might alter  
1782 the character, nature, quality, or volume of its wastewater.

1783  
1784  
1785 (k) Notification of the Discharge of Hazardous Waste

1786  
1787 1. Any Industrial User shall notify the City, in writing, of any discharge into the  
1788 POTW of a substance which, if otherwise disposed of, would be hazardous waste  
1789 under 40 CFR Part 261. Such notification to the City shall be made within the  
1790 appropriate time frames specified in Section 26-611, paragraphs (d), (f) and (j)  
1791 within twenty-four (24) hours of becoming aware of the discharge, whichever is  
1792 shorter.

1793  
1794 Such notification must include:

1795  
1796 a. The name of the hazardous waste as set forth at 40 CFR Part 261;

1797  
1798 b. The EPA hazardous waste number;

1799  
1800 c. The type of discharge (continuous, batch, or other);

1801  
1802 d. An identification of the hazardous constituents contained in the wastes;

1803  
1804 e. An estimation of the mass and concentration of such constituents in the  
1805 wastestream discharged during that calendar month;

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- f. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;
  - g. Certification that the Industrial User has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and
  - h. Signatory certification as required by Section 26-611(h).
2. Any Industrial User shall notify the EPA Regional Waste Management Division Manager, and state hazardous waste authorities, in writing, of the discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261 and meets the reporting criteria specified at 40 CFR 403.12(p). Notification to the State and EPA is the responsibility of the Industrial User and shall be made as required under 40 CFR Section 403.12(p). The Industrial User shall copy the City on all notifications made to the State and EPA.
3. In the case of any new regulation under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the Industrial User must notify the City, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
4. This provision does not create a right to discharge any substance not otherwise allowed to be discharged by this Chapter, a permit issued hereunder, or any applicable federal or state law.

(1) Requests for Information

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

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Sec. 26-612. Right of Entry.

- (a) Whenever it shall be necessary for the purposes of this Article, the City may enter upon any Industrial User's facility, property, or premises subject to this Article for the purposes of:
- (1) Performing all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by an Industrial User. Compliance monitoring and inspection shall be conducted at a frequency as determined by the City and may be announced or unannounced;
  - (2) Examining and copying any records required to be kept under the provisions of this Article or of any other local, state or federal regulation;
  - (3) The City may use a camera to photograph any areas of the facility as deemed necessary for carrying out the duties of the industrial pretreatment program including, but not limited to, documentation of the industrial user's compliance status and for reinforcement of required written reports. The industrial user shall be allowed to review copies of photographs for confidentiality claims.
  - (4) Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation;
  - (5) Sampling any discharge of wastewater into POTW; and/or
  - (6) Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under this Article, could originate, be stored, or be discharged to the POTW.
- (b) The occupant of such property or premises shall render all proper assistance in such activities. Where an Industrial User has security measures in place which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements with its security personnel so that authorized representatives of the City will be permitted to enter without delay to perform their specified functions.
- (c) The Administrator is entitled to enter all private properties through which the City or any connecting jurisdiction holds an easement.
- (d) Failure to allow entry or unreasonable delays: In the event the Administrator is refused admission or unreasonably delayed is a violation and may result in enforcement action as allowed for under this Article including revocation of the Industrial Discharge Permit.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written

1898 or verbal request of the Administrator and shall not be replaced. The costs of clearing  
1899 such access shall be borne by the User.

1900  
1901 (f) If the Administrator has been refused access to a building, structure, or property, or any  
1902 part thereof, and is able to demonstrate probable cause to believe that there may be a  
1903 violation of this Article, or that there is a need to inspect and/or sample as part of a  
1904 routine inspection and sampling program of the City designed to verify compliance with  
1905 this Article or any permit or order issued hereunder, or to protect the overall public  
1906 health, safety and welfare of the community, the Administrator may seek issuance of a  
1907 search warrant from a Court of competent jurisdiction.

1908  
1909 ~~Sec. 26-607. Pretreatment program administration.~~

1910  
1911 ~~A. *Industrial discharge permits.* No significant industrial user shall discharge wastewater to~~  
1912 ~~the WWS without having a valid industrial discharge permit issued by the city and~~  
1913 ~~without having paid all fees required by Rule 24.7 of the rules and regulations. No users'~~  
1914 ~~discharge shall violate any pretreatment requirements or conditions contained therein.~~  
1915 ~~Significant industrial users shall apply for permit renewal at least ninety (90) days prior~~  
1916 ~~to the permit expiration date specified therein.~~

1917 ~~B. *Compliance reports.*~~

1918 ~~(1) Within ninety (90) days following the date for final compliance with applicable~~  
1919 ~~pretreatment standards or requirements, or in the case of a new source, following~~  
1920 ~~commencement of the introduction of wastewater into the WWS, any significant~~  
1921 ~~industrial user subject to federal, state or city pretreatment standards and~~  
1922 ~~requirements shall submit to the city a report indicating the nature and~~  
1923 ~~concentration of all pollutants in the discharge from the regulated process which~~  
1924 ~~are limited by such standards and requirements and all other information required~~  
1925 ~~by the administrator and the rules and regulations as adopted by the department.~~  
1926 ~~(2) All significant industrial users shall submit to the city at least once every six (6)~~  
1927 ~~months, on dates specified by the city, a description of the nature, concentration,~~  
1928 ~~and flow of the pollutants as well as any other information required to be reported~~  
1929 ~~by the city.~~

1930 ~~C. *Categorical pretreatment standards.* Within six (6) months after the promulgation of a~~  
1931 ~~national categorical pretreatment standard the industrial discharge permit of users subject~~  
1932 ~~to such standards shall be revised to require compliance by the prescribed compliance~~  
1933 ~~date. In addition, any significant industrial user with an existing industrial discharge~~  
1934 ~~permit shall submit to the city within one hundred eighty (180) days after promulgation~~  
1935 ~~of an applicable national categorical pretreatment standard a baseline report and any~~  
1936 ~~information required by 40 CFR Section 403.12 of the Federal General Pretreatment~~  
1937 ~~Regulations as amended. New sources shall submit a baseline report and required~~  
1938 ~~information ninety (90) days prior to commencement of discharge. New sources shall~~  
1939 ~~comply with all applicable categorical pretreatment standards in the shortest feasible~~  
1940 ~~time, but in no case more than ninety (90) days, following commencement of discharge.~~

