

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3124

AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 6 OF THE HELENA CITY CODE

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE
CITY OF HELENA, MONTANA:

That Title 6, Public Utilities, Chapter 4, Industrial
Wastewater Regulations of the Helena City Code, is hereby
amended as follows:

CHAPTER 4

INDUSTRIAL WASTEWATER REGULATIONS

SECTION:

- 6-4-1: ~~Legislative Intent~~ Purpose
- 6-4-2: Authority
- 6-4-3: Application Of Chapter
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6-4-1: **LEGISLATIVE INTENT PURPOSE:**

- A. This chapter sets forth uniform requirements for direct and indirect discharges into the city wastewater collection and treatment system and enables the city to comply with all applicable federal and state laws. This chapter is necessary to protect the health, safety, and welfare of the residents of the city.
- B. The purposes of this chapter are to:
 - 1. Provide for and promote the general health, safety, and welfare of the citizens residing within the city and downstream water users;
 - 2. Prevent the introduction of pollutants into the ~~wastewater utility~~ POTW that will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
 - 3. Prevent the introduction of pollutants into the ~~wastewater utility~~ POTW that will interfere with the operation of the system, including interference with its use or disposal of sludge;
 - 4. Improve the opportunity to recycle and reclaim wastewaters and sludge from the system; and
 - 5. Provide for fees for the equitable distribution of cost of the wastewater utility among users. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-2: **AUTHORITY:**

- A. This chapter authorizes the issuance of industrial user discharge permits, provides for monitoring, compliance and

enforcement activities, establishes administrative review procedures, requires user reporting, provides for identifying specific discharge quality parameters and provides for setting fees for the equitable distribution of costs resulting from the program established herein.

- B. Except as otherwise provided herein, the ~~public works director~~ Department shall administer, implement and enforce the provisions of ~~these regulations~~ this chapter. ~~Any powers granted to or duties imposed upon the Public works director may be delegated by the public works director to other city of Helena personnel.~~ (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-3: **APPLICATION OF CHAPTER:** The provisions of this chapter apply to all users of the city ~~wastewater utility~~ POTW, including those located outside the city ~~who are, by contract or agreement, users of the city wastewater utility.~~ (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-4: **DEFINITIONS:** For purposes of this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

ABBREVIATIONS: The following abbreviations have the following meanings:

BOD: Biochemical oxygen demand.

C: Degrees Celsius.

CFR: Code of federal regulations.

COD: Chemical oxygen demand.

EPA: United States environmental protection agency.

l: Liter.

lbs: Pounds.

LEL: Lower explosive limit.

mg: Milligrams.

MNPDES: ~~Montana~~ National pollutant discharge elimination system or Nation pollutant discharge elimination system.

PCB: Polychlorinated biphenyl.

POTW: Publicly owned treatment works.

TOC: Total organic carbon.

TSS: Total suspended solids.

RCRA: The resource conservation and recovery act.

ACT OR THE ACT:

~~The federal water pollution control act, P.L. 92-500, including the amendments made by the clean water act of 1977, P.L. 95-217.~~ The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

APPROVAL AUTHORITY:

The appropriate EPA Regional Administrator.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER:

Either a principal executive officer of at least the level of vice president, if the industrial user is a corporation; a general partner or proprietor, if the industrial user is a partnership or proprietorship, or a duly authorized representative, if such representative is responsible for the overall operation of the facilities from which any direct or indirect discharge originates.

AVERAGE STRENGTH ~~SEWAGE~~ WASTEWATER:

Sewage Water containing wastes in amounts less than or equal to ~~two~~

~~hundred fifty~~ three hundred and
twenty five milligrams per liter
~~(250~~ 325 mg/l) BOD and ~~two hundred~~
~~fifty four~~ three hundred
milligrams per liter (~~254~~ 300
mg/l) TSS.

BEST MANAGEMENT
PRACTICES (BMP):

A schedule of activities, prohi-
bitions of practices, maintenance
and operation procedures, and
other management practices to
implement the prohibitions of this
chapter. BMPs also include
treatment requirements, operating
procedures, and practices to
control plant site runoff,
spillage or leaks, sludge or waste
disposal, or drainage from raw
materials storage.

BIOCHEMICAL OXYGEN
DEMAND (BOD):

The quantity of oxygen use in the
biochemical oxidation of organic
matter under standard laboratory
procedure in five (5) days at
twenty degrees Celsius (20°C)
expressed in milligrams per liter.

BYPASS:

The intentional diversion of waste
streams from any portion of an
industrial user's treatment
facility.

CATEGORICAL INDUSTRIAL
USER:

An industrial user subject to a
categorical pretreatment standard
or categorical standard.

CATEGORICAL
PRETREATMENT STANDARD:

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

CHEMICAL OXYGEN DEMAND (COD): The measure of the same oxygen equivalent to the portion of organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant under laboratory procedures, expressed in milligrams per liter.

COMPOSITE SAMPLE: A representative flow proportioned or time proportioned sample collection within a twenty four (24) hour period composed of a minimum of six (6) individual samples collected at equally spaced intervals and combined according to flow or time.

~~CONTRIBUTOR: Any person who contributes or causes the contribution of wastewater to the wastewater utility.~~

COOLING WATER: Water to which the only pollutant added is heat.

DEPARTMENT: Department of Public Works.

DISCHARGE: The introduction of pollutants into POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Act.

DISCHARGER: Any person who discharges or causes the discharge of wastewater to the ~~wastewater utility~~ POTW.

DOMESTIC WASTES: Liquid wastes: a) from the noncommercial preparation, cooking, and handling of food, or b) containing only human excrement and similar matter from the sanitary conveniences of

dwellings, commercial buildings, industrial facilities, and institutions.

ENVIRONMENTAL PROTECTION AGENCY (EPA):

The U.S. environmental protection agency, or where appropriate, the administrator or other duly authorized official of the agency.

