

Title 13

UTILITIES

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Chapter 13.02

UTILITY BILLING

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13.02.010 Definitions.

As used in this title, the following definitions of terms apply:

- A. "Bill" and "utility bill" mean the bill rendered by the city to a utility customer for utilities furnished, charges assessed, extended payments, late payment fees, penalties and all other sums due to the city pursuant to this code or resolution of the city council.
- B. "Customer" and "utility customer" mean a person to whom the city furnishes water service, wastewater service, stormwater service, electric service or refuse service, or any combination thereof.

- C. "Delinquent" means a utility bill for which payment is not received by the city at 500 East Third Street, Loveland, Colorado, before five p.m. on the thirty-second calendar day after the billing date.
- D. "New customer" means a customer who has no existing utility service from the city at the time application for utility service is made.
- E. "Nondelinquent customer" means a customer who paid his utility bills in full, or, in the case of extended payments, the portions thereof currently due, before the same became delinquent, for the preceding twelve-month period, provided that all sums subject to any extension agreement have been fully paid at the end of such period.
- F. "Utility billing manager" means the person appointed by the director of the department of water and power to manage the utility billing activities of the city. (Ord. 4151 §§ 1, 2, 1996; Ord. 3420 § 2, 1987; Ord. 3137 § 1 (part), 1985)

13.02.020 Deposit required--When.

A refundable deposit in the amount of one hundred dollars, payable upon application for utility service, is required as a condition of providing any utility service to a customer under the following circumstances:

- A. Any new customer, except when such new customer has been a nondelinquent customer during the most recent twelve-month period such customer was furnished with any city utility service, provided all such twelve-month period occurred within the preceding three years; or
- B. Any customer who changes address to which utility service is furnished, except when such customer is a nondelinquent customer. (Ord. 3137 § 1 (part), 1985)

13.02.030 Deposit in installments--When.

Upon application to, and approval by, the utility billing manager, any person required to pay a deposit may pay the same in four consecutive monthly installments, the first of which shall be payable with the first utility bill, upon a determination by the utility billing manager that a genuine hardship exists which prevents payment of the deposit as required in Section 13.02.020. (Ord. 3137 § 1 (part), 1985)

13.02.040 Deposit refunded--When.

Any deposit held by the city shall be refunded to the customer who paid the deposit at such time as the customer qualifies as a nondelinquent customer. Any deposit held by the city at the time of disconnection of service shall be applied in a manner set forth in Section 13.02.090, and the balance of the deposit, if any, shall be refunded to the customer who paid the deposit. The utility billing manager may require such evidence as he deems appropriate to establish the right of any person to receive a refund. (Ord. 3137 § 1 (part), 1985)

13.02.050 Interest on deposit.

Any utility deposit paid as required in Section 13.02.020 shall bear simple interest at the rate of six and one-fourth percent per annum.

Such interest shall be paid upon the refund of the deposit. Any utility deposit paid in installments pursuant to Section 13.02.030 shall bear no interest. (Ord. 3137 § 1 (part), 1985)

13.02.060 Late payment penalty.

A late payment penalty in an amount as established by resolution of the city council adopted after two readings shall be imposed upon each bill which is delinquent. (Ord. 4871 § 1, 2004 (part); Ord. 4395 § 1, 1999; Ord. 3137 § 1 (part), 1985)

13.02.070 Service terminated.

All utility service to a customer shall be terminated upon the failure of such customer to pay the amount due on the utility bill for such service. Such termination shall be made as soon as practicable after the bill becomes delinquent, provided that no service shall be terminated sooner than eight a.m. on the eighth day after written notice of termination of service is posted on the premises or mailed to the customer at the billing address carried on the records of the utility billing department and to the service address, if different from the billing address. A written notice of intent to disconnect utility service shall be mailed to the customer at the address carried on the records of the utility billing department not less than eight days prior to the issuance of any notice of termination. The notices required by this section shall be printed in both the English and Spanish languages. (Ord. 5122 § 1, 2006; Ord. 3137 § 1 (part), 1985)

13.02.071 Suspension of service termination.

Termination of utility service may be suspended by the field service representative at the service address upon immediate payment of all amounts then due, plus a collection fee in an amount as established by resolution of the city council. (Ord. 4395 § 2, 1999; Ord. 3837 § 1, 1992)

13.02.080 Service reinstated.

Utility Service terminated pursuant to Section 13.02.070 shall not be restored until all delinquent fees and charges, together with the expenses of terminating and restoring service, including costs of labor and materials and specified fees, and payment of a deposit in the amount set forth in Section 13.02.020 are paid in full; provided however, that utility service may be restored upon such other arrangement for extended payment of the amounts due as may be approved by the utility billing manager. (Ord. 4952 § 1 (part), 2005; Ord. 3137 § 1 (part), 1985)

13.02.090 Application of payment.

Every payment made to the city for utility service shall be accepted as payment and applied in the following order: first, all charges incurred in a prior billing period and not yet paid, except those amounts for which extended payment has been arranged and which are not yet due; second, all charges incurred during the current billing period; third, all charges presently due pursuant to an extended payment arrangement. Within each of the above three categories, payment will be prorated among the outstanding receivables. (Ord. 4175 § 1, 1996; Ord. 3137 § 1 (part), 1985)

13.02.100 Returned check charge.

There is imposed a returned check charge, in an amount to be set by resolution of the city council. Such charge shall be imposed whenever a check accepted by the city is returned unpaid for any reason not the fault of the city. Such charge shall be paid in addition to all other fees and charges imposed by the city. (Ord. 3137 § 1 (part), 1985)

13.02.110 Other fees.

The fees imposed elsewhere in this title in conjunction with the furnishing of utilities by the city are in addition to the fees and charges set forth in this chapter. (Ord. 3137 § 1 (part), 1985)

13.02.120 Charges due--When.

All charges for the use of utilities as provided for in this title are due and payable fifteen days after the billing date, and are considered in arrears if not paid by said date. (Ord. 3137 § 1 (part), 1985)

13.02.130 Interfering or tampering with a utility meter.

- A. It shall be unlawful for any person to:
 - 1. interfere with or remove, alter, or tamper with any meter provided for measuring or registering the quantity of gas, water, or electricity passing through said meter without the knowledge and consent of the utility supplying such gas, water or electricity; or
 - 2. connect any pipe, tube, stopcock, wire, cord, socket, motor, or other instrument or contrivance with any main, service pipe, or other medium conduction or supplying gas, water, or electricity to any building, lot or parcel without the knowledge and consent of the utility supplying such gas, water, or electricity.
- B. If any evidence of interfering with or removal of, altering, or tampering with a meter or unlawful startup of service is found, the utility may terminate service immediately. All costs for gas, water, or electricity received, and expenses related to terminating service pursuant to this section, including costs of labor and materials and specified fees, shall be paid by the person responsible for such interference, removal, alteration, tampering or unlawful startup.
- C. Presumption:
 - 1. There is rebuttable presumption that the customer or occupant of any premises where interference, removal, altering, tampering, or unlawful startup is proven to exist caused or permitted such interference, removal, altering, tampering, or unlawful startup if the tenant or occupant had access to the part of the utility supply system on the premises where the interference, removal, altering, tampering, or unlawful startup is proven to exist and if said customer or occupant was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services provided for the premises.
 - 2. The presumption provided in this section shall only shift the burden of going forth with evidence and shall in no event shift the burden of proof to the defendant in any action brought pursuant to this section.
- D. Any person convicted of violating this section shall be subject to the penalties set forth in City Code Section 1.12.010, except that a minimum mandatory fine of five hundred dollars (\$500) shall be imposed for each such violation. (Ord. 4952 § 2, (part) 2005Ord. 3564 § 1, 1989; Ord. 3553 § 1, 1989)

13.02.135 Access to utility meter and other city facilities and appurtenances.

- A. Authorized city employees shall, at all reasonable times, have clear access to any premises within or without the city served by a city utility for the examination or survey thereof or for inspection and repair of city facilities and appurtenances, connection and disconnection of services, reading meters, or for any other purpose whatever in connection with the necessary discharge of their duties and the enforcement of the provisions of this chapter.
- B. In the event an authorized city employee is not provided clear access to the premises for the purposes set forth above, the customer shall be notified in writing at the address carried on the records of the utility billing division to schedule an appointment for the authorized representative to have clear access the premises. If the customer fails to schedule an appointment within ten days after receipt of the notification, or if any scheduled appointment is not kept by the customer,

a second notice shall be mailed to the customer at the address carried on the records of the utility billing division advising the customer that service may be discontinued after the tenth day following the mailing of such notice if clear access to the premises is not permitted prior to such day. In the event clear access is not permitted prior to said day, the applicable utility service shall be discontinued.

- C. Any customer who fails to provide clear access for the purposes set forth in this section shall be liable for all expenses related to the city's attempts to gain clear access, including costs of labor and materials and specified fees. For the purposes of this section, clear access shall be deemed to be denied whenever, because of locked gates, animals confined in the same space as the meter, facility or appurtenance location, or for any other reason, and after making a reasonable attempt to locate a person upon the premises to gain access, an authorized city employee is unable to perform function as such employee is lawfully authorized to perform.

Chapter 13.04

WATER SERVICE

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13.04.010 Application.