1941  
1942 ~~D. *Self monitoring.*~~

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(1) — ~~All industrial discharge permit holders shall monitor, sample, maintain records and submit reports in conformance with the permit. Reports shall include all permit conditions specified therein and as required in this section. Sampling techniques shall be in conformance with applicable portions of 40 CFR 403.12. The reports required in this section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. If any pollutant is monitored more frequently than required by the permit conditions, the results of this monitoring shall be included in the report. If sampling indicates a violation, the significant industrial user shall notify the city within twenty-four (24) hours of becoming aware of the violation. The significant industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within thirty (30) days after becoming aware of the violation.~~

(2) — ~~The reports required herein shall include 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."~~

~~The reports shall be signed:~~

(a) — ~~By a responsible corporate officer if the significant industrial user submitting the reports is a corporation. For the purpose of this section, a responsible corporate officer means (1) a president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (2) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;~~

(b) — ~~By a general partner or proprietor if the significant industrial user submitting the reports is a partnership or sole proprietorship respectively;~~

(c) — ~~By a duly authorized representative of the individual designated in paragraphs (a) and (b) of this section if (1) the authorization is made in writing by the individual described in paragraphs (a) and (b); (2) the~~

1990 authorization specifies either an individual or a position have  
1991 responsibility for the overall operation of the facility from which the  
1992 discharge originates, such as the position of plant manager, operator of a  
1993 well, or well field superintendent, or a position of equivalent  
1994 responsibility, or having overall responsibility for environmental matters  
1995 for the company; and (3) the written authorization is submitted to the  
1996 administrator.

1997  
1998 The reports submitted under this section shall be subject to:

- 1999  
2000 (a) — The provisions of 18 U.S.C. Section 1001 relating to fraud and false  
2001 statements; and  
2002 (b) — The provisions of Sections 309(c)(4) of the Act, as amended, governing  
2003 false statements, representation or certification.  
2004

2005 ~~E. — Notification of changed discharge. All industrial users shall promptly notify the city (1)~~  
2006 ~~of all discharges that could cause problems, including slug discharges; and (2) in advance~~  
2007 ~~of any substantial change in the volume or character of pollutants in their discharge,~~  
2008 ~~including the listed or characteristic hazardous wastes for which the industrial user has~~  
2009 ~~submitted initial notification under paragraph F. of this section.~~  
2010

2011 ~~F. — Notification of hazardous materials.~~

- 2012  
2013 (1) — Industrial users shall notify the city, the EPA Regional Waste Management Division  
2014 director, and State hazardous waste authorities in writing of any discharge into the WWS  
2015 of a substance, which, if otherwise disposed of, would be a hazardous waste under 40  
2016 CFR part 261. Such notification must include the name of the hazardous waste as set  
2017 forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge  
2018 (continuous, batch or other). If the industrial user discharges more than one hundred  
2019 (100) kilograms of such waste per calendar month to the WWS, the notification shall  
2020 also contain the following information to the extent such information is known and  
2021 readily available to the industrial user: An identification of the hazardous constituents  
2022 contained in the wastes, an estimation of the mass and concentration of such constituents  
2023 in the wastestream discharged during that calendar month, and an estimation of the mass  
2024 of constituents in the wastestream expected to be discharged during the following twelve  
2025 (12) months. All notifications must take place by February 19, 1991 or in the case of  
2026 users who commence discharging after August 23, 1990, within one hundred eighty  
2027 (180) days after the discharge of the listed or characteristic hazardous waste. Any  
2028 notification under this paragraph need be submitted only once for each hazardous waste  
2029 discharged. The notification requirement in this section does not apply to pollutants  
2030 already reported under the self monitoring requirements of paragraph D. above.  
2031 (2) — Dischargers are exempt from the requirements of paragraph (1) of this section during a  
2032 calendar month in which they discharge no more than fifteen (15) kilograms of  
2033 hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR  
2034 261.30 and 261.33. Discharge of more than fifteen (15) kilograms of non acute  
2035 hazardous wastes in a calendar month, or any quantity of acute hazardous wastes,

2036 requires a one-time notification. Subsequent months during which the industrial user  
2037 discharges more than such quantities of any hazardous waste do not require additional  
2038 notification.

2039 (3) In the case of any new regulations under Section 3001 of RCRA identifying additional  
2040 characteristics of hazardous waste or listing any additional substance as a hazardous  
2041 waste, the industrial user must notify the city, the EPA Regional Waste Management  
2042 Division Director, and State hazardous waste authorities of the discharge of such  
2043 substance within ninety (90) days of the effective date of such regulations.

2044 (4) In the case of any notification made under this section, the industrial user shall certify  
2045 that it has a program in place to reduce the volume and toxicity of hazardous wastes  
2046 generated to the degree it has determined to be economically practical.

2047

2048 G. *Monitoring facilities.*

2049

2050 (1) Each significant industrial user shall provide, calibrate, and operate at its expense  
2051 sufficient monitoring facilities to allow inspection, sampling, and flow measurement of  
2052 the building sewer and internal drainage systems. Records shall be maintained  
2053 documenting the calibration of all monitoring instruments. The monitoring facilities,  
2054 including control manholes and continuous flow recorders, shall normally be situated on  
2055 the user's premises. If such a location would be impractical or cause undue hardship on  
2056 the significant industrial user as determined by the city, the administrator may allow the  
2057 facility to be constructed in a public right-of-way provided all other applicable city  
2058 ordinances and regulations governing such a construction have been met.

2059 (2) A sampling manhole or facility shall have sufficient room for accurate sampling and  
2060 preparation of samples for analysis. The facility shall be maintained at all times in a safe  
2061 and proper operating condition at the expense of the significant industrial user.

2062 (3) Whether constructed on public or private property, any sampling and monitoring facilities  
2063 shall be built in accordance with city requirements and all applicable local construction  
2064 standards and specification. Construction shall be completed within ninety (90) days  
2065 following receipt of a written order by the administrator to install the facility.