EXCESS USER CHARGE:

The rate system used to charge significant industrial users whose sewage strength is more than fifty percent (50%) higher than average strength sewage.

~~FEDERAL CATEGORICAL PRETREATMENT STANDARD:~~

~~Any regulation developed under the authority of 307(b) and (c) of the act or regulations issued thereunder.~~

FLOW:

Volume of wastewater.

GARBAGE:

Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the commercial handling, storage, and sale of produce.

GRAB SAMPLE:

A sample taken from a waste stream on a one time basis with no regard to the flow in the waste stream and without consideration of time.

~~INCOMPATIBLE POLLUTANT:~~

~~Any waste product that cannot be easily or adequately treated by the city wastewater utility, including, without limitation, nonbiodegradable dissolved solids.~~

INDIRECT DISCHARGE:

The discharge or the introduction of non-domestic pollutants into the POTW from a non-domestic source regulated under Section 307(b), or (c) or (d) of the Act (including hauled wastes).

INDUSTRIAL: Of or pertaining to industry, manufacturing, commerce, trade, or business, as distinguished from domestic or residential.

~~INDUSTRIAL CATEGORY: Any of the industrial groups designated by EPA under section 307 of the act.~~

INDUSTRIAL USER: Any user that discharges wastewater other than domestic wastes from industrial or commercial processes.

INDUSTRIAL WASTE: Liquid or solid wastes from industrial manufacturing processes, trade or business activities producing non-domestic or non-residential wastewater as distinct from domestic wastewater.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT: The document issued to an industrial user by the city in accordance with the terms of this chapter.

INSTANTANEOUS LIMIT: The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE: ~~Any inhibition or disruption of the wastewater treatment plant processes or operation or inhibition or disruption of the sludge use and disposal practices which causes a violation of the city's MPDES permit or prevention of sewage sludge use or disposal in compliance with 40 CFR section~~

~~503, RCRA or any other federal, state or local law or regulation.~~

A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and

2. is a cause of a violation of any requirement of the City's NPDES permit or of the prevention of wastewater sludge use or disposal in compliance with federal law.

LOCAL LIMIT:

A technically based numeric pollutant limitation developed by the city ~~of Helena~~ to protect against pass through, interference, receiving water quality impacts and worker health and safety problems. Local limits will be developed in accordance with EPAs region VIII technically based local limits development strategy, adopted by the city and considered as pretreatment standards under the act.

MEDICAL WASTE:

Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM (MPDES)

A permit issued under the Montana pollutant discharge elimination

PERMIT:

system for discharge of wastewaters to the navigable waters of the state of Montana pursuant to the act.

NEW SOURCE:

A. A building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the act that will be applicable to such source if standards are thereafter promulgated in accordance with that section, and:

1. The building, structure, facility or installation is constructed at a site where no other source is located;
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors to be considered are the extent to which the new facility is integrated with the existing plant and is engaged in the same general type of activity as the existing source.

B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections A2 and A3 of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.

C. Construction of a new source has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on site construction program, any placement, assembly or installation of facilities or equipment or significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

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

PASS THROUGH:

The discharge of pollutants through the ~~wastewater utility~~

POTW into the receiving stream in quantities or concentrations that which, alone or in conjunction with a discharge or discharges from other sources, are a cause of or significantly contribute to a violation of any requirements contained in the city MPDES permit (including an increase in the magnitude or duration of a violation).

pH:

The intensity of acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

POLLUTANT:

Any dredged soil, solids, incinerator residue, garbage, sewage, sewage sludge, biological waste or materials, biological nutrient, chemical wastes, radioactive material, toxic substance, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, untreatable waste, medical waste, or industrial, commercial, domestic or agricultural waste discharged into or with water.

PRETREATMENT OR TREATMENT:

The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of the pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the ~~wastewater utility~~ POTW, which may be obtained by physical, chemical or biological processes

or other means not including dilution. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges of slug loadings that might interfere with or otherwise be incompatible with the POTW.

PRETREATMENT REQUIRMENTS:

Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

PRETREATMENT STANDARDS OR STANDARDS:

Prohibited discharge standards categorical pretreatment standards, and local limits.

PRIORITY POLLUTANTS:

Any of the toxic compounds designated by the EPA, pursuant to 307(a) of the act, that can reasonably be expected in the discharges from industries.

PUBLICLY OWNED TREATMENT WORKS:

Any devices, facilities, structures, equipment, or works owned or used by the city for the purpose of the transmission, storage, treatment, recycling, and reclamation of wastewaters from within or without the city and includes land or sites that may be acquired or used, that will be an integral part of the treatment process, or that is used for ultimate disposal of residues resulting from such treatment.

PUBLIC WORKS DIRECTOR:

~~"Public works director" or "director of public works", where stated in this chapter, is the director of public works or a duly authorized representative.~~

- RECEIVING WATERS: Lakes, rivers, streams, or other watercourses that receive treated or untreated wastewater.
- SEPTIC TANK WASTE: Any domestic wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- SERVICE LINE PRIVATE OR WASTEWATER LINE: A wastewater line commencing at and collecting wastewater from a structure or facility and intended for discharging wastewater into the city ~~wastewater utility~~ POTW.
- SEVERE PROPERTY DAMAGE: Substantial physical damage to property and damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- SIGNIFICANT CHANGE: An increase or decrease in wastewater volume, concentration of materials or substance, or changes in types of wastes.
- SIGNIFICANT INDUSTRIAL USER: A wastewater user that satisfies any of the following criteria:
- A. Is subject to categorical pretreatment standards;
 - B. Discharges an average of twenty five thousand (25,000) gpd or more of process wastewater to the POTW;
 - C. Contributes a process waste stream which makes up five percent

(5%) or more of the POTW's average dry weather hydraulic or organic treatment capacity; or

D. Is ~~identified~~ designated as having a reasonable potential for adversely affecting the POTW or violating any of the general or specific prohibitions.