Every person desiring water service from the city, and every person desiring additional or larger water taps for property receiving water from the city, shall make application therefore with the city. Such application shall designate the property to be served and shall state the purpose for which the water may be required. All such applications shall be made in the name of the owner of the property, and not in the name of any tenant, except when the city clerk determines that it is not practical to keep the account in the owner's name, in which event he may allow the application to be made in the tenant's name. (Ord. 1659 § 1, 1978; Ord. 1078 § 5, 1970; Ord. 997 § 1 (part), 1968; Ord. 715 § 1, 1961; Ord. 696 § 1, 1961; prior code § 13.4)

13.04.030 Water connection fees.

Unless otherwise provided in this section, at the time of making application as required in Section 13.04.010 and before any water tap is made, the applicant shall pay to the city the following charges:

- A. The applicant for a water tap shall pay all meter and tapping charges and fees, which shall be paid at the time of application for the tap. Said charges and fees shall be as established by resolution of the city council adopted after two readings and shall be recalculated periodically by staff to reflect the costs of providing the services and materials included with the tap. A list of the services and materials provided by the city shall be available from the water and power department. Said charges and fees may be decreased or waived if the applicant provides all or a portion of the required labor and materials associated with the tap.
- B. System impact fees. In addition to the meter and tapping charges and fees there shall also be a system impact fee for all residential meters, nonresidential meters smaller than two inches in diameter, and dedicated irrigation meters. Nonresidential meters two inches or larger shall be paid through a capital recovery surcharge in accordance with Section 13.04.034. System impact fees shall be imposed and due at the time a building permit is requested for the property being served, or if no building permit is required for that property or structure which the meter will serve, at the time a request is made for activation of the meter. Such fees shall be paid not later than at the time that a final inspection for a certificate of occupancy is requested for the property being served, or if no building permit was required for that property, at the time the request is made for activation of the meter. The system impact fee shall be a one-time charge for each new connection to the water system, and for increases to meter size as provided for in Section 13.04.031F., and shall be credited to the property as long as the building use and size of the water connection remain unchanged. Except as provided in Section 13.04.032 and Section 13.04.033, no refund of fees shall be made for the removal or decrease in the size of water service connected to the city water system. The definitions set forth in Chapters 16.04 and 18.04 of this code shall apply to this section. System impact fees shall be in an amount as established by resolution of the city council adopted after two readings. (Ord. 5229 § 1, 2007; Ord. 4871 § 2, 2004 (part); Ord. 4487 § 1, 1999; Ord. 4446 §§ 1, 2, 1999; Ord. 4395 §§ 3, 4, 1999; Ord. 4176 § 1, 1996; Ord. 4152 §§ 1--4, 1996; Ord. 3836 § 1, 1992; Ord. 3727 §§ 1, 2, 1991; Ord. 3611 § 1, 1989; Ord. 3315 §§ 1, 2, 3, 1986; Ord. 3184 § 1, 1985; Ord. 3138 §§ 1, 2, 1985; Ord. 3021 §§ 4 and 5, 1983; Ord. 2067 §§ 1--5, 1982; Ord. 1990 § 1, 1981; Ord. 1938 § 1, 1980; Ord. 1828 § 1, 1979; Ord. 1813 § 1, 1979; Ord. 1659 § 2, 1978; Ord. 1484 § 1, 1976; Ord. 1287 § 1, 1973; Ord.

1267 § 1 (part), 1973; Ord. 1197 § 6, 1972; Ord. 997 § 2, 1968; Ord. 803 § 1, 1963; Ord. 747 § 1, 1961; prior code § 13.5)

13.04.031 System impact fee regulations.

- A. Property annexed to the city within six months after the system impact fee has been paid shall qualify for a refund of a portion of the fee. The refund shall be the difference between the system impact fee for inside city customers and the system impact fee for customers outside the city limits as established by resolution of the city council adopted after two readings. No refund shall be made except upon application by the person who paid the original system impact fee.
- B. Payment of the system impact fee by a residential customer shall allow for a tap on the city water system to be used for residential water consumption. The meter diameter allowed shall be a three-quarter inch meter unless a larger diameter meter is required by the fire department for water supply for a fire sprinkler system, in which case the system impact fee for the larger meter shall be charged at the same rate as the three-quarter inch meter.
- C. Dedicated irrigation meters shall require payment of a system impact fee, as established by resolution of the city council adopted after two readings, prior to activation of the meter. The meter size requested shall first be approved by the water & power department.
- D. Additional residential meters for a single family residential lot or parcel already served by an existing water meter for incidental uses, such as swimming pools, drinking fountains, bath houses, restrooms, and the like, shall require payment of all meter and tapping charges and fees as established pursuant to Section 13.04.030A. No system impact fee shall be charged for such additional meters. Any single residential meter being increased to a larger size shall require payment of additional meter and tapping charges and fees as established pursuant to Section 13.04.030A. and system impact fees as established by resolution of the city council adopted after two readings. No refund of fees shall be made for the removal or decrease in the size of the water service.
- E. Nonresidential system impact fees shall be as established by resolution of the city council adopted after two readings. System impact fees for meter sizes two inches or larger shall be paid in accordance with the provisions of Section 13.04.034. Meter sizes two inches or larger shall be based on water main size, connected fixtures, equipment devices, area irrigated, and available water pressure. The customer shall be responsible for calculating and designing an adequate service size and shall apply all current plumbing codes and engineering practices as well as all city requirements when determining the proper meter size. The actual meter size proposed shall be approved by the water & power department. A diameter larger than the calculated size may be required by the fire department for water supply for a fire sprinkler system, in which case the system impact fee for the larger meter shall be charged at the same rate as the meter for the calculated size.
- F. System impact fees relative to requests to increase size of non-residential meters (dedicated irrigation meters excluded).
 1. Increase to less than two-inch meter. Customers who request an increase in the size of an existing meter to anything less than a two-inch meter shall pay additional system impact fees and raw water development fees to be calculated based upon the difference between the fees established for the existing meter size and the requested larger meter size in effect on the date of the request. The meter size requested shall first be approved by the water and power department.

2. Increase to two-inch meter or greater. Customers who request an increase in the size of an existing meter to two inches or greater shall pay the capital recovery surcharge as provided for pursuant to Sections 13.04.034 and 13.04.040. No additional charge for system impact fees or raw water development fees shall be assessed. The meter size requested shall first be approved by the water and power department.
- G. No refund of system impact fees shall be made for the removal or decrease in the size of a meter except as set forth in Sections 13.04.032 and 13.04.033.
- H. Water service connections by school districts are unique due to the water use and public financing of their operations. Accordingly, notwithstanding the provisions of this section and Section 13.04.040, the system impact fee and raw water development fee to be paid by the school district shall be eighty-five percent of the fees established by resolution of the city council adopted after two readings for meters of a similar size.
- I. Raw water development fees as established pursuant to Section 13.04.040 shall be imposed and due for all residential and nonresidential meters smaller than two inches in diameter at the time a building permit is requested for the property to be served. In the event no building permit is required for the property or structure which the meter will serve, said fees shall be due at the time a request is made for activation of the meter. Such fees shall be paid not later than at the time a final inspection for a certificate of occupancy is requested for the property being served, or if no building permit was required for said property, at the time the request is made for activation of the meter. Raw water development fees for nonresidential meters two inches and greater in diameter shall be paid through a capital recovery surcharge in accordance with Section 13.04.040.
- J. At the time system impact fees are due and payable for a property, the applicant for a water service meter shall also pay any charges for open area system impact fees which have previously been paid and which the city has, by contract, agreed to collect from dwellings appurtenant thereto, and any applicable sewer system impact fees as set forth in Chapter 13.08. (Ord. 5849 § 1, 2014)
- K. The initial water furnished to premises during construction of improvements thereon when no water meter has been previously installed, shall be furnished at a flat rate as established by resolution of the city council adopted after two readings based upon the meter size applied for. The charges established by resolution of the city council adopted after two readings shall create an allotment of water to be used during the construction period. The allotment in thousands of gallons shall be determined by dividing the construction water charge by the inside commercial rate per thousands of gallons. Water used in excess of the allotment amount during the construction period shall be billed subsequent to the issuance of the certificate of occupancy at the regular metered rate applicable for that service address.
- L. The meter and tapping charges and fees and system impact fee set forth in Section 13.04.030 shall not be assessed against any water meter which was secured prior to April 18, 1978 if all applicable meter and system investment fees for such meters were paid prior to said date; provided, however, that an increase in the size of such meter shall require payment of the fees as set forth in this section. (Ord. 5229 § 2, 2007; Ord. 4871 § 3, 2004 (part); Ord. 4395 § 6, 1999)

13.04.032 Conversion to raw water irrigation.

In the event the owner of any common area currently being irrigated with treated water from the city's water treatment plant receives approval from the city to convert the same to the use of raw water for irrigation, the owner may apply to the city to receive a refund of any system impact fees and/or raw water development fees previously paid by the owner or the owner's predecessor(s) in interest in connection with the irrigation of the common area. Upon verification that the water tap was legally installed, the city shall refund such fees to the current owner at the rate existing at the time of the request for refund. (Ord. 4487 § 2, 1999)

13.04.033 Conversion to irrigation subject to water budget.

Customers who request a decrease in the size of an existing meter in order to meet the requirements of Section 19.06.050 shall be entitled to receive a refund of system impact fees in an amount equal to the difference between the fees established for the existing meter size and the requested smaller meter size in effect on the date of request. The meter size requested shall first be approved by the water and power department. (Ord. 5229 § 3, 2007)

13.04.034 Capital recovery surcharge for system impact fees.

- A. A capital recovery surcharge shall be required for all new, nonresidential, water taps, which are two inches in diameter and greater.
 1. The capital recovery surcharge shall replace the initial payment and requirement of the system impact fee described in Section 13.04.030. The capital recovery surcharge shall be paid for each one thousand gallons of water billed, to the owner of the property, or the responsible party of the water charges. Rules and regulations which apply to all other charges for utility bills which are described in Chapters 13.02, 13.04 and 13.08, shall also apply to the capital recovery surcharge.
- B. The capital recovery surcharge for inside city taps shall be in an amount as established by resolution of the city council adopted after two readings.
- C. The original owner(s) requesting water service at that property, and all subsequent tenants or owners of the property, shall be required to pay the capital recovery surcharge.
- D. The capital recovery surcharge shall be charged for all water use billed at the requesting property and will remain in effect as long as the water service remains active and is activated on the parcel of property. (Ord. 4871 § 4, 2004 (part); Ord. 4395 §§ 5 (part), 7, 1999; Ord. 4152 § 5, 1996; Ord. 3836 § 2, 1992)

13.04.038 Change in service--Credit.

- A. Whenever an existing service is changed, there shall be a credit in the amount of the then current charges, for the size and type of service being discontinued, for the system impact fee and the raw water development fee imposed in Sections 13.04.030 and 13.04.040. Such credit shall be applied, first, to the amounts due for such fees on account of any new service established on the same or adjacent premises which are a part of a site being developed or redeveloped, and second, to the amounts due for such fees on account of any new service established elsewhere to serve buildings moved from the premises previously served.
- B. Whenever an existing service for a two inch or larger tap is changed, and the former plant investment fee was previously paid as recognized by city staff, a credit for the existing service shall be in the form of an exchange for a new tap of the same size, or two or more taps of smaller sizes. All new taps must serve some portion or all of the same area as served by the original tap. The number and size of new taps that may be received in place of an existing tap shall be

determined as follows: the ratio of the sum of the total of the system impact fees for all replacement taps, to the current system impact fee for the original tap size, shall be less than or equal to one. Since the current system impact fees as established by resolution of the city council adopted after two readings are proportional to the former plant investment fees for each tap size, these ratios are calculated using current system impact fees. (Ord. 4871 § 5, 2004 (part); Ord. 4395 §§ 5 (part), 8, 1999; Ord. 4093 § 1, 1995; Ord. 3836 § 3, 1992; Ord. 3328 § 1 (part), 1986)