2066

2067 H. *Inspection and sampling.* The city may inspect the facilities of any industrial user to  
2068 determine whether the purpose of this article, the applicable rules and regulations, and all  
2069 applicable requirements are being met. Owners, employees or occupants of premises  
2070 where wastewater is discharged shall allow city representatives or agents ready access at  
2071 all reasonable times to all parts of the premises where wastewater is created or  
2072 discharged, including industrial process area, for the purposes of inspection, sampling,  
2073 records examination and copying, or performance evaluation. Industrial users shall  
2074 supply all information requested by the city during inspections or otherwise. The city  
2075 may set up on the industrial user's property such devices as are necessary to conduct  
2076 sampling inspection, compliance monitoring and/or metering operations. Where an  
2077 industrial user has security measures in force which require proper identification and  
2078 clearance before entry into the industrial user's premises, the industrial user shall make  
2079 necessary arrangements with the security guards so that upon presentation of suitable  
2080 identification, personnel authorized by the city or from the state or EPA will be permitted

2081 | to enter without delay for the purpose of performing their specific responsibilities under  
2082 | this article.

2083 |  
2084 | I. ~~Pre-treatment. Significant industrial users shall provide whatever wastewater pretreatment~~  
2085 | ~~is required, in the opinion of the administrator, to comply with this article and shall~~  
2086 | ~~comply with all national categorical pretreatment standards within the time limitations as~~  
2087 | ~~specified by the Federal Pretreatment Regulations, this article and applicable rules and~~  
2088 | ~~regulations. Any facilities required to pretreat wastewater to a level of quality acceptable~~  
2089 | ~~to the city shall be provided, operated, and maintained at the significant industrial user's~~  
2090 | ~~expense. Detailed plans showing the pretreatment facilities and operating procedures~~  
2091 | ~~shall be submitted to the city for review, and must be approved by the city before~~  
2092 | ~~construction of the facilities. The review or approval of such plans and operating~~  
2093 | ~~procedures shall in no way relieve a significant industrial user from the responsibility of~~  
2094 | ~~modifying the facility as necessary to produce an effluent acceptable to the city under the~~  
2095 | ~~provisions of this article. Any subsequent change in the pretreatment facilities or method~~  
2096 | ~~of operation shall be reported to and approved by the city prior to such change.~~  
2097 | ~~Pretreatment facilities shall be satisfactorily and effectively maintained and continuously~~  
2098 | ~~operated whenever wastewater is discharged to the WWS.~~

2099 |  
2100 | J. ~~Compliance schedules. All industrial users shall comply with compliance schedules~~  
2101 | ~~contained in any permits, notices or orders issued by the city.~~

2102 |  
2103 | (~~Ord. No. 85-4663, § 7, 9-9-85; Ord. No. 91-4886, § 5, 9-9-91; Ord. No. 92-4906, § 4, 7-27-92~~)

2104 |  
2105 | Sec. 26-61308. - Fees.

2106 |  
2107 | (a) ~~Purpose.~~ The purpose of this section is to provide for the payment to the ~~city~~ City by  
2108 | ~~significant~~ industrial users of the ~~WWS POTW~~ of all costs incurred in the  
2109 | implementation and administration of the industrial pretreatment program. The applicable  
2110 | charges and fees shall be set forth in a schedule adopted by the ~~City~~ City Council.

2111 |  
2112 | (b) ~~Charges and fees.~~ The ~~Administrator~~ Council may adopt additional charges and fees  
2113 | relating to the matters covered by this ~~article~~ Article, including fees for:

- 2114 |  
2115 | (1) Processing Industrial discharge permit applications.  
2116 | (2) Reimbursement of costs of ~~setting up and~~ operating the industrial pretreatment  
2117 | program.  
2118 | (3) Measuring, monitoring, inspection and surveillance procedures, sampling, testing,  
2119 | and analyzing ~~significant~~ industrial user wastewater.  
2120 | (4) Reviewing and approving accidental discharge procedures and facilities.  
2121 | (5) Fees as the ~~city~~ City may deem necessary to carry out the requirements contained  
2122 | herein.  
2123 | (6) Fees to cover the added cost of handling or treating any wastes not covered by  
2124 | existing or regular monthly sewer service charges.

2125 | (~~Ord. No. 85-4663, § 8, 9-9-85~~)

2127 ~~Sec. 26-609. Confidential information.~~

2128

2129 (a) ~~Information and data regarding a significant industrial user obtained from reports,~~  
2130 ~~questionnaires, permit application, permits and monitoring programs and from~~  
2131 ~~inspections shall be available to the public or governmental agencies without restriction,~~  
2132 ~~unless the significant user specifically requests and is able to demonstrate to the~~  
2133 ~~satisfaction of the administrator that the release of such information would divulge~~  
2134 ~~information entitled to protection as a trade secret of the significant industrial user. In~~  
2135 ~~such case restricted information shall not be made available to the public, but shall~~  
2136 ~~nevertheless be made available to other governmental agencies for purposes related to~~  
2137 ~~water pollution control, including judicial review of enforcement of the provisions of this~~  
2138 ~~article.~~

2139 (b) ~~Wastewater constituents and characteristics will not be recognized as confidential~~  
2140 ~~information.~~

2141 (c) ~~Information accepted by the administrator as confidential shall not be transmitted to the~~  
2142 ~~general public by the city unless, upon application by an interested party, a District Court~~  
2143 ~~orders that the information be released.~~

2144

2145 ~~(Ord. No. 85-4663, § 9, 9-9-85; Ord. No. 91-4886, § 7, 9-9-91)~~

2146

2147 ~~Sec. 26-61410. — Compliance and enforcement Actions for violation; enforcement.~~

2148

2149 (a) Enforcement Response Plan.

2150

2151 The City may adopt policies and procedures as set forth in the City's Enforcement  
2152 Response Plan for carrying out the provisions of this Article, provided that such policies  
2153 and procedures are not in conflict with this Article or any applicable state or federal law  
2154 or regulation.

2155

2156 (b) Publication of Industrial Users in Significant Noncompliance.