SLUG OR SLUG LOAD:

~~Any discharge of sewage or industrial waste that in concentration or mass of any given constituents exceeds for any one period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour or normal working period concentration or mass.~~

Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate this chapter, local limits, or NPDES Permit conditions.

STANDARD INDUSTRIAL CLASSIFICATION (SIC):

A classification pursuant to the most recent edition of the "Standard Industrial Classification Manual" issued by the executive office of the president - office of management and budget.

STATE:

~~The state of Montana.~~

STORM WATER:

Any flow occurring during or following any form of normal precipitation and resulting therefrom.

TOTAL SUSPENDED SOLIDS
(TSS) :

The total suspended matter, expressed in milligrams per liter, that floats on the surface of, or is suspended in, water, wastewater or other liquids, and that is removable by laboratory filtering in accordance with procedures set forth in EPA "Methods for Chemical Analysis of Water and Wastes".

~~WASTE STREAM:~~

~~The liquid or water carried wastes from individual or combined sources from a residential, commercial, industrial, or institutional establishment.~~

WASTEWATER CLASSIFICATION SURVEY:

The questionnaire that each industrial user must complete and have on file ~~at~~ with the public works director office department.

~~WASTEWATER OR SEWAGE:~~

The combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions.

~~WASTEWATER SYSTEM,
WASTEWATER TREATMENT SYSTEM
OR POTW:~~

~~Any devices, facilities, structures, equipment, or works owned or used by the city for the purpose of the transmission, storage, treatment, recycling, and reclamation of wastewaters from within or without the city and includes land or sites that may be acquired or used, that will be an integral part of the treatment process, or that is used for ultimate disposal of residues resulting from such treatment.~~
(Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-5: PROHIBITIONS:

~~A. General Prohibitions:~~

~~1.A. No user, whether or not subject to national categorical pretreatment standards, shall~~ No person may contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater that may cause interference with the operation or performance of the wastewater utility or ~~pass through the treatment system untreated~~ which cause pass through or interference.

~~2.B.~~ No user shall discharge any sewage or other polluted waters from any premises within the city into or upon any public highway, land, public place, stream, watercourse, or into any cesspool, storm or private wastewater, or natural water outlet, except where suitable treatment has been provided in accordance with provisions of applicable federal, state and local laws.

~~B. Specific Prohibitions:~~

~~1.C. No user shall~~ No person may discharge into the wastewater utility POTW the following substances or any amounts of substances exceeding the following limits:

~~a.1.~~ Any liquids, solids, or gases that, by reason of their nature or quantity, are or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater utility POTW. At no time shall two (2) successive readings on any explosion hazard meter, at the point of discharge into the ~~wastewater system~~ POTW, ~~or at any point in the system,~~ be more than five percent (5%), nor any single reading exceed ten percent (10%) of the lower explosive limit (LEL) of the meter. Wastewaters discharged into a ~~public wastewater system~~ POTW may not have a flash point lower than sixty degrees Celsius (60°C) (140°F), as determined by city approved analytical methods. Prohibited materials include, without limitation, gasoline fuel, oils, mineral oil, lubricating oil, benzene, naphtha, ethers, carbides, perchlorates, and xylene;

~~b.~~2. Any wastewater having a pH less than five and five-tenths (5.5) or greater than ten and five-tenths (10.5), or wastewater having any other corrosive property capable of causing damage or hazard to structures, operations, or personnel of the ~~wastewater utility~~ POTW;

~~e.~~3. Solid or viscous substances that may obstruct the flow or interfere with the operation of the ~~wastewater utility~~ POTW, including, without limitation, cinders, sand, mud, cement, plaster, lime slurry or sludge, stone or marble dust, asphalt residues, tar, wax, paraffin, paint, chemical sludges or residues, metals, glass, plastics, wood shavings, wastepaper, paunch manure, excessive manure, hair and fleshings, blood, intestinal contents, animal hooves or toenails, bones, hog bristles, hides or parts thereof, excessive amounts of animal fat or flesh or particles of said materials larger than will pass through a quarter inch ($1/4$ ") screen, poultry entrails, heads, feet, or feathers, food processing bulk solids, or garbage that has not been ground or comminuted to a diameter of less than one-half inch ($1/2$ ");

~~d.~~4. Any pollutant, including oxygen demanding pollutants (BOD, COD, and TOC) released in a discharge at a flow rate or pollutant concentration that will cause interference or pass through; or that exceeds limitations set forth in a national categorical pretreatment standard;

~~e.~~5. Wastewater having a temperature that will cause the temperature of the wastewater plant influent to exceed forty degrees Celsius (40°C) (104°F) or will ~~inhibit biological activity of the wastewater treatment~~ cause interference;

6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass through or interference;

~~f.~~7. Any storm waters, including, but not limited to, water drainage from ground surface, roof leaders, catch basins, or any other source, subsurface drainage or ground water, water from underground drains, sump discharges, natural

springs, water accumulated in excavations, or any other drainage associated with construction;

~~g.~~8. Any wastewater containing radioactive wastes or isotopes of a half life or concentration that exceeds provisions established by the ~~Public works director~~ city in compliance with state or federal regulations;

~~h.~~9. Any wastewater containing free, floating, or insoluble oil or oil or grease that will solidify or become discernibly viscous at temperatures between zero degrees (0°) and sixty five degrees Celsius (65°C) (32°- 150°F). In no case may wastewater contain concentration of oils, fats or grease exceeding one hundred milligrams per liter (100 mg/l) as determined by city approved analytical methods;

~~i.~~10. Any wastewater with objectionable color not removable in the treatment process, including, without limitation, dye wastes, paint pigments and vegetable tanning solutions;

~~j.~~11. Any malodorous liquids, gases or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or to prevent entry into the ~~wastewater system~~ POTW for maintenance and repair or for sampling;

~~k.~~12. Any wastewater containing BOD, suspended solids, or total solids of such character or quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant; but a user may be permitted by specific, written agreement with the city to discharge said materials and pay for costs incurred in the treatment of such wastes;

~~l.~~13. Any substance that may cause effluent or any other product of the wastewater treatment plant, such as sludges, scums, and residues, to be unsuitable for reclamation and reuse. In no case may a substance discharged into the ~~wastewater utility~~ POTW cause the wastewater treatment plant to fail to comply with MPDES permit requirements, receiving water quality standards, or sludge use and disposal criteria.