13.04.040 Raw water development fee.

- A. Nonresidential raw water development fees for commercial and industrial uses, for tap sizes less than two inches in diameter shall be based on tap size and shall be in an amount as established by resolution of the city council adopted after two readings.
- B. Single-family residential water development fees shall be in an amount as established by resolution of the city council adopted after two readings.
- C. Multifamily residential fees shall be charged per dwelling unit and shall be in an amount as established by resolution of the city council adopted after two readings.
- D. A raw water development capital recovery surcharge shall be required for all new, nonresidential water taps which are two inches in diameter and greater. The capital recovery surcharge shall replace the initial payment and requirement of the raw water development fee.
 1. The capital recovery surcharge shall be paid for each one thousand gallons of water billed to the owner of the property, or the responsible party of the water charges. Rules and regulations which apply to all other charges for utility bills which are described in Chapters 13.02, 13.04 and 13.08, shall also apply to the capital recovery surcharge.
 2. The raw water development fee capital recovery surcharge shall be in an amount as established by resolution of the city council adopted after two readings. The surcharge for outside city customers shall be the same.
 3. The original owner(s) requesting water service at that property, and all subsequent tenants or owners of the property, shall be required to pay the capital recovery surcharge.
 4. The capital recovery surcharge shall be charged for all water use billed at the requesting property will remain in effect as long as the water service remains active on the parcel of property.
- E. Except for taps provided for in this section, every applicant for a new water tap or for an increase in existing taps as provided for in Section 13.04.031(G) shall pay a raw water development fee which shall be based on the size of the water tap requested, in an amount as established by resolution of the city council adopted after two readings. (Ord. 4871 § 6, 2004 (part); Ord. 4395 §§ 5 (part), 9--13, 1999; Ord. 3836 § 4, 1992)

13.04.044 Water facilities expansion fund.

There is created a fund to be known as the water facilities expansion fund, and all moneys received from the collection of water plant investment fees shall be paid into such fund. The fund shall be kept separate and apart from all other funds of the city and expenditures there from shall be made only for the purposes of paying for the costs of improvement, expansion, or extension of the water source, treatment and distribution systems of the city; provided that, in the event that the city council determines that an emergency exists affecting the immediate health, peace, safety and welfare of the citizens, such funds may be used as necessary to alleviate the emergency if provisions are made for repayment to the fund, together with reasonable interest thereon, of the funds so used. (Ord. 4395 § 5 (part), 1999; Ord. 1842 § 1, 1980)

13.04.046 Raw water fund--Created.

All raw water fees and raw water development fees collected pursuant to Section 13.04.030 and all charges collected pursuant to Sections 13.04.245 A and C shall be paid into the treasury of the city and set aside in a separate fund. No expenditures shall be made out of such fund except for the following purposes: acquiring water and water rights, ditch and ditch rights which the city council determines to be in the best interests of the city to acquire; developing and acquiring raw water storage facilities and raw water storage rights; satisfying any portion of the obligation to the Municipal Subdistrict of the Northern Colorado Water Conservancy District arising out of the city's allotment contract with said subdistrict which is attributable to other than maintenance and operating expense; and expenses necessarily incurred in connection with the above purposes. (Ord. 4395 § 5 (part), 1999; Ord. 3021 § 7, 1983; Ord. 2064 § 1, 1982)

13.04.050 Maintenance of water service lines.

The property owner shall provide all necessary maintenance, repair and replacement of the service line from the curb stop to and within the building structure which it serves, excluding water meter, meter yoke, meter pit and meter related appurtenances. (Ord. 1861 § 1, 1980)

13.04.055 Connections by school districts.

It is recognized that the use and nature of public school facilities and the public financing of their operations are unique among users of city water services. Therefore, notwithstanding the provisions of Section 13.04.030, the plant investment fee to be paid to the city by school districts making connection to city water services shall be eighty-five percent of the applicable plant investment fee schedule set forth in Section 13.04.030. (Ord. 1659 § 3, 1978; Ord. 1609 § 1, 1977)

13.04.060 Revocable water permit.

In lieu of the development tap, meter service connection, and water plant investment fees required under Section 13.04.030, application may be made to the city council for a revocable water permit for a water service connection for inside or outside the city nonresidential use. (The applicant shall pay to the city an application fee based on the size of the connection, which application fee shall be set by resolution of the city council adopted after two readings.) Said fee shall include the cost of making the tap to the water main and furnishing the corporation stop, curb stop, curb stop box, water meter and appurtenances as provided in 13.04.030, and the cost of making the tap to the water main in a trench excavated by the applicant. The revocable permit shall be issued on the further condition that the applicant pay to the city an annual permit fee for service inside the city, based upon the amount of the plant investment fee shown in subsection C of Section 13.04.030 for the size of the tap, amortized over a period of time not to exceed five years, or an annual permit fee, for service outside the city, based upon the amount of the plant investment fee as shown in subsection D of Section 13.04.030 for the size of the tap, amortized over a period of time not to exceed five years. In the event application is made for a revocable permit and the permit is granted, and all annual fees are paid as determined in this chapter, the applicant shall be entitled to a water connection at such time as the final annual permit fee has been paid to the city, subject only to the payment for water service as would be applicable to any other water user, except that the applicant for outside city use shall also execute a water tap agreement for outside city use and subject to the conditions of the agreement. (Ord. 4871 § 7, 2004 (part); Ord. 1813 § 2, 1979; Ord. 1659 § 4, 1978; Ord. 1287 § 2, 1973; Ord. 1267 § 1 (part), 1973; prior code § 13.5-3)

13.04.070 Extensions.

All water trunk lines or main extensions to serve areas not presently available for service and outside the city limits shall be approved by the city council. (Ord. 4149 § 1, 1996; Ord. 4087 § 1, 1995; Ord. 1267 § 1 (part), 1973; prior code § 13.5-4)

13.04.080 Water system connections outside the city limits.

- A. Except as set forth in subsection B. below, there shall be no water taps made outside the city limits unless approved by the city council by resolution.
- B. The city manager or his designee is authorized to approve water taps made outside the city limits if the property to be served by the tap does not meet the city's requirements for annexation. (Ord. 5347 § 1, 2008; Ord. 2075 § 1, 1983; Ord. 776 § 1, 1962; prior code § 13.6)

13.04.090 Tap connections--Who may make.

All necessary work and materials used in connecting services to water mains shall be done in accordance with the city water/ wastewater department's requirements and will require inspection by the city prior to activation of the water service. (Ord. 3836 § 5, 1992; Ord. 3727 § 4, 1991; Ord. 1659 § 5, 1978; Ord. 696 § 2, 1961; prior code § 13.7)

13.04.100 Water supply service.

Two or more lots cannot be supplied with water from one and the same connection, unless: (a) the lots are occupied by attached single-family units; (b) the connection is used for lawn or landscape irrigation only; or (c) the director determines that to require each lot to have a separate connection would be impractical or would create a hardship for the customer. No person shall place water pipes or conduits across lots or buildings to supply water to adjacent premises or dwellings. All service connections shall be in accordance with the requirements of the water/waste-water department. (Ord. 5443 §, 2009; Ord. 4643 § 1, 2001; Ord. 3836 § 6, 1992; prior code § 13.8)

13.04.110 Supplying water to others prohibited.

No occupant or owner of any building or premises which obtains water from the city shall supply water to other persons or families or to other premises. Such persons will be required to pay double the price of water so used and the department may shut off the water supply for such violation. (Prior code § 13.9)

13.04.120 Penalty for unreported additional service.

The owner or occupant of any premises desiring additional services, or to apply the water for a purpose not stated at the time of the original application, must obtain permission therefore from the water department. When additional services are added and not reported, the same shall be charged for at double the rate for such time as the services are in use, in addition to the possibility that the water department may shut off the water supply for such violation. (Ord. 1412 §§ 3(ff), 5(a) (part), 1975; Ord. 997 § 3, 1968; prior code § 13.10)

13.04.150 Pollution of water supply unlawful.

It is unlawful for any person to permit any livestock to stand in, congregate together in, or in any wise defile or pollute, or for any person to pollute or defile the water supply of the city by throwing or

placing any manure, dead animals, or other matter into the water of the Big Thompson River at any place for a distance of five miles above the "Home Supply Dam" which is the source of supply of water for the city. (Prior code § 13.21)

13.04.151 Protection of water systems from flood damage.

The city council, in conjunction with the planning commission, the water and sewer superintendent, and other relevant city officials and agencies, shall require that new or replacement water supply systems, whether such systems are intended to serve residents of the city or to be connected to the city system, be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (Ord. 1445 § 8, 1975)

13.04.160 Duty to make water connection before paving.

Before any street or alley in which a water line is laid shall be paved or hard-surfaced, the owners of all lots abutting thereon shall make proper water connection with such water lines, whether the immediate use thereof is required or not. (Ord. 1197 § 2, 1972; prior code § 13.22)

13.04.170 Wasting water.

Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. Hydrants, urinals, water closets, and other fixtures, must be kept in repair so that they will not cause unnecessary waste of water. The supplying of water may be discontinued for any violation of this section. (Ord. 997 § 6, 1968; prior code § 13.13)

13.04.180 Inspectors.

Any authorized representative of the water department, when properly identified, shall have the right to enter any premises or building where water is used for the purpose of making an inspection of pipes, meters, fixtures or appliances, and for the purpose of detecting and eliminating all abuses whether from waste or improper use of water. (Prior code § 13.14)

13.04.190 Metered service--When.

All water service furnished by the city shall be metered. Until such time as water meters are installed pursuant to Section 13.04.310, the rates for water service set forth in Section 13.04.240 shall apply. (Ord. 4446 § 3, 1999; Ord. 1899 § 1, 1980; Ord. 1866 § 1, 1980; Ord. 1803 § 1, 1979; Ord. 1659 § 6, 1978; Ord. 997 § 7, (part), 1968; prior code § 13.15)

13.04.205 Fire protection tap service.

Any person desiring fire protection tap service shall make application on forms provided by the city. The applicant shall pay the entire cost of making connection for such service and shall pay the tapping charges and monthly fees as provided in this chapter for such service. Such service shall be for the purpose of supplying water for stand pipes and fire sprinkler systems for institutional, commercial and industrial buildings only. Any such service supplied to a building outside the city limits which is not receiving water service from the city shall also require the completion of an outside city water tap application and the payment of a fire tap plant investment fee in an amount as established by resolution of the city council adopted after two readings. No fire protection tap shall be used for any purpose other

than fire protection service. Such service shall be discontinued, and all fees paid therefore shall be forfeited, if it is used for any other purpose, or for failure to pay the monthly charges therefore.