2157

2158 The City shall publish annually, in a newspaper of general circulation that provides  
2159 meaningful public notice within the jurisdictions served by the POTW, a list of the  
2160 Significant Industrial Users which, at any time during the previous twelve (12) months,  
2161 were in Significant Noncompliance with applicable Pretreatment Standards and  
2162 Requirements. In addition, any Industrial User found to be in Significant Noncompliance  
2163 with (3), (4) or (8) shall also be published in the newspaper. The following criteria shall  
2164 be used to define Significant Noncompliance:

2165

2166 (1) Chronic violations of wastewater discharge limits, defined as those in which  
2167 sixty-six (66) percent or more of all of the measurements taken during a six-  
2168 month period exceed, by any magnitude, a numeric Pretreatment Standard or  
2169 Requirement, including instantaneous limits.;

2170 (2) Technical Review Criteria (TRC) violations, defined as those in which thirty-  
2171 three (33) percent or more of all of the measurements for each pollutant parameter  
2172 taken during a six-month period equal or exceed the product of the numeric

2173 Pretreatment Standard or Requirement including instantaneous limits multiplied  
2174 by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for  
2175 all other pollutants except pH);

2176 (3) Any other violation of a Pretreatment Standard or Requirement (daily maximum,  
2177 long-term average, instantaneous limit, or narrative Standard) that the  
2178 Administrator determines has caused, alone or in combination with other  
2179 discharges, Interference or Pass Through, including endangering the health of  
2180 City personnel or the general public;

2181 (4) Any discharge of a pollutant that has caused imminent endangerment to human  
2182 health, welfare or the environment or has resulted in the City's exercise of its  
2183 emergency authority to halt or prevent such a discharge;

2184 (5) Failure to meet, within ninety (90) days after the schedule date, a compliance  
2185 schedule milestone contained in a local control mechanism or enforcement order  
2186 for starting construction, completing construction or attaining final compliance;

2187 (6) Failure to provide, within thirty (30) days after the due date, required reports such  
2188 as baseline monitoring reports, ninety-day compliance reports, periodic self-  
2189 monitoring reports and reports on compliance with compliance schedules;

2190 (7) Failure to accurately report noncompliance; or

2191 (8) Any other violation or group of violations which may include a violation of Best  
2192 Management Practices, which the Administrator determines may adversely affect  
2193 the operation or implementation of the local pretreatment program.

2194  
2195 ~~(a) *Notice to violators.* Any person found to be violating the provisions of this article~~  
2196 ~~shall be served by the city with written notice stating the nature of the violation~~  
2197 ~~and action needed for its satisfactory correction. The offender shall immediately~~  
2198 ~~take action to permanently cease all violations as directed by the city. The~~  
2199 ~~issuance of a correction notice does not constitute a defense to a criminal charge~~  
2200 ~~which is concurrently or subsequently filed for the same violation.~~

2201 (c) Administrative Enforcement Actions.

2202  
2203 (1) Notice of Violation (NOV).

2204  
2205 When the City finds that an Industrial User has violated, or continues to violate,  
2206 any provision of this Article, an Industrial Discharge Permit, or order issued  
2207 hereunder, or any other Pretreatment Standard or Requirement, the City may  
2208 serve upon the Industrial User a written Notice of Violation. Within five (5)  
2209 working days of the receipt of such notice, an explanation of the violation and a  
2210 plan for the satisfactory correction of prevention thereof, to include specific  
2211 required actions, shall be submitted by the Industrial User to the City.

2212 Submission of such a plan in no way relieves the Industrial User of liability for  
2213 any violations occurring before or after receipt of the Notice of Violation.

2214 Nothing in this Section shall limit the authority of the City to take any action,  
2215 including emergency actions or any other enforcement action, without first  
2216 issuing a Notice of Violation.

2217  
2218 (2) Suspension of Service.

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Endangerment to Health or Welfare of the Community: The City, through other than a formal notice to the affected Industrial User, may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW of the City or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.

Endangerment to Environment or Treatment Works: The City, after written notice to the industrial user may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW, wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.

Any person notified of a suspension of the wastewater treatment service and/or the Industrial Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The City may reinstate the Industrial Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge.

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

~~(b) — Harmful contributions or interference with the wastewater system.~~

~~(1) — The administrator may cancel a significant industrial user's permission to discharge wastewaters into the WWS, reject such wastewater, may cease wastewater treatment service, and/or suspend a significant industrial user's industrial discharge permit when such suspension is necessary, in the opinion of the administrator, to stop or preclude a harmful contribution to the WWS or a discharge which interferes with or has a deleterious effect upon the WWS.~~

~~(2) — Any significant industrial user notified of a suspension or cancellation of wastewater treatment service and/or the industrial discharge permit shall immediately stop or eliminate the contribution or discharge. In the event of a failure by such significant industrial user to comply voluntarily with the suspension order, the administrator shall take such steps as are deemed necessary,~~

2265 ~~including immediate severance of the sewer connection, to prevent or minimize~~  
2266 ~~damage to the WWS system, danger to individuals or harm to the receiving water.~~  
2267 ~~The administrator may reinstate the industrial discharge permit and/or the~~  
2268 ~~wastewater treatment service only upon proof of compliance with the suspension~~  
2269 ~~order, including payment of any fees or penalties. A detailed written statement~~  
2270 ~~submitted by the significant industrial user describing the causes of the harmful~~  
2271 ~~contribution and the measures actually taken to prevent any future occurrence~~  
2272 ~~shall be submitted to the city within five (5) business days from the date of~~  
2273 ~~occurrence.~~

2274  
2275 (3) Administrative Compliance Order.

2276  
2277 When the City finds that an Industrial User has violated, or continues to violate,  
2278 any provision of this Article, an Industrial Discharge Permit, or order issued  
2279 hereunder, or any other Pretreatment Standard or Requirement, the City may issue  
2280 an order to the Industrial User responsible for the discharge directing that the  
2281 Industrial User come into compliance within a specific time. If the Industrial  
2282 User does not come into compliance within the time provided, sewer service may  
2283 be discontinued unless adequate treatment facilities, devices, or other related  
2284 appurtenances are installed and properly operated. Compliance orders also may  
2285 contain other requirements to address the noncompliance, including additional  
2286 self-monitoring and management practices designed to minimize the amount of  
2287 pollutants discharged to the POTW. A compliance order may not extend the  
2288 deadline for compliance established for a Pretreatment Standard or Requirement,  
2289 nor does a compliance order relieve the Industrial User of liability for any  
2290 violation, including any continuing violation. Issuance of a compliance order  
2291 shall not be a bar against, or a prerequisite for, taking any other action against the  
2292 Industrial User.