~~m.14.~~ Any trucked or hauled ~~pollutants~~ waste, except at ~~discharge points designated by the Public works director as permitted by this chapter.~~

~~2.D.~~ ~~No user shall~~ No person may discharge any material or substance not specifically mentioned in this section that in itself is corrosive, irritating, or noxious to human beings and animals, or that by interaction with other water or waste in the ~~public wastewater system~~ POTW could produce undesirable effects or create any other condition deleterious to structures, treatment processes, and quality of receiving stream. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-6: INDUSTRIAL USERS:

A. Industrial users shall comply with all applicable pretreatment standards and requirements.

AB. The city has the authority to, and will comply with, the public participation requirements of 40 CFR part 25 in the enforcement of national pretreatment standards. This will include at least annual public notification, in the largest daily newspaper published in the city, of industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment requirements.

BC. Significant industrial users shall submit to the city, at least once every six (6) months (on dates specified by the city), a description of the nature, concentration, and flow of the pollutants required to be reported by the city. More frequent sampling and reporting may be required by the city based on applicable federal requirements and/or the nature of wastes discharged. These reports shall be based on sampling and analysis performed in accordance with the techniques described in 40 CFR part 136 and amendments thereto. The sampling and analysis may be performed by the city in lieu of the significant industrial user. Where the city's wastewater treatment facility itself collects all the information for the report, the significant industrial user will not be required to submit a report.

ED. The city will provide each industrial user with a copy of 40 CFR 403. Each industrial user will comply with the provisions provided for in the supplied document.

DE. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections E and F of this section.

EF. Notice of bypass must be given by industrial user as follows:

1. An industrial user knows in advance of the need for a bypass, it shall submit prior notice to the ~~public works director~~ department, if possible at least ten (10) days before the date of the bypass.

2. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the ~~public works director~~ department within twenty four (24) hours ~~from~~ of the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The ~~public works director~~ department may waive the written report on a case by case basis if the oral report has been received within twenty four (24) hours.

FG. Bypass is prohibited, ~~and the public works director may take enforcement action against an industrial user for a bypass unless~~ except when:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of

untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

3. The industrial user submitted notices as required under subsection (F)(2) of this section.

GH. The ~~public works director~~ department may approve an anticipated bypass, after considering its adverse effects, if the ~~public works director~~ department determines that it will meet the three (3) conditions listed in subsection F of this section. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-7: PREEMPTION BY STATE OR FEDERAL STANDARDS UNLESS CITY STANDARDS MORE STRINGENT:

A. ~~If~~ Whenever the federal government issues ~~national~~ categorical pretreatment standards for an industrial category that are more stringent than the standards prescribed by this chapter, such federal standards supersede the standards prescribed by this chapter[±].

B. The ~~public works director~~ city reserves the right to establish discharge limitations more stringent than federal and state requirements, or limitations contained herein, ~~if~~ deemed necessary to comply with objectives of this chapter² and may develop BMP's to implement this chapter. Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-8: DILUTION OF DISCHARGE: ~~No~~ An industrial user ~~shall~~ may not increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with any applicable limitations. The ~~public works director~~ department, in consultation with the user, shall determine whether a dilution has occurred may allow wastewater from a regulated process to be mixed in an equalization facility with unregulated wastewater or wastewater from another regulated process. The effluent from the equalization facility must meet an adjusted

pretreatment limit as determined by the department and calculated in accordance with 40 C.F.R 403.6. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-9: ACCIDENTAL DISCHARGE:

A. Each industrial user shall provide to the ~~public works director~~ department written procedures for handling accidental discharges to the city ~~wastewater utility~~ POTW of materials or substances regulated by this chapter. In addition, an industrial user shall comply with the following requirements:

1. Each industrial user shall permanently post a spill prevention and notification procedure in compliance with this section on its bulletin board and prominently display the procedure at each area of possible accidental discharge.

2. In the case of a accidental discharge, the industrial user shall notify immediately by telephone the superintendent or supervisor at the wastewater treatment plant and report the location of discharge, type of waste, concentration, volume, and corrective actions. In addition to taking any other remedies for a failure to report accidental discharges, the ~~public works director~~ department may revoke any industrial user's discharge permit issued to the user.

3. Within five (5) working days following an accidental discharge, the industrial user shall submit to the ~~public works director~~ department a detailed written report describing the cause of discharge and measures to be taken by the industrial user to prevent similar future occurrences. Such notification does not relieve the industrial user of any expense, loss, damage, or liability that may be incurred from damage to the ~~wastewater utility~~ POTW or quality of receiving stream, or any other damage to persons or property. Nor does such notification relieve the industrial user from any fines, civil penalties, or other liability that may be imposed by this chapter or other applicable law.