Monthly fees and plant investment fees for fire protection taps requiring flows in excess of one thousand two hundred gallons per minute shall be determined on a case by case basis. (Ord. 4871 § 8, 2004 (part); Ord. 3608 2001; Ord. 4395 § 14, 1999; Ord. 3739 § 2, 1991; Ord. 3315, 1986; Ord. 1387 § 1, 1974; prior code § 13.15-2)

13.04.207 Domestic water pressure booster systems.

All domestic water pressure booster systems shall meet the requirements of the International Plumbing Code, as adopted by the city. (Ord. 5689 § 1, 2012)

13.04.210 Sprinkling--Use limits.

Consumers shall not use a larger hose than three-fourths of an inch in diameter, and sprinkling without a nozzle or with a nozzle opening larger than one-fourth inch is strictly forbidden. Maximum use at one time shall be limited by the following gallons per minute:

Lot areas up to ten thousand square feet, ten gallons per minute;

For each additional ten thousand square feet, five gallons per minute. (Ord. 997 § 8, 1968; prior code § 13.16)

13.04.220 Underground sprinkling system--Application for permit.

- A. It is unlawful for any person to install an underground sprinkling system in the city without first obtaining a written permit therefore. Application for such permit shall be made to the city clerk in writing on blanks furnished for that purpose. Such application must contain or be accompanied by plans and specifications covering the construction of the underground sprinkler system and which are sufficient to determine whether such system will comply with the provisions of this code. Upon the approval of the application by the superintendent of the water department, the clerk shall issue the required permit.
- B. For manually operated underground sprinkling systems, the maximum demand shall be as stated in Section 13.04.210. For approved clock-operated systems operated at the time designated by the water superintendent, the maximum demand may be double the figures set forth in Section 13.04.210.
- C. All underground systems shall have cross-connection prevention devices as approved by the State Board of Health. (Ord. 4446 § 4, 1999; Ord. 997 § 9, 1968; prior code § 13.16-1)

13.04.230 Restrictions.

The city council shall from time to time adopt by resolution such rules, regulations, and restrictions upon the use of water as are necessary to protect the water supply or water system of the city. (Ord. 1567 § 1, 1977)

13.04.235 Emergency ban on certain outdoor uses of potable water.

- A. In the event of a catastrophic event or other type of emergency which, in the judgment of the city manager, results in the water utility's current supply of potable water being insufficient to meet the current demand for outdoor water use by the water utility's customers, the city manager may impose a ban on all or certain specified uses of potable water by the water utility's customers.

- B. It shall be unlawful for any person or customer to use or permit the use of potable water from the city's water utility on any premises in violation of a ban on water use imposed by the city manager under this section.
- C. To impose such a ban, the city manager shall cause a notice to be published in a Loveland daily newspaper notifying the public as to the specific date when the ban shall take effect and the notice shall expressly specify the kinds of uses of potable water prohibited by the ban. The date on which the ban will take effect shall not be earlier than the next day after the notice is so published. In addition to publishing notice, the city manager shall take such other actions as he or she deems reasonable to educate the public about the ban. If the city manager determines that the water utility's current supply of potable water is no longer insufficient to meet the current demand for water use by the water utility's customers, the city manager may, following the same procedure set forth in this paragraph, terminate the ban on the use of potable water. Using the same procedure set forth in this paragraph and when circumstances warrant because of further reductions in the water utility's current supply of potable water, the city manager may modify the ban to impose additional prohibited outdoor uses.
- D. The city manager and his or her designees are authorized as peace officers to enforce this section by the issuance of summonses and complaints in accordance with the Colorado Municipal Court Rules of Procedure. A written warning shall be issued for a first violation of any provision of this section. Second and subsequent violations of any provision of this section shall be punished by a minimum fine of fifty dollars (\$50) up to a maximum fine of one thousand dollars (\$1,000). Each day during which a violation of any provision of this section occurs or continues shall constitute a separate misdemeanor offense. In addition to the fine set forth herein, any lawn irrigation or watering by a water utility customer in violation of any provision of this section shall be deemed a wasting of water as prohibited under section 13.04.170 for which that customer's water service may be terminated by the water utility.

13.04.240 Water rates established.

Except as provided in Section 13.04.241, all water sold by the city shall be sold at rates to be established by resolution of the city council adopted after two readings. (Ord. 4871 § 9, 2004 (part); Ord. 4706 § 2, 2002; Ord. 4395 § 15, 1999; Ord. 3894 §§ 1--3, 1993; Ord. 3740 § 1, 1991; Ord. 3739 § 3, 1991; Ord. 3608 §§ 1--5, 1989; Ord. 3315 §§ 4--7, 1986; Ord. 3117 § 1, 1984; Ord. 3021 § 1, 1983; Ord. 2060 § 1, 1982; Ord. 2005 § 1, 1981; Ord. 1939 § 1, 1980; Ord. 1866 § 2, 1980; Ord. 1749 § 1, 1979; Ord. 1528 § 1, 1976; Ord. 1517 § 1, 1976; Ord. 1476 § 1, 1976; Ord. 997 § 10, 1968; Ord. 742 § 1, 1961; Ord. 696 § 5, 1961; prior code § 13.19)

13.04.241 Rental of surplus raw water.

If in the judgment of the city manager, or his or her designee, the city's water utility has sufficient supplies of raw water in any one year for the needs of the water utility's potable water customers, the city manager, or his or her designee, may rent the city's surplus raw water on a year-to-year basis up to a three year term at rates which reflect at the time of rental the market rental rates prevailing for the raw water rights rented and which take into account the city's annual assessments paid for those water rights. Such rental agreements may not be for more than three years and shall be upon such other terms and conditions as the city manager, or his or her designee, deems to be in the best interests of the city's water utility. (Ord. 4706 § 3, 2002)

13.04.245 Excess water use-- Surcharge.

It is the policy of the city to require each commercial and industrial customer to furnish raw water for treatment adequate to meet such customer's demand for treated water, in accordance with the provisions of this section:

- A. Surcharge Established. Each commercial and industrial customer shall pay a surcharge in an amount to be established by resolution of the city council adopted after two readings for the usage of excess water, as defined in this section, which sum shall be payable together with and in addition to the water rates established pursuant to Section 13.04.240.
- B. Excess water use is defined as all water use through a meter in excess of the annual base amount set forth in the following table for each meter size in any calendar year:

Meter size	Annual Base Amount in Gallons
3/4"	270,000
1"	1,080,000
1 1/2"	2,160,000
2"	3,510,000
3"	7,020,000
4"	10,800,000
Greater than 4"	To be set by city council

Whenever water use through a meter totals less than the annual base amount set forth above during any calendar year, the difference between actual use and the annual base amount may be credited to any other meter on the same property and under the same ownership upon application to and approval of the director of water and power, or his or her designee. Upon approval, all water furnished through separate meters on the property shall be combined for billing purposes and for determination of excess water use. A special billing charge may be imposed at the discretion of the director of water and power, or his or her designee, to cover additional billing and administrative costs. Such charge may be increased or decreased from time to time to reflect changes in such costs. "Calendar year," for the purpose of this section, means the twelve billing periods starting with the first billing period beginning on or after January 1st in each year.

- C. The annual base amount for a meter may be increased upon satisfaction of any of the following conditions:
 1. The annual base amount shall be increased by two hundred seventy thousand gallons for each acre foot of raw water rights furnished to city. The provisions of Section 19.04.040 of this code shall apply to such raw water rights.
 2. Upon furnishing of evidence by the customer satisfactory to the city council that the city has received raw water rights in conjunction with annexation or rezoning of a property served in excess of the required raw water rights according to meter size as set forth in the following table, the annual base amount shall be increased by two hundred seventy thousand gallons for each excess acre foot of raw water rights:

Meter Size	Required Raw Water in Acre Feet
3/4"	1
1"	4
1 1/2"	8
2"	13
3"	26

3. All increases in annual base amount shall be in increments of two hundred seventy thousand gallons only. Whenever available credits are for fractions of acre feet, cash may be paid at the rate established by Section 19.04.040(A)(1) to make up the difference between available credits and the next full acre foot required.
- D. The following rules shall be applied to determine the amount of raw water previously furnished in conjunction with prior city annexation and zoning requirements:
 1. Where property has been subdivided at or after the time of the furnishing of raw water rights, the raw water rights furnished shall be prorated among the parcels of the subdivision, based upon the respective land areas.
 2. Where a property is served by more than a single meter, the raw water rights received shall be prorated among all such meter on the basis of the required raw water by meter size for all such meters according to the above table.
 3. All inside city water meters as of November 1, 1982 shall be deemed to satisfy the required raw water set forth above, regardless of actual raw water furnished.
 4. All land annexed to the city between December 5, 1978, and November 1, 1982, except such land as was zoned DR developing resource district on November 1, 1982, shall be deemed to have had furnished to the city three acre feet of water rights, unless the director of water and power, or his or her designee determines otherwise, based upon competent evidence.
 5. All land annexed to the city prior to December 5, 1978, except such land as was zoned DR developing resource district on the date shall be deemed to have had furnished to the city two acre feet of water rights, unless the director of water and power, or his or her designee determines otherwise, based upon competent evidence. (Ord. 4871 § 10, 2004 (part); Ord. 4446 §§ 5, 6, 1999; Ord. 4395 § 16, 1999; Ord. 3391 § 1, 1987; Ord. 3382 § 1, 1987; Ord. 2064 § 2, 1982)

13.04.250 Turnon and shutoff charges.

Once water service has been commenced at any premises, there shall be no charge for turning the water off. The charge to turn water service on again, after once turned off, shall be as established by resolution of the city council adopted after two readings. (Ord. 4871 § 11, 2004 (part); Ord. 4395 § 17, 1999; Ord. 3642 § 1, 1990; Ord. 3056 § 1, 1984)

13.04.260 Billing period--Notice to users.

The city shall bill water users not less than once every three months and not more often than once a month. Billings for water service and any other notices relating to the water utility shall be effective upon mailing the billing or notice to the last known address of the water user as shown on the records of the city, flat rate water will be billed in advance. (Ord. 994 § 1, 1968; Ord. 696 § 4, 1961; prior code § 13.18)

13.04.290 Unpaid water bills--Lien.

All water bills shall be a lien upon the respective lots or parcels of land where the water is used from the time of use and shall be a perpetual charge against the lots or parcels of land until paid, and in the event the charges are not paid when due, the city clerk shall certify such delinquent charges to the

treasurer of Larimer County and the charges shall be collected in the same manner as though they were part of the taxes. (Ord. 3436 § 1, 1987; Ord. 696 § 6, 1961; prior code § 13.20)