2293  
2294 (4) Consent Order.

2295  
2296 The City may enter into a Consent Order, assurances of compliance, or other  
2297 similar documents establishing an agreement with any Industrial User responsible  
2298 for noncompliance. Such documents shall include specific actions to be taken by  
2299 the Industrial User to correct the noncompliance within a time period specified by  
2300 the document. A consent order may include penalties, supplemental  
2301 environmental projects, or other conditions and requirements as agreed to by the  
2302 City and the Industrial User.

2303  
2304 (5) Show Cause Hearing.

2305  
2306 (i) The City may order any Industrial User who causes or allows an  
2307 unauthorized discharge to enter the POTW to show cause before the  
2308 Administrator why the proposed enforcement action should not be taken.  
2309 A notice shall be served on the Industrial User specifying the time and  
2310 place of a hearing to be held by the Administrator regarding the violation,

2311 the reasons why the proposed action is to be taken, and directing the  
2312 Industrial User to show cause before the Administrator why the proposed  
2313 enforcement action should not be taken. The notice of the hearing shall be  
2314 served personally or be sent by registered or certified mail (return receipt  
2315 requested) at least ten (10) days before the hearing. Service may be made  
2316 on any agent or officer of a corporation.

2317  
2318 (ii) The Administrator may conduct the hearing and take the evidence, or may  
2319 designate one or more persons to conduct the hearing and to take the  
2320 following actions:

2321  
2322 (A) Issue subpoenas requesting the attendance and testimony of  
2323 witnesses and the production of evidence relevant to any matter  
2324 involved in such hearings. The Administrator or the Industrial  
2325 User may petition the Municipal Court to enforce any subpoena  
2326 issued pursuant to this Section through the Court's contempt  
2327 powers.

2328  
2329 (B) Receive evidence from both the Industrial User and the  
2330 Administrator on any relevant issue involved in such hearings,  
2331 provided however, that the Montana Rules of Evidence shall not  
2332 apply strictly to such evidence.

2333  
2334 (C) Transmit a report of the evidence and hearing, including transcripts  
2335 and other evidence, together with recommendations to the  
2336 administrator for final action thereon.

2337  
2338 (iii) At any hearing held pursuant to this Article, testimony taken must be  
2339 under oath and recorded. The transcript of testimony will be made  
2340 available to any member of the public and any party to the hearing upon  
2341 payment of reasonable charges for the preparation thereof. The hearing  
2342 may be suspended or continued from time to time in the discretion of the  
2343 presiding officer, provided that all evidence is received and the hearing is  
2344 closed within sixty (60) days after it is commenced.

2345  
2346 (iv) After the Administrator has reviewed the evidence, they may issue an  
2347 order of findings and take an action or no action as necessary and  
2348 appropriate.

2349  
2350 (6) Cease and Desist Order

2351  
2352 (i) When the Administrator finds that an industrial user is violating this  
2353 Article, an Industrial Discharge Permit, any order issued hereunder, or any  
2354 other Pretreatment Standard or Requirement, or that the industrial user's  
2355 past compliance history indicates that violations are likely to recur, the

2356 Administrator may issue an order to the user directing it to cease and  
2357 desist all such violations and directing the industrial user to:

2358  
2359 (A) Immediately comply with all requirements;

2360  
2361 (B) Take such appropriate remedial or preventive action as may be  
2362 needed to properly address a continuing or threatened violation,  
2363 including halting operations and/or terminating the discharge.

2364  
2365 (ii) Issuance of a cease and desist order shall not be a bar against, or a  
2366 prerequisite for, taking any other action against the industrial user.

2367  
2368 (7) Administrative Fines.

2369  
2370 (i) When the City finds that an Industrial User has violated, or continues to  
2371 violate, any provision of this Article, an Industrial Discharge Permit, or  
2372 order issued hereunder, or any other Pretreatment Standard or  
2373 Requirement, the City may fine such Industrial User in an amount not to  
2374 exceed one thousand dollar (\$1,000) per day per violation. Such fines  
2375 shall be assessed on a per-violation, per day basis. In the case of monthly  
2376 or other long-term average discharge limits, fines may be assessed for  
2377 each day during the period of violation. Issuance of an administrative fine  
2378 shall not be a bar against, or prerequisite for, taking any other action  
2379 against the Industrial User.

2380  
2381  
2382 ~~(e) — *Revocation of permit/termination of service. Any significant industrial user who violates*~~  
2383 ~~the following conditions of this article, the city's rules or regulations or applicable state~~  
2384 ~~and federal laws is subject to permit revocation or service termination, or both, in~~  
2385 ~~accordance with the procedures set forth in said rules and regulations or this section:~~

2386 ~~(1) — Failure to factually report wastewater constituents and characteristics or permit~~  
2387 ~~violations.~~

2388 ~~(2) — Failure to report significant changes in operations or wastewater constituents and~~  
2389 ~~characteristics.~~

2390 ~~(3) — Refusal or physical obstruction of reasonable access to the user's premises for the~~  
2391 ~~purposes of inspection, monitoring, review of records concerning wastewater or~~  
2392 ~~any purpose listed under section 26-607(G).~~

2393 ~~(4) — Violation of conditions of the industrial discharge permit.~~

2394 ~~(5) — Failure to obtain or maintain a valid industrial discharge permit.~~

2395 ~~(6) — Failure to file required reports or give notices.~~

2396 ~~(7) — Failure to comply with a city order or compliance schedule.~~

2397 ~~(8) — Failure to provide for protection against spills, slug discharges or accidental~~  
2398 ~~discharges.~~

2399 ~~(9) — Use of excessive discharge per section 26-604(e).~~

2400 ~~(10) — Failure to properly sample discharge with intent to deceive.~~

2401 ~~(11) — Failure to pay the applicable charges and fees.~~

2402 (d) Judicial Enforcement Remedies.

2403  
2404 (1) Injunctive Relief.