- B. The ~~public works director~~ department may require installation, operation, and maintenance of facilities to prevent accidental discharge of such materials or substances, at the user's expense.
- C. The city's authorized personnel have the authority to evaluate, at least once every two (2) years, whether each significant industrial user needs a plan to control slug discharges loads. ~~For purposes of this subsection, a slug discharge is any nonroutine, episodic event, including, but not limited to, an accidental spill or a noncustomary batch discharge.~~ The results of such activities shall be available to the city upon request. If the city determines that a slug load control plan is needed, the plan shall contain, at a minimum, the following elements:
1. A description of discharge practices, including nonroutine batch discharges;
 2. A description of stored chemicals;
 3. Procedures for immediately notifying the city of slug discharges loads, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow up written notification within five (5) days; and
 4. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures for equipment, and measures for containing toxic materials, and equipment for emergency response. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-10: SAND AND GREASE TRAPS: No person operating a filling station, garage, or similar place having wash or grease racks shall discharge to the ~~wastewater utility~~ POTW unless such place is provided with a sand and grease trap of a size and construction as required by the current edition of the uniform plumbing code or plumbing regulations in effect at the time. No person operating a restaurant or food preparation establishment that ~~discharges~~ discharges wastewater containing greater than one

hundred milligrams per liter (100 mg/l) of oil and grease or that has a recurring problem with grease buildup or blockage of wastewater lines shall fail to install an adequate grease trap. All sand and grease traps shall be properly maintained and serviced at the owner's expense. Records of maintenance and service shall be made available to the city upon request by the ~~public works director~~ department. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-11: PRETREATMENT OF INDUSTRIAL WASTEWATERS:

A. An industrial wastewater pretreatment system or device may be required by the ~~public works director~~ department to treat industrial flows prior to discharge to the ~~wastewater system~~ POTW when it is necessary to restrict or prevent the discharge to the ~~wastewater system~~ POTW of certain waste constituents, to distribute more equally over a longer time period any peak discharges of industrial wastewaters or to accomplish any pretreatment result required by the ~~director of public works~~ department. Any pretreatment facilities required by the ~~director of public works~~ department shall must be provided and maintained at the industrial wastewater discharger's expense. ~~No~~ pretreatment systems or devices ~~shall~~ may not be installed or operated without the prior approval of the ~~director of public works~~ department. ~~but such a~~ Approval shall does not absolve the industrial discharger of the responsibility ~~of~~ to meeting ~~any~~ industrial effluent limitations required by the city. If inspection of pretreatment systems and devices by authorized personnel of the city reveals such systems are not installed or operating in conformance with the plans and procedures submitted to the city, or are not operating in compliance with the effluent limitations required by the city, the industrial discharger shall make those modifications necessary to meet city requirements. In special cases, the ~~director of public works~~ department may require construction of wastewater discharge lines by the discharger to convey certain industrial wastes to a specific wastewater conveyance. All pretreatment systems judged by the ~~director of public works~~ department to require engineering design shall have plans prepared and signed by an engineer of suitable discipline licensed by the state of Montana. Normally, a gravity separation interceptor, equalizing tank, neutralization chamber and

control manhole or other monitoring facility will be required respectively to remove prohibited settleable and floatable solids, to equalize wastewater streams varying greatly in quantity ~~and/or~~ quality to neutralize low or high pH flows and to facilitate inspection, flow measurement and sampling. Floor drains from commercial or manufacturing buildings, warehouses or multiuse structures ~~shall~~ may not discharge directly to the ~~wastewater system~~ POTW, ~~but shall~~ and must first discharge to a gravity separation interceptor.

- B. The discharge of any ~~toxicants~~ pollutants into the ~~sanitary wastewater system~~ POTW is subject to guidelines set forth in the ~~city's of Helena's~~ local limits as established by the ~~public works director~~ department and adopted by the city commission through resolution or ordinance. ~~The public works director may make the established local limits more stringent and additional toxicants may be added to the local limits guidelines upon determination that a toxicant is harmful to human health, to the wastewater collection system, to the treatment facility or prevents economical disposal of sludge.~~ (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-12: SPECIAL AGREEMENTS AND CONTRACTS:

- A. No statement contained in this chapter shall be construed as prohibiting special written agreements between the city and any industrial user allowing industrial waste of unusual strength or character to be admitted to ~~wastewater utility~~ the POTW, provided the user compensates the city for any additional costs of treatment.
- B. The ~~public works director~~ department may execute an agreement to exceed pollutants limitations if the ~~director~~ department finds that:
- ~~A.~~ 1. The industrial user is making reasonable progress toward eliminating the violation;
- ~~B.~~ 2. Compliance with the specific pollutant limitation during a time period agreed upon for installation of proper pretreatment equipment would impose undue hardship; and

~~C.~~ 3. Acceptance of the discharge does not adversely affect the ~~wastewater utility~~ POTW or cause violation of the city's MPDES discharge permit and applicable federal and state laws, or national categorical pretreatment standards. (Ord. 2932, 1-14-2002; amend Ord. _____, ___-___-___)

6-4-13: WASTEWATER CLASSIFICATION SURVEY:

- A. All industrial users shall pay the filing fee prescribed by this chapter and complete and file with the ~~public works director~~ department a wastewater classification survey containing the following information prior to discharge into the ~~city wastewater utility~~ POTW: name and facility address; type of services rendered and products produced; principal raw materials and catalysts used; plant operational characteristics; water use information; wastewater discharge information; wastewater generation; wastewater quantities and constituents; wastewater pretreatment; and nondischarge wastes and their disposal.
- ~~B. All industrial users obtaining a business license from the city or a building permit for initial construction or for building expansion or remodel shall complete and submit the survey to the public works director for review prior to approval of said building or remodel permit.~~
- ~~CB.~~ All industrial users shall promptly notify the ~~public works director~~ department, at least two (2) days in advance, to update the wastewater classification survey on file with the ~~public works director~~ department whenever significant changes are made in the wastewater discharge. Significant changes include, without limitation, an increase or decrease in wastewater volume, concentration of materials or substances, or changes in types of wastes that will last for a period exceeding normal wastewater production variations. If the normal quantity or quality of the discharge has changed, the user shall so notify the ~~director~~ department by letter. The ~~director~~ department may request a new submittal of the wastewater classification survey as deemed necessary.