13.04.310 Meters installed--Cost.

- A. The city shall install, or provide for the installation of, and shall pay the cost of, facilities for the metering of all residential water service which was being furnished by the city on July 24, 1979.
- B. The applicant for all other water service shall pay the cost of providing facilities for the metering of all such water service.
- C. Any person who paid the cost of providing facilities for the metering of residential water service on or after July 24, 1979, for water service to a residence which was being furnished with such service prior to said date may file an application for a refund with the city clerk's office on forms provided by the city clerk. The city council shall, by resolution adopted after two readings, provide for the amount of the money, if any, to be refunded to such applicant.
- D. All meters, vaults, remote readout devices and other facilities shall meet the specifications and be located in accordance with the rules, regulations and policies of the city governing such specifications and locations. (Ord. 4952 § 6, 2005; Ord. 4871 § 13, 2004 (part); Ord. 1899 § 3, 1980)

13.04.320 Reimbursement for water mains.

- A. When a developer extends a water main through or adjacent to other property in order to serve his development, and where such other property has the potential to develop in the future in a way that could require use of the main, the developer may request a third-party reimbursement agreement in accordance with the provisions of this section. Any developer requesting a third-party reimbursement agreement must submit a draft agreement to the water and power department prior to the time the department signs the final public improvement construction plans, and must submit a final agreement to the department within thirty (30) days after initial acceptance of the water main by the city. All such reimbursement agreements shall be in a form approved by the director of the water and power department in consultation with the city attorney. The reimbursement amount shall be determined on a cost per linear foot of the property adjacent to the water main. The city shall attempt to collect the reimbursement amount, but shall not be obligated to collect the reimbursement amount, initiate or defend any legal proceeding to collect the reimbursement amount, or pay the developer a sum equal to the reimbursement amount if collection efforts are unsuccessful. The term of any third-party reimbursement agreement established hereunder shall be ten (10) years from the date of execution, regardless of whether the developer has been reimbursed. Prior to expiration of the agreement, the developer may request that the City Council approve a one-time extension of the term of the agreement, not to exceed an additional ten (10) years, for good cause shown. All third-party reimbursement agreements, and any extensions thereof, shall be recorded with the Larimer County Clerk and Recorder at the developer's expense.
- B. An applicant desiring to connect to the city's water system to serve property subject to a third-party reimbursement agreement shall pay to the city the reimbursement amount attributable to the applicant's property. The reimbursement amount shall be due and paid prior to connection to the city's water system, or prior to the city's approval of a subdivision final plat if the property is subdivided after the date of the reimbursement agreement, whichever occurs first. No building permit for property subject to a third-party reimbursement agreement shall be issued until the reimbursement amount is paid.

- C. When the city extends a water main as a system improvement at the city's expense, the city may require adjacent property owners to pay a portion of the cost of the main. The reimbursement amount shall be determined on a cost per linear foot of property adjacent to the water main. The reimbursement amount shall be due and paid prior to connection to the city's water system, or prior to the city's approval of a subdivision final plat if the property is subdivided after the date on which the main is placed into service, whichever occurs first. No building permit for property subject to the payment requirement set forth herein shall be issued until the reimbursement amount is paid. The reimbursement obligation shall remain in effect and shall be enforceable as long as the main is in service. The city shall record with the Larimer County Clerk and Recorder a notice of the encumbrance and reimbursement amount due for each encumbered property.
- D. If the city installs or causes a developer to install a water main larger than that required to serve the water demands of the developer's property, or the water demands of the developer's property and adjacent properties in the case of a main intended to serve both of them, the city shall be responsible for the cost of the oversizing. The method for determining the city's share of the oversizing costs shall be established at the time the installation of the main is authorized, and payment of that oversizing amount shall be made over a period not to exceed ten (10) years following the city's acceptance of the main, subject to the limitations of Article X, Section 20 of the Colorado Constitution. The city and the developer shall enter into an oversizing reimbursement agreement, the form of which shall be approved by the director of the water and power department in consultation with the city attorney.
- E. Notwithstanding anything herein to the contrary, if the owner of property encumbered by a third-party reimbursement agreement or a recorded notice of reimbursement due to the city files a successful petition to be removed from the city's water service area, said owner shall not be required to pay the reimbursement amount, and the city shall not be required to collect it. (Ord. 5849 § 2, 2014)

13.04.330 Reimbursement for water booster stations.

- A. The water and power department is authorized to cause surveys or engineering studies to be made for the purpose of determining those areas either within or without the city that would require the installation and operation of water booster stations to ensure adequate water pressure and supply to the area. The booster station service areas may include areas outside the city that might by annexation become a part of the city or that pursuant to an agreement with the city are being provided out-of-city water service.
- B. When a booster station is required because of development within the booster station service area, the cost of its construction is entirely the responsibility of the owners of the property to be served by the booster station. If only a part of a booster station service area is initially developed, the developer shall be required to install a booster station of sufficient capacity to serve the entire area. The developer may request a third-party reimbursement agreement in accordance with the provisions of this section. Any developer requesting a third-party reimbursement agreement must submit a draft agreement to the water and power department prior to the time the department signs the final public improvement construction plans, and must submit a final agreement to the water and power department within thirty (30) days after initial acceptance of the water booster station by the city. All such reimbursement agreements shall be in a form approved by the director of the water

and power department in consultation with the city attorney. The reimbursement amount shall be determined on a cost per developable area being served by the water booster station, as determined by the director of the water and power department. The city shall attempt to collect the reimbursement amount, but shall not be obligated to collect the reimbursement amount, initiate or defend any legal proceeding to collect the reimbursement amount, or pay the developer a sum equal to the reimbursement amount if collection efforts are unsuccessful. The term of any third-party reimbursement agreement established hereunder shall be ten (10) years from the date of execution, regardless of whether the developer has been reimbursed. Prior to expiration of the agreement, the developer may request that the City Council approve a one-time extension of the term of the agreement, not to exceed an additional ten (10) years, for good cause shown. All third-party reimbursement agreements, and any extensions thereof, shall be recorded with the Larimer County Clerk and Recorder at the developer's expense

- C. An applicant desiring to connect to the city's water system to serve property subject to a developer's third-party reimbursement agreement with the city shall pay to the city the reimbursement amount attributable to that applicant's property. The reimbursement amount shall be due and paid prior to connection to the city's water system. No building permit for property subject to a third-party reimbursement agreement shall be issued until the reimbursement amount is paid.
- D. When the city constructs a water booster station at the city's expense, the city may require property owners within the booster station service area to pay their share of the cost of the booster station. The reimbursement amount shall be determined on a cost per developable area to be served by the booster station, as determined by the director of the water and power department. The reimbursement amount shall be due and paid prior to connection to the city's water system. The reimbursement obligation shall remain in effect and shall be enforceable as long as the booster station is in service. No building permit for property subject to the payment reimbursement set forth herein shall be issued until the reimbursement amount is paid. The city shall record with the Larimer County Clerk and Recorder a notice of the encumbrance and reimbursement amount due for each encumbered property.
- E. Notwithstanding anything herein to the contrary, if the owner of property encumbered by a third-party reimbursement agreement or a recorded notice of reimbursement due to the city files a successful petition to be removed from the city's water service area, said owner shall not be required to pay the reimbursement amount, and the city shall not be required to collect it. (Ord. 5849 § 3, 2014)

Chapter 13.06

CROSS-CONNECTION CONTROL

Sections:

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- 13.06.020** Purpose.
- 13.06.030** Cross-connections regulated.
- 13.06.040** Application and responsibilities.
- 13.06.050** Backflow prevention assembly requirements.
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- 13.06.320** Falsifying information; tampering.

13.06.010 Definitions.

Except where specifically designated in this section, all words used in this Chapter 13.06 shall carry their customary meanings. Any word, term, or phrase not found in this section shall be determined as set forth in the Colorado Primary Drinking Water Regulations or in the Colorado Cross-Connection Control Manual, if not found in such regulations.

- A. “Air gap” means a physical separation between the free-flowing end of a potable water supply pipeline and the overflow rim of an open or non-pressure-receiving vessel. To be an “approved air gap,” the separation must be at least twice the diameter of the inlet piping (supply pipe)

measured vertically, and never be less than one inch.

- B. “Approved backflow prevention assembly,” “backflow assembly,” or “assembly” means an assembly to counteract backpressures or prevent backsiphonage. This assembly must be approved by the American Society of Sanitary Engineers (“ASSE”) or the University of Southern California (“USC”) and must be purchased and installed as a complete unit including shut-off valves and test cocks.
- C. “Auxiliary supply” means any water source or system other than the city’s water.
- D. “Backflow” means the flow of water or other liquids, gases, or solids from any source back into the public water system in the opposite direction of its intended flow.
- E. “Certified Cross-Connection Control Technician” or “CCCCT” means a person holding a valid CCCCT certification issued in accordance with the Colorado Department of Public Health and Environment Water Quality Control Division.
- F. “Closed system” means any water system or portion of a water system in which water is closed to atmosphere.
- G. “Colorado Cross-Connection Control Manual” means the latest version of the manual published by the Backflow Prevention Education Council of Colorado and is endorsed by the State addressing cross-connection control practices, which shall be used as a guidance document for the water supplier in implementing a Cross-Connection Control Program.
- H. “Colorado Primary Drinking Water Regulations” or “CPDWR” means the most recent edition of the regulations adopted by the Colorado Department of Public Health and Environment Water Quality Control Division.
- I. “Containment” means a method of protecting the public water system by the installation of an approved air gap or approved backflow prevention assembly at the point of service (end of the city’s service pipe) to separate the customer’s plumbing system from the city’s distribution system.
- J. “Contamination” means the entry into or presence in a public water system of any substance which may be harmful to health and/or quality of the water.
- K. “Cross-connection” means any physical arrangement where the public water system is connected, directly or indirectly, actual or potential, with any other non-potable water system or auxiliary system, well, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp cooler, or any other device which contains, or may contain, contaminated or polluted water, sewage, used water, or other liquid of unknown or unsafe quality which may be capable of imparting contamination or pollution to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, or other temporary or permanent devices through which, or because of which, backflow may occur are considered to be cross-connections.
- L. “Degree of hazard” means the low or high hazard classification that shall be attached to all actual or potential cross-connections.
- M. “Director” means the director of the water and power department or his designee.
- N. “Double check valve backflow prevention assembly,” “double check assembly,” “double check,” “DCVA,” or “DC” means an assembly which consists of two independently operating check valves which are spring-loaded or weighted. This assembly comes complete with a shut-off valve on each side of the checks, as well as test cocks.
- O. “High hazard” means the classification assigned to an actual or potential cross-connection that potentially could allow a substance that may cause illness or death to backflow into the public water system.
- P. “In-premises protection” means a method of protecting the health of consumers served by the

customer's plumbing system (*i.e.* located within the property lines of the customer's premises) by the installation of an approved air gap or backflow prevention assembly at the point of hazard.