2405  
2406 When the City finds that an Industrial User has violated, or continues to violate,  
2407 any provision of this Article, an Industrial Discharge Permit, or order issued  
2408 hereunder, or any other Pretreatment Standard or Requirement, the City may  
2409 petition the Billings Municipal Court for the issuance of a temporary or  
2410 permanent injunction, as appropriate, which restrains or compels the specific  
2411 performance of the Industrial Discharge Permit, order, or other requirement  
2412 imposed by this Article on activities of an Industrial User. The City may also  
2413 seek such other action as is appropriate for legal and/or equitable relief, including  
2414 a requirement for the Industrial User to conduct environmental remediation. A  
2415 petition for injunctive relief shall not be a bar against, or a prerequisite for, taking  
2416 any other action against an Industrial User.

2417  
2418 (2) Civil Penalties.

2419  
2420 (i) An Industrial User who has violated, or continues to violate, any provision  
2421 of this Article, an Industrial Discharge Permit, or order issued hereunder,  
2422 or any other Pretreatment Standard or Requirement shall be liable to the  
2423 City for a maximum civil penalty not to exceed one thousand dollars  
2424 (\$1,000) per day per violation. In the case of a monthly or other long-term  
2425 average discharge limit, penalties may accrue for each day during the  
2426 period of violation.

2427  
2428 (ii) The City may recover reasonable attorneys' fees, court costs, and other  
2429 expenses associated with enforcement activities, including sampling and  
2430 monitoring expenses, and the cost of any actual damages incurred by the  
2431 City.

2432  
2433 (iii) In determining the amount of civil liability, the City shall take into  
2434 account all relevant circumstances including, but not limited to, the extent  
2435 of harm caused by the violation, the magnitude and duration of the  
2436 violation, any economic benefit gained through the Industrial User's  
2437 violation, corrective actions by the Industrial User, the compliance history  
2438 of the Industrial User, and any other factor as justice requires.

2439  
2440  
2441 (iv) Filing a suit for civil penalties shall not be a bar against, or a prerequisite  
2442 for, taking any other action against an Industrial User.

2443  
2444 (3) Civil/Administrative Fine Pass Through.

2445  
2446 In the event that an Industrial User discharges such pollutants which cause the  
2447 City to violate any condition of its MPDES permit and the City is fined by the

2448 EPA or the State for such violation, then such Industrial User shall be fully liable  
2449 for the total amount of the fine assessed against the City by the EPA and/or the  
2450 State.

2451  
2452 (4) Criminal prosecution

2453  
2454 (i) Any Industrial User who violates or fails to comply with any provision of  
2455 this Article or with any orders, rules, regulations, permits and permit  
2456 conditions issued hereunder, shall, upon conviction, be guilty of a  
2457 misdemeanor. The penalty for such misdemeanor shall be a fine not to  
2458 exceed five hundred dollars (\$500.00) or by imprisonment not to exceed  
2459 six (6) months, or both.

2460  
2461 (ii) Any Industrial User who knowingly makes, authorizes, solicits, aids, or  
2462 attempts to make any false statement, representation or certification in any  
2463 hearing, or in any permit application, record, report, plan or other  
2464 document filed or required to be maintained pursuant to this Article, or  
2465 who falsifies, tampers with, bypasses, or knowingly renders inaccurate any  
2466 monitoring device, testing method, or testing samples required under this  
2467 Article, shall, upon conviction, be guilty of a misdemeanor, punishable by  
2468 a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to  
2469 exceed six (6) months, or both.

2470  
2471 (iii) The City may refer violations that warrant criminal prosecution to the U.S.  
2472 Attorney General's Office, State Attorney General or USEPA Criminal  
2473 Investigation Division or other appropriate agency. Such referral shall not  
2474 preclude the City from taking a parallel administrative or civil enforcement  
2475 action.

2476  
2477 (e) Cost Recovery

2478  
2479 In any judicial action, the City may recover reasonable attorney fees, court costs,  
2480 deposition and delivery costs, expert witness fees, and other expenses of investigation,  
2481 enforcement action, administrative hearings, and litigation if the City prevails in the  
2482 action or settles at the request of the defendant. Any person who violates any of the  
2483 provisions of this Article or the Rules and Regulations shall become liable to the City for  
2484 any expense, loss, or damage to the City or to the POTW occasioned by such violation  
2485 including, but not limited to, investigative/monitoring expenses, fines, penalties,  
2486 cleaning, repair or replacement work caused by and in connection with the violation. In  
2487 addition, upon proof of willful or intentional meter bypassing, meter tampering, or  
2488 unauthorized metering, the City shall be entitled to recover as damages three (3) times the  
2489 amount of actual damages.

2490  
2491 (df) Remedies Nonexclusive. The remedies provided for in this Article are not exclusive of  
2492 any other remedies that the City may have under the provisions of Montana law. ~~If any~~  
2493 person violates any order of the administrator or otherwise fails to comply with any

2494 provisions of this article or rules and regulations or the orders, rules, regulations and  
2495 permits issued hereunder, or discharges sewage, industrial wastes or other wastes, into  
2496 the WWS or into state waters contrary to the provisions of this article, federal or state  
2497 pretreatment requirements, or contrary to any order of the city, or to the extent that the  
2498 discharge constitutes a harmful contribution, the city may commence an action in a court  
2499 of record for appropriate legal and equitable relief. In such action, the city may recover  
2500 from the defendant reasonable attorney fees, court costs, deposition and delivery costs,  
2501 expert witness fees, and other expenses of investigation, enforcement action,  
2502 administrative hearings, and litigation if the city prevails in the action or settles at the  
2503 request of the defendant. Any person who violates any of the provisions of this article or  
2504 rules and regulations shall become liable to the city for any expense, loss, or damage to  
2505 the city or to the WWS occasioned by such violation including, but not limited to,  
2506 investigative/monitoring expenses, fines, penalties, cleaning, repair or replacement work  
2507 caused by and in connection with the violation. In addition, upon proof of willful or  
2508 intentional meter bypassing, meter tampering, or unauthorized metering, the city shall be  
2509 entitled to recover as damages three (3) times the amount of actual damages.