~~D. The public works director shall keep all industrial users appraised of any new federal, state or local pretreatment requirements. (Ord. 2932, 1-14-2002)~~

6-4-14: INDUSTRIAL DISCHARGE PERMIT:

- A. A significant industrial user shall obtain an industrial wastewater discharge permit.
- B. Existing industrial users shall apply for an industrial wastewater discharge permit within ninety (90) days after the effective date of this chapter and proposed new industrial users shall apply at least ninety (90) days prior to discharging into the ~~wastewater utility~~ POTW.
- C. The department will evaluate the data furnished by the applicant and may require additional information. Within ninety (90) days of receipt of a complete application, the department will determine whether an industrial wastewater discharge permit should be issued. The department may approve, conditionally approve, or deny the application.
- ED. Industrial wastewater permits are subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the city. Permits may contain without limitation, the following:
 - 1. Limits on the average and maximum concentration or mass of wastewater constituents and characteristics, including applicable categorical pretreatment standards and local limits Effluent limits, including BMPs, based on applicable pretreatment standards, categorical pretreatment standards, local limits and state and local law;
 - 2. Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
 - 3. Requirements to control slug loads;
 - 34. Schedules for installation of pretreatment equipment to bring discharge into compliance with applicable regulations;

~~45.~~ Requirements for installation and maintenance of inspection and sampling facilities;

~~56.~~ Specifications for monitoring programs that include sampling locations; frequency of sampling; number, type and standards for tests; and reporting schedules;

~~67.~~ Requirements for submission of technical reports, discharge reports, and compliance progress reports;

~~78.~~ Requirements for maintaining and retaining records relating to wastewater discharge as specified by the city and affording city access thereto (this is also required of all noncategorical users, and user must comply with 40 CFR 403.12(1));

~~89.~~ Requirements for notification of slug loads;

~~910.~~ Requirements for notification of the city of the new introduction of wastewater constituents or any change in character of the wastewater constituents or average volume being introduced into the ~~wastewater~~ utility POTW, including changes that affect potential for slug loads;

~~1011.~~ A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;

~~1112.~~ A statement that the industrial user permit is nontransferable unless specifically authorized by the city; and

13. Requirements to immediately and effectively halt or prevent any discharge of pollutants to the POTW that reasonably appear to present an imminent endangerment to the health or welfare of persons, endangers the environment, or which threatens to interfere with the POTW.

~~1214.~~ Other conditions as deemed reasonably necessary by the public works director in order to enforce the provisions of this chapter the department to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- ~~DE~~. The ~~public works director~~ department may issue industrial discharge permits for a specified time period not to exceed five (5) years. The industrial user shall apply for permit reissuance at least ninety (90) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the ~~director~~ department during the term of the permit if limitations or requirements are modified, if necessary to meet requirements of the city's MPDES discharge permit, or if there is another good cause. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- ~~EF~~. An applicant for a permit shall pay the fees prescribed by this chapter.
- ~~FG~~. A wastewater discharge permit may not be sold, traded, assigned, transferred, or sublet. Any new industrial user must obtain a wastewater discharge permit regardless of whether a permit previously existed for the same premises. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-15: MONITORING FACILITIES:

- A. Whenever the ~~public works director~~ department finds it necessary, an industrial user shall provide and operate, at its expense, monitoring equipment and facilities sufficient to allow inspection, sampling, and flow measurement of the private wastewater or internal drainage system. ~~The owner of any new building constructed or proposed to be constructed in an industrially zoned area with a floor space of greater than five thousand (5,000) square feet or with a water meter size of greater than three-quarter inch (³/₄") shall install a monitoring facility prior to final building inspection approval.~~
- B. The monitoring facility shall normally be situated outside of the building on the user's premises. All domestic wastewaters from uses such as restrooms, showers, and drinking fountains, ~~etc., shall must~~ be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a monitoring facility. If the industrial user's service line ties into an existing city manhole and such manhole allows for safe sampling and

isolation of the industrial user's discharge, the ~~public works director~~ department may allow said manhole to serve as the industrial user's monitoring facility, but ~~the director~~ may require that the industrial user provide and operate an alternate monitoring facility, if the ~~director~~ department finds it is necessary.

- C. Whenever required by the ~~public works director~~ department, any industrial or significant industrial user or ~~user person~~ discharging prohibited substances or specific pollutants serviced by a private wastewater disposal system carrying nonresidential wastewater, shall install a monitoring facility for each separate discharge that the ~~director~~ department finds necessary to monitor. Each separate monitoring facility shall meet requirements set forth by the ~~director~~ department with safe and independent access for city personnel at all times.
- D. There ~~shall~~ must be ample room in or near such monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The industrial user shall maintain the facility it owns and operates and all sampling and measuring equipment at all times in a safe and proper operating condition at the industrial user's expense.
- E. Whether constructed on public or private property, the industrial user shall construct the sampling and monitoring equipment and facilities in accordance with monitoring requirements and all applicable local construction standards and specifications within sixty (60) days following written notification by the ~~public works director~~ department ~~or before final building inspection approval.~~
- F. The city has the authority to enter and inspect, at least once a year, the facilities of all industrial users. The city's authorized personnel have the right of entry to, upon or through any premises in which an effluent source is located or in which records required to be maintained by the permittee are located, and, at all reasonable times, have access to and copy any records, inspect any monitoring equipment or methods required of the permittee, and sample any effluents which the owner or operator of such source is generating[±].

- G. The city has the authority to randomly sample and analyze the effluent from industrial users, conduct surveillance activities in order to identify, independently of information supplied by the industrial users, occasional and continuing noncompliance with pretreatment standards, and inspect and sample the effluent from each industrial user at least once a year². (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-16: SAMPLING AND ANALYSIS:

- A. All industrial users shall obtain the ~~public works director's~~ department's approval for all sampling and measuring equipment prior to its installation or use. All measuring, tests, and analyses and all sampling shall be at the expense of the industrial user.
- B. ~~All industrial users shall make all measurements, tests, sampling and analyses required by this chapter in accordance with the most recent edition of EPA methods for chemical analysis of water and wastes 40 CFR part 136, or alternate EPA approved methods specified by the public works director. The public works director may direct an industrial user to save a sample to the water quality laboratory for analytical verification.~~