Q. "Low hazard" means the classification assigned to an actual or potential cross-connection that could allow a substance that may be objectionable, but not hazardous to one's health, to backflow into the public water system.

R. "Mobile unit" means a unit connecting to the public water system through a hydrant, hose bibb, or other appurtenance of a permanent nature that is part of the public water system. Examples include, but are not limited to, the following: water trucks, pesticide applicator vehicles, chemical mixing units or tanks, waste or septage hauler trucks or units, sewer cleaning equipment, carpet or steam cleaning equipment, rock quarry or asphalt/concrete batch plants, or any other mobile equipment or vessel. Uses that are excluded from this definition are recreational vehicles at assigned sites or parked in accordance with city ordinances pertaining to recreational vehicles, and homeowner devices that are used by the property owner in accordance with city ordinances pertaining to the provision of water service to premises.

S. "Plumbing code" means the most current plumbing code adopted by the city.

T. "Plumbing hazard" means an internal or plumbing-type cross-connection in a consumer's potable water system that may be either a pollutional or a contamination-type hazard. This includes, but is not limited to, cross-connections to toilets, sinks, lavatories, wash trays, domestic washing machines, and lawn sprinkling systems. Plumbing-type cross-connections can be located in all types of structures including, but not limited to, homes, manufactured homes, apartment houses, hotels, and commercial or industrial establishments.

U. "Pollutional hazard" means an actual or potential threat to the physical properties of the public water system or the potability of the public's or the consumer's potable water system but which would not constitute a health or system hazard. The maximum degree of intensity of pollution to which the public water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the public water system or its appurtenances.

V. "Potable water supply" means any system of water supply intended or used for human consumption or other domestic use that meets all requirements established by the Safe Drinking Water Act and the CPDWR.

W. "Premises" means any piece of property to which water is provided including, but not limited to, all improvements, mobile structures, and structures located on it.

X. "Public water system" means that part of the water system that is owned and maintained by the city including all pipes, valves, and appurtenances up to the outlet side of the curb stop or meter connection.

Y. "Reduced pressure principle backflow prevention assembly" or "reduced pressure backflow assembly" or "RP assembly" means an assembly containing two independently acting approved check valves together with a hydraulically-operated, mechanically independent pressure differential relief valve located between the check valves. The assembly shall include properly located test cocks and tightly closing shut-off valves at each end of the assembly.

Z. "Specialist" means an employee or contractor of the city who meets the requirements of this Chapter 13.06 and the city's Standard Operating Procedures Manual to carry out inspections and surveys for cross-connections.

AA. "Standard Operating Procedures Manual" or "SOP Manual" means the most recent edition of the city's Standard Operating Procedures Manual related to cross-connection control.

BB. "Technician" means a Cross-connection Control Technician certified to test backflow

assemblies.

- CC. "Thermal expansion" means the pressure created by the expansion of heated water.
- DD. "Unapproved substance" means any substance, gas, or liquid other than the city's drinking water or the city's used drinking water.
- EE. "Used water" means any water supplied by the city to a customer's property after it has passed through the service connection and is no longer under the control of the city.

13.06.020 Purpose.

The purpose of this Chapter 13.06 is to protect the public water system from contamination or pollution due to any existing or potential cross-connections as defined in CPDWR Article 12, or as amended, and this Chapter 13.06 which is necessary for the public's health, safety, and welfare.

13.06.030 Cross-connections regulated.

- A. No cross-connections shall be created, installed, used, or maintained within the territory served by the city, except in accordance with this Chapter 13.06.
- B. The specialist shall carry out or cause inspections and surveys to be carried out to determine if any actual or potential cross-connections exist. If found necessary by the specialist, an assembly commensurate with the degree of hazard will be required to be installed at the service connection or at the point of hazard. The location will be determined by the specialist.
- C. The owner, occupant, or person in control of the property shall be responsible for all cross-connection control within the premises.
- D. Notwithstanding anything in this section to the contrary, the Director of Water and Power shall be authorized to require such additional information or documentation he deems reasonably necessary, in his sole discretion, to ensure the safety of the city's water supply.

13.06.040 Application and responsibilities.

This Chapter 13.06 applies throughout the city and to every premises and property served by the public water system. It applies to any premises, public or private, regardless of date of connection to the public water system. Every owner, occupant, and person in control of any concerned premises is responsible for compliance with the terms and provisions contained herein.

13.06.050 Backflow prevention assembly requirements.

The specialist shall approve the type of backflow assembly to be installed within the area served by the city. All users shall install an approved backflow assembly commensurate with the degree of hazard determined by the specialist on each service line that is directly connected to the city's water supply system. All assemblies shall be installed within the user's potable water system between the service connection and the first branch line leading off the service line, unless it is determined by the specialist to install the assembly at an alternate location for containment protection or in-premises protection. The cross-connection shall be eliminated or an assembly shall be required by the specialist to be installed in each of the following circumstances, but the specialist is in no way limited to the following circumstances:

- A. The nature and extent of any activity on the premises, or the materials used in connection with any activity on the premises, or materials stored on the premises, could contaminate or pollute the potable water supply.
- B. Premises having any one or more cross-connections or potential cross-connections.
- C. When a cross-connection survey report form is required by the city to be filled out and returned and it has not been received by the city.

- D. Internal cross-connections are present that are not correctable.
- E. Intricate plumbing arrangements exist or plumbing subject to frequent changes is present that make it impractical to ascertain whether or not cross-connections exist.
- F. There is a repeated history of cross-connections being established or re-established.
- G. There is unduly restricted entry so that inspections and surveys for cross-connections cannot be made with sufficient frequency to assure that cross-connections do not exist.
- H. Materials, chemicals, or other substances or apparatus are being used and if backflow occurred, contamination or pollution could result.
- I. Installation of an approved backflow prevention assembly is deemed to be necessary in the judgment of the specialist to comply with any provision of CPDWR Article 12 or this Chapter 13.06.
- J. Any premises having an auxiliary water supply.
- K. In the event an in-premises assembly that protects the distribution system has not been tested or repaired as required by CPDWR Article 12 and this Chapter 13.06, a containment assembly will be required or water service will be terminated in accordance with this Chapter 13.06.
- L. If it is determined that additions or rearrangements have been made to the plumbing system without obtaining proper permits as required by City Code.
- M. When a garden hose attachment is connected to the premises' plumbing, including, but not limited to, fertilizer applicators, pesticide applicators, and radiator flush kits.
- N. If the required building or sprinkler permits are not obtained.

13.06.060 Containment protection.

- A. Service connections to premises posing a high health cross-connection hazard shall have an approved air gap or reduced pressure backflow assembly installed for containment protection.
- B. If the specialist determines that no hazard exists for a connection serving such a premises, the requirements of subsection 13.06.060A. shall not apply.

13.06.070 Irrigation systems.

- A. All irrigation systems which are plumbed off of the main service line to the premises shall be protected in accordance with the plumbing code.
- B. All designated laterals which serve only irrigation systems shall install a reduced pressure backflow assembly or a pressure vacuum breaker assembly. These assemblies must be installed at a location established by the specialist and tested in accordance with this Chapter 13.06 and the SOP Manual.

13.06.080 Fire systems.

- A. An approved double check backflow prevention assembly shall be the minimum protection on all fire sprinkler systems using piping material that is not approved for potable water use or that does not provide for periodic flow-through. A reduced pressure backflow assembly must be installed if any solution other than the potable water can be introduced into the sprinkler system.
- B. All fire system assembly testing shall be in accordance with the Colorado Cross-Connection Control Manual, this Chapter 13.06, and the SOP Manual. Any conflict between the requirements set forth therein shall be resolved in favor of the more stringent requirement.

13.06.090 Temporary meters.

Backflow protection shall be required on temporary meters. The type of assembly shall be commensurate with the degree of hazard and shall be determined on a case-by-case basis by the specialist.

13.06.100 Wholesale customers.

Any customer or special water district that has a wholesale contract for water services with the city must have an active, ongoing cross-connection program. The cross-connection program must be in compliance with CPWDR Article 12 requirements pertaining to public water systems. The city reserves the right at all times to require a reduced pressure backflow assembly at the interconnect.

13.06.110 Mobile units.

Unless a city's designated fill station is being used, any mobile unit that uses the city's water from any premises or piping shall have an air gap or RP assembly installed. Mobile units not using the designated fill station may be subject to inspection or survey by the city to ensure compliance with this section.

13.06.120 Right-of-way encroachment.

- A. No person shall install or maintain a backflow prevention assembly upon or within any city right-of-way except as provided in this Section 13.06.120.
- B. The city reserves the right to require that a backflow prevention assembly be installed in the right-of-way.
- C. A backflow prevention assembly required by the city may be installed upon or within any city right-of-way only if the owner proves to the city that there is no other feasible location for installing the assembly and that installing it in the right-of-way will not interfere with traffic or utilities. The city retains the right to approve the location, height, depth, enclosure, and other requisites of the assembly prior to its installation.
- D. All permits required by the Loveland Municipal Code to perform work in the right-of-way shall be obtained.
- E. A property owner shall, at the request of the city and at the owner's expense, relocate a backflow prevention assembly which encroaches upon any city right-of-way when such relocation is necessary for street or utility construction or repairs.
- F. All city ordinances relevant to right-of-way encroachment shall be abided by.

13.06.130 Plumbing code.

As a condition of water service, customers shall install, maintain, and operate their piping and plumbing systems in accordance with the plumbing code.

13.06.140 Access to premises and records.

The specialist, authorized city employees, and persons contracted by the city to perform cross-connection inspections and surveys shall, at all reasonable times, have clear access, as defined in Section 13.02.135, to any premises within or outside the city served by the city's water utility for the purpose of inspecting, surveying, or testing any connection or potential connection to the public water system or for any other purpose whatsoever in connection with the necessary discharge of their duties and the enforcement provisions of this chapter. Said specialist, employees, and contractors shall also have access to all relevant records. If clear access to the premises or access to records is denied, a reduced pressure backflow assembly shall be required to be installed at the service connection to that premises, or service may be suspended in accordance with Section 13.06.280.

13.06.150 Testing and repairs.

Containment backflow prevention assemblies, or assemblies which have been identified and accepted by the city as protection for the public water system, shall be tested, and retested following repair, by a CCCCT in accordance with the requirements set forth in CPDWR Article 12, this Chapter 13.06, and the SOP Manual. Any conflict between the requirements set forth therein shall be resolved in favor of the more stringent requirement.

13.06.160 Responsibilities of cross-connection control technicians.

All cross-connection control technicians operating within the city shall be certified in accordance with all applicable regulations and shall comply with all requirements in this Chapter 13.06 and the SOP Manual.