2510 (e) — *Misdemeanor.* Any person who violates or fails to comply with any provision of  
2511 this article or with any orders, rules, regulations, permits and permit conditions issued  
2512 hereunder, shall be guilty of a misdemeanor. The penalty for such misdemeanor shall be a  
2513 fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed six  
2514 (6) months, or both. Each day in which any such violation occurs or persists shall be  
2515 deemed a separate and distinct offense.

2516  
2517 (f) — *Penalty for false statement and tampering.* Any person who knowingly makes,  
2518 authorizes, solicits, aids, or attempts to make any false statement, representation or  
2519 certification in any hearing, or in any permit application, record, report, plan or other  
2520 document filed or required to be maintained pursuant to this article, or who falsifies,  
2521 tampers with, bypasses, or knowingly renders inaccurate any monitoring device, testing  
2522 method, or testing samples required under this article, shall be guilty of a misdemeanor,  
2523 and upon conviction thereof, shall be punished by a fine not to exceed five hundred  
2524 dollars (\$500.00) or imprisonment not to exceed six (6) months, or both.

2525 (g) — *Civil penalty.* Any person who violates or fails to comply with any provision of this  
2526 article or with any orders, rules, regulations, permits or permit conditions issued  
2527 hereunder shall forfeit and pay to the city a civil penalty of one thousand dollars  
2528 (\$1,000.00) per violation. Each day in which any violation occurs or persists shall be  
2529 deemed a separate and distinct violation. Said civil penalty, if not immediately paid, is  
2530 enforceable by petition to a court of competent jurisdiction. In addition to the civil  
2531 penalty contained herein, violators shall be liable to the city for any expense, loss or  
2532 damage to the city or to the WWS including, but not limited to, investigative/monitoring  
2533 expenses, fines, penalties, loss or damage, cleaning, repair or replacement work caused  
2534 by and in connection with the violation. The city shall bill the violator for such expenses.  
2535 Refusal to pay the assessed costs shall constitute a separate and distinct violation.

2536 (h) — *Remedies cumulative.* The remedies provided for in state and federal law, this section and  
2537 this article, including but not limited to, criminal prosecution, recovery of costs,  
2538 administrative fines, and treble damages, shall be cumulative. One or all of the penalties,  
2539 sanctions, fines and remedies may be imposed at the discretion of the city.

2540  
2541 (~~Ord. No. 85-4663, § 10, 9-9-85; Ord. No. 91-4886, § 6, 9-9-91; Ord. No. 92-4906, § 5, 7-27-92;~~  
2542 ~~Ord. No. 97-5022, § 8, 5-27-97; Ord. No. 06-5356, § 15, 1-9-06)~~

2543  
2544 Sec. 26-61511. - Pretreatment authority outside of ~~city~~ City.

2545  
2546 In order to achieve and maintain compliance with the Clean Water Act, federal pretreatment  
2547 requirements, State regulations, sewage grant conditions and MPDESWWTP discharge permit  
2548 requirements, the City of Billings, as manager/operator shall have the authority to implement and  
2549 enforce the pretreatment program of the WWS, must possess and demonstrate a clear legal right  
2550 to require compliance with pretreatment requirements by any significant industrial user of the  
2551 WWS against any industrial user within and located outside of the city City's territorial  
2552 jurisdiction who discharges directly or indirectly to the POTW or any collection system  
2553 connected to the City POTW.

2554  
2555 To that end, all governmental sewage connectors, municipalities and including sanitation  
2556 districts, shall be required to legally adopt a regulatory pretreatment program either

2557  
2558 (a) Is consistent with and as stringent with this Articles and the Rules and  
2559 Regulations; parallel to this article and rules and regulations, or  
2560 (b) Incorporates by referencing the provisions of this ~~article~~ Article and the Rrules and  
2561 Rregulations and specifically delegates authority to implement and enforce the pretreatment  
2562 program to the City and requiring significant industrial users to comply with the city pretreatment  
2563 program.

2564 ~~The e~~Connectors, municipalities, sanitation including districts, shall also be required to approve  
2565 necessary revisions to existing sewer service agreements or joint agreements granting the ~~city~~  
2566 City the right to administer and physically enforce the connector's pretreatment program on  
2567 behalf of and as agent for the connector district. ~~Such supplemental or indirect regulatory~~  
2568 authority accorded to the city shall only be used where direct contractual relationships with  
2569 significant industrial users through the industrial discharge permit program prove insufficient to  
2570 ensure compliance with the pretreatment program.

2571 (Ord. No. 85-4663, § 11, 9-9-85)

2572  
2573 Sec. 26-616. Affirmative Defenses to Discharge Violations.

2574  
2575 (a) Upset.

2576  
2577 (1) For the purposes of this Article, upset means an exceptional incident in which  
2578 there is unintentional and temporary noncompliance with Categorical  
2579 Pretreatment Standards because of factors beyond the reasonable control of the  
2580 Industrial User. An upset does not include noncompliance to the extent caused by  
2581 operational error, improperly designed treatment facilities, inadequate treatment  
2582 facilities, lack of preventative maintenance, or careless or improper operation.  
2583

- 2584 (2) An upset shall constitute an affirmative defense to an action brought for  
2585 noncompliance with Categorical Pretreatment Standards if the requirements of  
2586 paragraph (3) below are met.
- 2587
- 2588 (3) An Industrial User who wishes to establish the affirmative defense of upset shall  
2589 demonstrate, through properly signed, contemporaneous operating logs, or other  
2590 relevant evidence that:
- 2591
- 2592 (i) An upset occurred and the Industrial User can identify the cause(s) of the  
2593 upset;
- 2594
- 2595 (ii) The facility was at the time being operated in a prudent and workman-like  
2596 manner and in compliance with applicable operation and maintenance  
2597 procedures; and
- 2598
- 2599 (iii) The Industrial User has submitted the following information to the City  
2600 within twenty-four (24) hours of becoming aware of the upset (if this  
2601 information is provided orally, a written submission must be provided  
2602 within five (5) days):
- 2603
- 2604 (A) A description of the Indirect Discharge and cause of  
2605 noncompliance;
- 2606
- 2607 (B) The period of noncompliance, including exact dates and times or,  
2608 if not corrected, the anticipated time the noncompliance is  
2609 expected to continue; and
- 2610
- 2611 (C) Steps being taken and/or planned to reduce, eliminate, and prevent  
2612 recurrence of the noncompliance.
- 2613
- 2614 (4) In any enforcement proceeding, the Industrial User seeking to establish the  
2615 occurrence of an upset shall have burden of proof.
- 2616
- 2617 (5) Industrial users shall have the opportunity for a judicial determination on any  
2618 claim of upset only in an enforcement action brought for noncompliance with  
2619 Categorical Pretreatment Standards.
- 2620
- 2621 (6) Industrial users shall control (decrease) production of all discharges to the extent  
2622 necessary to maintain compliance with Categorical Pretreatment Standards upon  
2623 reduction, loss, or failure of its treatment facility until the facility is restored or an  
2624 alternative method of treatment is provided. This requirement applies in the  
2625 situation where, among other things, the primary source of power of the treatment  
2626 facility is reduced, lost or fails.