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

- C. ~~The public works director shall determine the frequency of sampling, measuring and analyses and include them as conditions of the user's industrial discharge permit. The director may impose mass limitations on industrial users that use flow equalization to meet applicable standards or requirements or in other cases where imposition of mass limitations are appropriate.~~

Except as indicated below, an industrial user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the

department. Where time-proportional composite sampling or grab sampling is authorized by the department the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the department, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- D. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- E. For sampling required in support of baseline monitoring and 90-day compliance reports required by this chapter, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities where historical sampling data are available, the department may authorize a lower minimum. For periodic compliance reports and for industrial users that are not subject to categorical pretreatment standards the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards.
- F. If a sample indicates a violation the industrial user must repeat the sampling and analysis and submit the results of the repeat analysis to the department within 30 days after becoming aware of the violation. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-17: REPORTING REQUIREMENTS:

- A. Within ~~ninety~~ (90) one hundred and eighty (180) days following the date for final compliance with applicable

~~pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the director of public works a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified by a qualified professional.~~ each industrial user or new source or sources that become an industrial user subsequent to the promulgation of an applicable categorical pretreatment standard, are required to submit to the department information required by the department as guided by 40 C.F.R. 403.12(b) and (c).

- B. All industrial users that have permits or that discharge prohibited substances or specific pollutants that may cause a significant impact on the ~~wastewater utility~~ POTW shall submit to the ~~public works director~~ department periodic compliance reports during the months of June and December or the months required by the permit, a report containing information and data required by the permit, signed by an authorized representative of the industrial user, and certified by a qualified professional.
- C. If additional pretreatment or operations and maintenance will be required to meet pretreatment standards, the shortest schedule by which the industrial user will provide additional pretreatment or operations and maintenance must be provided. The completion date in this schedule may not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule must meet the requirements of the city as guided by 40 C.F.R. 403.12(c).
- D. If an industrial user subject to the reporting requirements of this section monitors any regulated pollutant at the appropriate sampling location more frequently than required

by the permit conditions, the results of that monitoring must be included in the report.

- E. Within 90 days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater in to the POTW, any industrial user subject to the pretreatment standards and requirements shall submit a report to the department containing the information described in this section. For Industrial Users subject to equivalent mass or concentration limits established by the department in accordance with this chapter, this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period.
- F. Each User shall notify the department of any significant changes to the industrial user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. The department may require the industrial user to submit information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under this chapter. The department may issue an individual wastewater discharge permit general permit modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.
- G. All categorical and non-categorical industrial users must notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, by the industrial user.
- H. If sampling performed by an industrial user indicates a violation the industrial user must notify the department within 24 hours of becoming aware of the violation. A resample and analysis must be completed in accordance with 6-14-6(G).

I. Industrial users must notify the department, the EPA, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste as set forth in 40 C.F.R. part 261. The written notification shall contain the name of the hazardous substance, the EPA waste number, and the type of discharge. If the industrial user discharges more than one hundred (100) kilograms of a hazardous substance per calendar month to the POTW, the notification shall also contain an identification of the hazardous constituents in the wastewater expected to be discharged during that calendar month, and an estimation of the mass of constituents in the wastewater expected to be discharged during the following twelve (12) months. All notifications shall take place no later than one hundred and eighty (180) days after the discharge commences. Notification under this section only needs to be submitted once for each hazardous substance discharged. However, notifications of changed conditions shall be submitted according to the duty to report changed conditions under this chapter.

J. The reports required by this section shall include the following certification statement signed by an authorized representative of the industrial user:

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.

K. Users subject to the reporting requirements of this chapter must retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to

monitoring activities undertaken by the industrial user independent of such requirements, and documentation required by BMP's established under this chapter. Records must include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records must remain available for a period of at least three (3) years. This period is automatically extended for the duration of any litigation concerning the industrial user or the city, or where the industrial user has been specifically notified of a longer retention period by the department.

EL. Any industrial user submitting information to the city pursuant to this chapter may claim it to be confidential if it demonstrates to the satisfaction of the ~~public works director~~ department that release of such information would divulge information, processes, or methods of production entitled to protection as the user's trade secrets. A claim of confidentiality is governed by the following conditions:

1. The user must assert such claim at the time of submission by stamping the word "confidential business information" on each page containing such information. If no such claim is made at the time of submission, the city may make information available to the public without further notice.

2. The ~~director shall~~ department may not publicly disclose ~~such~~ approved confidential information, except as required by law. ~~But such portions of the~~ Confidential information ~~are available for use~~ may be used by the city, or any federal or state agency in judicial review or enforcement proceedings involving the user furnishing the information.

EM. No person may make any false statement, representation, or certification, knowing it to be false, in any application, record, plan, data, or document filed or required to be maintained pursuant to this chapter.

EN. No person may falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this chapter.

FO. The ~~public works director~~ department has access to records and wastewater testing facilities during normal working hours of the installation, and may copy said records whenever necessary⁵. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-14-18: HAULED WASTE:

A. Septic tank waste may be introduced into the POTW only at locations and times designated by the department. Septic tank waste may not violate this chapter or any other requirements established by the City. The department may require septic tank waste haulers to obtain individual wastewater discharge permits.