13.06.170 Maintenance of assemblies.

Backflow prevention assemblies shall be maintained in accordance with the requirements set forth in the Colorado Cross-Connection Control Manual and the SOP Manual.

13.06.180 Installation requirements and specifications.

- A. Backflow prevention assemblies shall be installed in accordance with the requirements set forth in the Colorado Cross-Connection Control Manual and the SOP Manual.
- B. In the event the specialist allows a containment assembly to be installed at an alternate location, there shall be no connection between the meter and the backflow assembly.

13.06.190 Thermal expansion.

If a closed system has been created by the installation of a backflow prevention assembly, it shall be the responsibility of the property owner to eliminate the possibility of thermal expansion.

13.06.200 Pressure loss.

Any reduction in water pressure caused by the installation of a backflow assembly shall not be the responsibility of the city.

13.06.210 Parallel installation.

Premises where non-interruption of water supply is critical shall have two assemblies of the same type installed in parallel. They shall be sized in such a manner that either assembly will provide the minimum water requirements while the two together will provide the maximum water requirements.

13.06.220 New construction.

In all new non-residential buildings, an approved reduced pressure backflow assembly shall be installed on each potable water service line directly connected to the city's water system. All assemblies shall be installed within the user's potable water system between the service connection and the first branch line leading off the service line.

13.06.230 Residential service connections.

Any residential property that has been determined to have an actual or potential cross-connection or has violated the plumbing code or this Chapter 13.06 in any way shall be required to install an approved backflow prevention assembly in accordance with this Chapter 13.06.

13.06.240 Rental properties.

The property owner shall be responsible for the installation, testing, and repair of all backflow assemblies on owner's property or approved right-of-way locations. When tenants change, or if the plumbing is altered in any way, it shall be the owner's responsibility to notify the City.

13.06.250 Retrofitting.

Retrofitting shall be required on all service connections where an actual or potential cross-connection exists, and wherever else the specialist deems retrofitting necessary.

13.06.260 Costs of compliance.

All costs and expenses associated with the purchase, installation, inspection, survey, testing, replacement, maintenance, parts, and repair of the backflow assembly are the financial responsibility of the property owner.

13.06.270 Emergency suspension of service.

The director or his designee may, without prior notice, suspend water service to any premises when such suspension is necessary to stop the imminent threat of any actual or potential cross-connection as defined in this Chapter 13.06 and the SOP Manual.

13.06.280 Non-emergency suspension of service.

The director or his designee may suspend, with twenty-four hours notice, the water service to any premises where the conditions of this Chapter 13.06 or the SOP Manual have been violated.

13.06.290 Termination of service.

Failure on the part of any property owner to discontinue the use of all cross-connections, to physically separate cross-connections, or to abide by all the conditions of this Chapter 13.06 is sufficient cause for the immediate termination of water service by the city to the premises.

13.06.300 Recovery of costs.

Any property owner who violates any provision of this Chapter 13.06 shall be liable to the city for all costs and expenses incurred by the city as a result of such violation, including, without limitation, all costs and expenses related to suspending or terminating service and costs of labor, materials, and specified fees. Refusal to pay the assessed costs and expenses shall constitute a violation of this Chapter 13.06 and may result in termination of water service. All said costs and expenses shall constitute a lien upon the property where the water is used from the time of use and shall be a perpetual charge against said property until paid, and in the event the charges are not paid when due, the city clerk may certify such delinquent charges to the treasurer of Larimer County and the charges may be collected in the same manner as though they were part of the taxes.

13.06.310 Violations.

Any person who violates any provision of this Chapter 13.06 shall be guilty of a misdemeanor subject to the general penalty clause of the Loveland Municipal Code.

13.06.320 Falsifying information; tampering.

Any person who knowingly makes any false statement, representation, record, report or other document filed or required to be maintained pursuant to this Chapter 13.06, or who falsifies, tampers with, or knowingly renders inaccurate any backflow assembly or method required under this Chapter 13.06 shall, in addition to civil and criminal penalties provided by state law, be guilty of a misdemeanor subject to the general penalty clause of the Loveland Municipal Code.

Chapter 13.08

SEWER SYSTEM

Sections:

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13.08.010 Connections to city sanitary sewer system.

- A. All buildings located within the city and within four hundred feet of any established sewer line, which are used for residence or business purposes, or in which persons congregate or are employed, must be connected to the city's sanitary sewer system, and all drainage or plumbing fixtures therein shall be connected therewith. It is unlawful for any person to maintain within the city when his property is within four hundred feet of any established sewer line any vault, privy or cesspool except temporary privies at construction sites authorized by the building official.
- B. Whenever any premises served by any on-site sewage disposal system is annexed to the city, such system may continue to be used, notwithstanding the provisions of this section, provided that such system complies with all of the requirements of the state and county, is maintained in good working order, and does not represent a threat to public health or safety. Nothing in this chapter shall preclude inclusion of any such premises in a special improvement district or other district formed for the purpose of supplying sewer service to the premises and adjacent properties.
- C. Downspouts, roof drainage, yard drainage, foundation drains (underdrains), areaway drains, groundwater, surface water (runoff), water from natural springs, and subsurface drainage shall not be connected, directly or indirectly, to the city's sanitary sewer system unless such connection is first approved in writing by the Director of the Department of Water and Power. (Ord. 5142 § 1, 2006; Ord. 3187 § 1, 1985; Ord. 743 § 1, 1961; prior code § 14.4)

13.08.020 Permit--Required.

It is unlawful for any person to open, uncover, or in any manner make connection with any sewer main or line of the city, or lay drain or sewer pipes on any premises or in any street or alley in the city without obtaining a written permit therefore. (Prior code § 14.5)

13.08.030 Sewer connection fees.

Application for the permit required by Section 13.08.020 shall be made to the city by the licensed plumber who will perform the work. Such application must contain or be accompanied by plans and specifications covering the construction of the sewer and which are sufficient to determine whether such work will comply with the provisions of this code. Upon approval by the city water/wastewater department, or at the time of making application and before any sewer tap is made, the applicant shall pay to the city the following charges:

- A. **Sewer Tap Charge.** Applicants for a sewer tap shall pay a tap charge to be paid at the time of application for the tap. The tap charge shall be established by resolution of the city council adopted after two readings and shall be recalculated periodically to reflect the costs of providing the services and materials included with the tap charge. The customer shall be responsible for excavating a trench to the sewer main where the tap will be made. A list of the services and materials provided for by the city shall be available from the city water/wastewater department. No charge will be assessed where a sewer connection is to be made to a service which has been previously installed in the main sewer line.
- B. **System Impact Fees.** In addition to the sewer tap charge, system impact fees as described in Section 13.08.040 shall be imposed and due at the time a building permit is requested for the property being served, or, if no building permit is required for that property or structure which the tap will serve, at the time a request is made for activation of the tap. Such fees shall be paid not later than at the time that a final inspection for a certificate of occupancy is requested for the property being served, or if no building permit was required for that property, at the time the request is made for activation of the tap. The system impact fee shall apply to all residential properties; commercial and industrial water taps smaller than two inches in diameter and taps for schools.
- C. Capital recovery surcharge shall be charged for all new commercial and industrial sewer taps, using a water tap two inches or larger in diameter, and increases in existing taps as provided for in Section 13.08.040J.
- D. No charges will be assessed against any sewer tap which was secured prior to the effective date of the ordinance codified in this section if all applicable tap and impact fees for such taps were paid prior to the effective date of said ordinance; provided, that a change in the size of such tap, or a change in the size of the water tap serving the premises served by the sewer tap, shall require payment of fees as set forth in this section. (Ord. 4871 § 14, 2004 (part); Ord. 3836 § 7, 1991; Ord. 1659 § 9, 1978; prior code § 14.6)

13.08.040 System impact fees.

- A. System impact fees shall be paid for commercial and industrial taps using water taps smaller than two inches in diameter and all residential taps. Commercial and industrial sewers using water taps two inches or larger shall be paid through a capital recovery surcharge in accordance with Section 13.08.041. The system impact fee shall be a one-time charge for each new connection to the sewer system and shall be credited to the property as long as the building use and size of the

sewer connection remain unchanged. No refund of fees shall be made for the removal or decrease in the size of sewer service connected to the city sewer system. The definitions set forth in Chapters 16.04 and 18.04 of this code shall apply to this section.

- B. The system impact fee designation replaces the former "plant investment fee" designation and any meaning, calculations or reference to the former designation shall be applied to and replaced by "system impact fees."
- C. Outside-city customers shall pay system impact fees and capital recovery surcharges as described in Section 13.08.041 in an amount as established by resolution of city council adopted after two readings.
- D. Properties annexed to the city within six months after the system impact fee has been paid shall qualify for a refund. The refund shall be the difference between the system impact fee for inside-city customers and the system impact fee for outside-city customers as shown in subsection C of this section. No such refund shall be made except upon application by the person who paid the original system impact fee.
- E. The applicant shall also pay, at the time that system impact fees are paid, any applicable water system impact fees as set forth in Section 13.04.030. (Ord. 5849 § 4, 2014)
- F. The system impact fee shall be charged based on the building use type in the following amounts:
 - 1. Inside-city, single-family residential system impact fees shall be in an amount as established by resolution of the city council adopted after two readings. Payment of the system impact fee shall allow for a tap on the sewer system to be used for residential sewage discharge. The tap diameter allowed shall be a four inch tap unless a larger diameter tap is approved by the water/wastewater department.
 - 2. Additional residential taps, for a single-family lot already served by an existing sewer tap, shall require payment of a sewer tap charge as described in Section 13.08.030. No system impact fee shall be charged for these taps. Any sewer taps serving a premises where the water tap is being increased to a larger size shall pay an additional sewer tap charge as provided for in Section 13.08.030 and additional system impact fees, if applicable, as provided for in subsection J of this section. No refund of fees shall be made for the removal or decrease in the size of the water service.
- G. Multifamily residential system impact fees shall be in an amount as established by resolution of city council adopted after two readings.
- H. Nonresidential system impact fees for commercial and industrial uses fees shall be in an amount as established by resolution of city council adopted after two readings.
- I. The tap size for all nonresidential taps shall be calculated as provided for in Section 13.04.031(F) regarding water tap sizes.
- J. Customers requesting to increase their existing water tap size shall pay an additional sewer charge based on the difference in size from the existing water tap size and the requested water tap size as set forth in Section 13.08.030. No refund of fees shall be made for the removal or decrease in the size of the sewer service. The tap size requested must be approved by the water/wastewater department.
 - 1. For requests to a water tap size which is less than a two inches diameter increase over the current size, the customer shall pay additional sewer system impact fees. The charge shall be the difference between the current water tap size, as shown in the table set out in subsection L of this section, and the requested size water tap shown in the same table.