2627

2628 (b) Prohibited Discharge Standards.

2629

2630 An Industrial User shall have an affirmative defense to an enforcement action brought  
2631 against it for noncompliance with the specific prohibitions in any action brought against  
2632 it alleging a violation of the Specific Prohibitions in Section 26-604(b) paragraphs (3),  
2633 (4), (5), (6) or (7) where the user demonstrates that:

2634  
2635 (1) It did not know, or have reason to know, that its discharge, alone or in conjunction  
2636 with discharges from other sources, would cause Pass Through or Interference;  
2637 and

2638  
2639 (2) The Industrial User had accurately disclosed the concentration of the pollutant(s)  
2640 causing the Pass Through or Interference in applications, reports, or other  
2641 required documents as required; and either:

2642  
2643  
2644 (i) A local limit designed to prevent Pass Through and/or Interference, as the  
2645 case may be was developed for each pollutant in the Industrial User's  
2646 discharge that caused Pass Through or Interference, and the Industrial  
2647 User was in compliance with each such local limit directly prior to and  
2648 during the Pass Through or Interference; or

2649  
2650 (ii) If a local limit designed to prevent Pass Through and/or Interference, as  
2651 the case may be, has not been developed for the pollutant(s) that caused  
2652 the Pass Through or Interference, the Industrial User's discharge directly  
2653 prior to and during the Pass Through or Interference did not change  
2654 substantially in nature or constituents from the User's prior discharge  
2655 activity when the POTW was regularly in compliance with the POTW's  
2656 MPDES permit requirements and, in the case of Interference, applicable  
2657 requirements for sewage sludge use or disposal.

2658  
2659 (c) Bypass

2660  
2661 (1) For purposes of this Subsection:

2662  
2663 (i) Bypass means the intentional diversion of wastestreams from any portion  
2664 of an Industrial User's treatment facility.

2665  
2666 (ii) Severe property damage means substantial physical damage to property,  
2667 damage to the treatment facilities which causes them to become  
2668 inoperable, or substantial and permanent loss of natural resources which  
2669 can reasonably be expected to occur in the absence of a bypass. Severe  
2670 property damage does not mean economic loss caused by delays in  
2671 production.

2672  
2673 (2) Bypass not violating applicable Pretreatment Standards or Requirements. An  
2674 Industrial User may allow any bypass to occur which does not cause Pretreatment  
2675 Standards or Requirements to be violated, but only if it also is for essential

2676 maintenance to assure efficient operation. These bypasses are not subject to the  
2677 provision of paragraphs (3) and (4) of this Section but are reportable under  
2678 Section 26-611(a), (d), (f), (j) and (k), as appropriate.  
2679

2680 (3) Notice.  
2681

2682 (i) If an Industrial User knows in advance of the need for a bypass, it shall  
2683 submit prior notice to the Director, if possible, at least ten (10) days before  
2684 the date of the bypass.  
2685

2686 (ii) An Industrial User shall submit oral notice of an unanticipated bypass that  
2687 exceeds applicable Pretreatment Standards to the Administrator within  
2688 twenty four (24) hours from the time the Industrial User becomes aware of  
2689 the bypass. A written submission shall also be provided within five (5)  
2690 days of the time the Industrial User becomes aware of the bypass. The  
2691 written submission shall contain a description of the bypass and its cause;  
2692 the duration of the bypass, including exact dates and times, and, if the  
2693 bypass has not been corrected, the anticipated time it is expected to  
2694 continue; and steps taken or planned to reduce, eliminate, and prevent  
2695 reoccurrence of the bypass. The Administrator may waive the written  
2696 report on a case-by-case basis if the oral report has been received within  
2697 twenty four (24) hours.  
2698

2699 (4) Prohibition of Bypass.  
2700

2701 (i) Bypass is prohibited, and the Administrator may take enforcement action  
2702 against an Industrial User for a bypass, unless;  
2703

2704 (A) Bypass was unavoidable to prevent loss of life, personal injury, or  
2705 severe property damage;  
2706

2707 (B) There were no feasible alternatives to the bypass, such as the use  
2708 of auxiliary treatment facilities, retention of untreated wastes, or  
2709 maintenance during normal periods of equipment downtime. This  
2710 condition is not satisfied if adequate back-up equipment should  
2711 have been installed in the exercise of reasonable engineering  
2712 judgment to prevent a bypass which occurred during normal  
2713 periods of equipment downtime or preventative maintenance; and  
2714

2715 (C) The Industrial User submitted notices as required under paragraph  
2716 (3) of this Section.  
2717

2718 (ii) The Administrator may approve an anticipated bypass, after considering  
2719 its adverse effects, if the Administrator determines that it will meet the  
2720 three (3) conditions listed in paragraph (4)(i) of this Section.  
2721

2722

2723 | Sec. 26-61~~27~~. - Severability; ~~R~~epealer; ~~E~~ffective ~~D~~ate.

2724

2725 | (a) *Severability*. If any part or parts of this ~~article~~ Article are held by any court of competent  
2726 jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or  
2727 constitutionality of the remaining portions of said ~~article~~ Article.

2728 (b) *Repealer*. That all ordinances or parts of ordinances in conflict herewith are hereby  
2729 repealed.

2730 | (c) *Effective date*. That this ~~article~~ Article [Ordinance Number 85-4663] shall be effective  
2731 from and after final passage and as provided by law.

2732 | (Ord. No. 85-4663, § 12, 9-9-85)

2733