B. Industrial waste may not be discharged into the POTW unless an individual wastewater permit is obtained from the department. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

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

6-4-1819: NONCOMPLIANCE: Enforcement of noncompliance will follow the guidelines set forth in the city of Helena's enforcement response plan as established by the ~~public works director~~ department and adopted by the city commission. An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

A. "Chronic violations of wastewater discharge limits", defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter a numeric pretreatment standard or requirement, including instantaneous limits;

- B. "Technical review criteria (TRC) violations", defined here as those in which thirty three percent (33%) or more of all the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment effluent limit of a pretreatment standard or requirement(daily maximum, ~~or~~ longer term average, instantaneous limits, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the city's wastewater treatment facility's exercise of its emergency authority to halt or prevent such discharge;
- E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism of enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; and
- H. Any other violation or group of violations, which may include a violation of BMPs, which that the city determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-1920: SUSPENSION AND REVOCATION OF PERMIT:

- A. The ~~public works director~~ department may suspend or revoke an industrial discharge permit and terminate the liquid or water carried waste service if the permittee:
1. Violates any condition stated in the permit or provision of this code;
 2. Fails to report an accidental discharge of a toxic substance;
 3. Increases the use of process water or attempts to dilute the discharge for the sole purpose of achieving compliance with any limitations;
 4. Falsifies any report of the wastewater constituents and characteristics;
 5. Tamper with, disrupts, or damages city monitoring and sampling equipment or facilities;
 6. Refuses reasonable access to the industrial user's premises for the purpose of inspection or monitoring; or
 7. Fails to pay fees or charges.
- B. Whenever the ~~public works director~~ department finds that any industrial user has violated or is violating any provisions of this chapter, the ~~director~~ department may serve upon such person a written notice stating the nature of the violation and providing a reasonable time, not to exceed forty five (45) days, for the satisfactory correction thereof. The user may request a meeting with the ~~director~~ department to discuss the violation or the correction schedule.
- C. If the ~~public works director~~ department finds a violation of one of the grounds in subsection A of this section or any other ground for suspension or revocation as provided in this code, the ~~director~~ department may revoke the license for the remainder of its term or suspend it for any shorter period, after considering the severity of the violation and whether it may be remedied by permittee.

- D. Before conducting the hearing required by subsection E of this section, the ~~public works director~~ department may temporarily suspend a permit for up to twenty (20) days, if the ~~director~~ department determines that the suspension is necessary to prevent an imminent danger to the public health, safety and welfare. The ~~director~~ department may include in the temporary suspension reasonable orders or conditions with which the permittee shall comply to protect the public health and safety. Any breach of such conditions or orders is an independent ground for revocation of the permit.
- E. Except for such emergency suspension authorized by subsection D of this section, no such suspension or revocation shall be final until the permittee has been given the opportunity for a hearing before the ~~public works director~~ department to contest the suspension or revocation. The decision of the ~~public works director~~ department may be appealed to the city manager by filing a written notice of appeal within five (5) days. The notice of appeal must specify the basis for the appeal.
- F. If, after a hearing and, if taken, the appeal, the suspension or revocation is upheld, the ~~public works director~~ department may include reasonable orders or conditions with which the person whose permit has been suspended or revoked shall comply to protect the public health, safety and welfare.
- G. The industrial user shall pay all costs and expenses associated with any such suspension and restoration of service. (Ord. 2932, 1-14-2002; amend Ord. _____, ___-__-____)

6-4-2021: CIVIL PENALTY: A violation of a provision of this chapter, an industrial user permit, or any order issued hereunder is a municipal infraction punishable by a civil penalty of not more than three hundred dollars (\$300.00) for each violation or if the infraction is a repeat offense, a civil penalty not to exceed five hundred dollars (\$500.00) for each repeat violation. Each day on which a violation occurs or continues shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover, as a municipal infraction, its costs for abatement or correction

of the violation and such other costs allowed by law. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-2122: CRIMINAL PENALTY: A person who violates any provision of this chapter, ~~or~~ an industrial user permit, or any order issued hereunder is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per day per violation, or imprisonment for not more than six (6) months or both. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-2223: LEGAL AND EQUITABLE REMEDIES: If any user discharges into the city ~~wastewater-utility~~ POTW in violation of this code, federal or state regulations or any order of the city, the city ~~attorney~~ may commence an action for legal or equitable relief, including an action for recovery of damages and costs incurred by the city for cleanup and mitigation and a petition in a court of appropriate jurisdiction for a temporary restraining order, and preliminary, and permanent injunctions against the violation. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-24: AFFIRMATIVE DEFENSE OF UPSET:

- A. For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset is an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph(C), below, are met.
- C. An industrial user who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and the User can identify the cause(s) of the upset;

2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

3. The industrial user has submitted the following information to the department within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days of the oral notification:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the User seeking to establish the occurrence of an upset ~~shall have~~ has the burden of proof.

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

F. Industrial users must control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

6-4-2325: EXCESS USER CHARGE:

- A. Industrial users required to obtain an industrial discharge permit and discharging wastes in excess of average strength ~~sewage~~ wastewater shall pay excess user charges in lieu of regular wastewater utility fees, as prescribed by chapter 3 of this title, wastewater regulations.
- B. Sampling, analyses, and reporting requirements to determine the excess user charge are a condition of the user's industrial discharge permit and must be carried out in accordance with procedures contained in this chapter.
- C. On discharges of wastewater of consistent strength, the ~~public works director~~ department may compute a standard excess user charge based on average strength of the user's discharge. The industrial user shall be required to sample, analyze, and report discharge strengths on a periodic basis to ensure consistency of sewage strength. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

6-4-2426: WASTEWATER CLASSIFICATION SURVEY FILING FEE AND INDUSTRIAL DISCHARGE PERMIT FEES: Applicants for an industrial discharge permit shall pay the permit fees as set by resolution by the city commission.

6-4-2527: WASTEWATER FACILITIES REPLACEMENT FUND:

- A. A reserve fund called the "wastewater facilities replacement fund" is hereby established within the wastewater utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (20 years) of the city wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed.

The reserve fund called the "wastewater facilities replacement fund" established within the wastewater utility fund as an interest bearing account shall be funded by the deposit of one hundred thousand dollars (\$100,000.00) per

year obtained from the wastewater utility fund at the end of each fiscal year.

- B. Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to the wastewater treatment services provided by the city. (Ord. 2932, 1-14-2002; amend Ord. _____, __-__-____)

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS 7th DAY OF June, 2010.

/S/ James E. Smith
MAYOR

ATTEST:

/S/ Debbie Havens
CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS 21st DAY OF June, 2010.

/S/ James E. Smith
MAYOR

ATTEST:

/S/ Debbie Havens
CLERK OF THE COMMISSION