- 2. For requests to a water tap size which is greater than a two inches diameter increase over the current size, the customer shall pay the capital recovery surcharge as provided for in Section 13.08.041. No additional charge for sewer system impact fees will be assessed.
- K. Connections by school districts are recognized to be unique due to the water use and the public financing of their operations. Therefore, notwithstanding the provisions of Section 13.08.030, the sewer system impact fee paid by the school district shall be determined by the water tap size as shown in the table set out in subsection L of this section. These charges shall be eighty-five percent of the amounts shown in the tables.
- L. System impact fees based on the diameter of the requested water tap shall be charged for all taps not provided for in Section 13.08.030 and shall be in an amount as established by resolution of city council adopted after two readings. (Ord. 4871 § 15, 2004 (part); Ord. 4395 §§ 19--24, 1999; Ord. 4153 §§ 1--4, 1996; Ord. 3836 § 8, 1992; Ord. 3611 § 2, 1989; Ord. 3523 § 4, 1988; Ord. 3315 §§ 8, 9, 1986; Ord. 3138 §§ 4, 5, 1985; Ord. 2067 § 6, 1982; Ord. 1990 § 2, 1982; Ord. 1938 § 2, 1980; Ord. 1828 § 2, 1979; Ord. 1813 § 3, 1979; Ord. 1728 § 2, 1978; Ord. 1659 § 10, 1978; Ord. 1609 § 2, 1977; Ord. 1536 §§1, 2, 1976; Ord. 1484 § 2, 1976; Ord. 1197 § 3, 1972; Ord. 995 § 1, 1968; Ord. 802 § 1, 1963; Ord. 707 § 1, 1961; prior code § 14.7)

13.08.041 Capital recovery surcharge.

- A. The capital recovery surcharge shall be required for all new, nonresidential, sewer taps, except those exempted in Chapter 13.08, which use water taps two inches or greater in diameter.
 - 1. The capital recovery surcharge for inside-city taps shall replace the initial payment and requirement of the system impact fee described in Sections 13.08.030 and 13.08.040. The capital recovery surcharge shall be paid for each one thousand gallons of sewer billed, to the owner of the property, or the responsible party of the sewer charges. Rules and regulations which apply to all other charges for utility bills which are described in Chapters 13.02, 13.04 and 13.08, shall also apply to the capital recovery surcharge.
- B. The sewer capital recovery surcharge shall be in an amount as established by resolution of city council adopted after two readings.
- C. The original owner(s) requesting sewer service at that property, and all subsequent tenants or owners of the property, shall be required to pay the capital recovery surcharge.
- D. The capital recovery surcharge shall be charged for all sewer service billed at the requesting property and will remain in effect as long as the sewer service remains active and is activated on the parcel of property. (Ord. 4871 § 16, 2004 (part); Ord. 4395 § 25, 1999; Ord. 4153 § 5, 1996; Ord. 3836 § 9, 1992)

13.08.042 Change in service--Credit.

- A. Whenever an existing service is changed, there shall be a credit in the amount of the then current charges for the size and type of service being discontinued, for the system impact fee imposed by Section 13.08.040. Such credit shall be applied, first, to the amounts due for such fees on account of any new service established on the same or adjacent premises which are a part of a site being developed or redeveloped, and second, to the amount due for such fee on account of any new service established elsewhere to serve buildings moved from the premises previously served.
- B. Whenever an existing service for a 2" or larger tap is changed, and the former plant investment fee was previously paid as recognized by City staff, a credit for the existing service shall be in the form of an exchange for a new tap of the same size, or two or more taps of smaller sizes. All new taps must serve some portion or all of the same area as served by the original tap. The

number and size of new taps that may be received in place of an existing tap shall be determined as follows: the ratio of the sum of the total of the system impact fees for all replacement taps, to the current system impact fee for the original tap size, shall be less than or equal to one. Since the current system impact fees in Section 13.08.040(L) are proportional to the former plant investment fees for each tap size, these ratios are calculated using current system impact fees. (Ord. 4093 § 2, 1995; Ord. 3328 § 1 (part), 1986)

13.08.045 Sewer facilities expansion fund.

There is created a fund to be known as the sewer facilities expansion fund, and all moneys received from the collection of sewer plant investment fees shall be paid into such fund. The fund shall be kept separate and apart from all other funds of the city and expenditures therefrom shall be made only for the purposes of paying for the costs of improvement, expansion, or extension of the sewage collection and treatment system of the city; provided that, in the event that the city council determines that an emergency exists affecting the immediate health, peace, safety and welfare of the citizens, such funds may be used as necessary to alleviate the emergency if provisions are made for repayment to the fund, together with reasonable interest thereon, of the funds so used. (Ord. 1842 § 2, 1980)

13.08.050 Maintenance of service lines.

The property owner shall maintain the entire service line to the city sewer main at his sole expense. (Ord. 1197 § 4, 1972; prior code § 14.7-1)

13.08.060 Requirements for private sewers.

Every private sewer line which is connected with the city sewage system shall meet the following requirements:

- A. Size. No private sewer shall be less than four inches nor more than six inches inside diameter, except that where two or more houses will, because of their situation, require a private sewer for their joint use, such sewer shall be not less than eight inches inside diameter.
- B. Quality. Private sewers shall be constructed of good, hard, sound, vitrified clay, whole socket pipes, asbestos cement pipes with root-resistant joints, or such pipes and materials of equal quality which may be approved by the superintendent of sewers. The inside of the sewer, after it is laid, must be smooth and clean throughout its entire length, and the ends of all pipes not to be immediately used must be securely guarded against the introduction of sand or earth by bricks and cement or other watertight and impervious material.
- C. Fall. All private sewers shall be laid with a fall of not less than one-eighth inch to one foot, and as much greater as possible.
- D. Connections. All connections of one length of sewer pipe to another shall be made with "Y" branches or "T" saddles and long radius eighth bends.
- E. Backfilling. The backfilling shall be hard packed with care and well rammed to prevent the slightest settling of any drain. (Prior code § 14.8)

13.08.070 Taps on city sewer main.

No person other than an employee of the city shall be permitted or allowed to make a tap on any city sewer line. (Ord. 1217 § 1, 1972; Ord. 707 § 2, 1961; prior code § 14.9)

13.08.075 Extensions.

All sanitary sewer line or interceptor extensions to serve areas not presently available for service and outside the city limits shall be approved by city council. (Ord. 4150 § 1, 1996; Ord. 4087 § 2, 1995)

13.08.080 Sewer system connections outside the city limits.

- A. Except as set forth in subsection B. below, there shall be no sewer taps made outside the city limits unless approved by the city council by resolution.
- B. The city manager or his designee is authorized to approve sewer taps made outside the city limits if the property to be served by the tap does not meet the city's requirements for annexation. (Ord. 5347 § 2, 2008; Ord. 2075 § 2, 1983; Ord. 1419 § 1, 1975; prior code § 14.10)

13.08.090 Duty to make sewer connections before paving.

Before any street or alley in which a sewer line is laid shall be paved or hard-surfaced, the owners of all lots abutting thereon shall make proper sewage connection with such sewer, whether the immediate use thereof is required or not. Until used, such connecting sewer shall be supplied with a proper covering or cap sufficient to prevent the escape of sewer gas. (Prior code § 14.11)

13.08.100 Wastewater charge.

Every property upon which is located any building connected with the City's wastewater system shall pay a monthly wastewater charge set by resolution of the city council adopted after two readings. The wastewater charge shall be determined as follows:

- A. For all residential properties with metered city water service, the wastewater charge shall be as follows: (a) for the months of December, January, and February, the wastewater charge shall be based on the metered water consumption for the month being billed; and (b) for the months of March through November, the wastewater charge shall be based on the lesser of the average monthly water consumption determined by the meter readings shown in the immediately preceding December, January, and February utility billings (the "winter quarter average") or the metered water consumption for the month being billed. However, a customer may request, in writing, to be charged the monthly flat rate provided for in subsection C, below, for the months of March through November. The request must demonstrate to the satisfaction of the city's water and power director that the property's winter quarter average is not representative of the property's wastewater discharge. If the request is approved, the property shall be charged the monthly flat rate set forth in subsection C, below, for the months of March through November. Said approval shall be valid only for that calendar year.
- B. For all nonresidential properties with metered water service, the wastewater charge for all months shall be based on metered water consumption. However, a customer may request, in writing, that it be billed for the months of March through November based on the lesser of the property's winter quarter average or the metered water consumption for the month being billed. The request must demonstrate to the satisfaction of the city's water and power director that only a portion of the metered water consumption is discharged to the wastewater system. If the request is approved, the property shall be billed for the months of March through November based on the lesser of the property's winter quarter average or the metered water consumption for the month being billed. Said approval shall be valid only for that calendar year. For all nonresidential properties with metered water service from non-city providers, the customer must sign a release permitting the city to have

ongoing access to the customer's water consumption data. The city shall not be obligated to provide wastewater service to any customer with water service from a non-city provider who refuses or fails to sign the release required herein.

C. The monthly flat rate for residential and nonresidential properties shall apply to all properties that do not qualify for billing based on metered water consumption as provided in subsections A and B above. (Ord. 5590 § 1, 2011; Ord. 5456 § 1, 2009; Ord. 4871 § 17, 2004 (part); Ord. 4701 §§ 1 and 2, 2002; Ord. 3959 §§ 1-5, 1993; Ord. 3315 §§ 10-17, 1986; Ord. 3117 § 2, 1984; Ord. 3021 § 2, 1983; Ord. 2060 § 2, 1982; Ord. 2005 § 2, 1981; Ord. 1939 § 2, 1980; Ord. 1867 § 1, 1980; Ord. 1608 §§ 1-3, 1977; Ord. 1563 § 1, 1977; Ord. 1536 § 4, 1976; Ord. 1197 § 5, 1972; Ord. 1057 § 1, 1969; Ord. 995 § 2, 1968; prior code § 14.12)

13.08.101 High strength sewage surcharge.

Anything else in this code notwithstanding, every non-residential property from which is discharged a higher than standard strength sewage as defined by this code for five-day biochemical oxygen demand ("BOD") and total suspended solids ("TSS"), shall be charged a monthly surcharge as follows:

A. Metered Water Services – Inside City.

1. A charge, in an amount set by resolution of the city council adopted after two readings, per pound of BOD when the BOD of wastewater discharged to the city's sewer system exceeds two hundred forty-six milligrams per liter, plus;
2. A charge, in an amount set by resolution of the city council adopted after two readings, per pound of TSS when the TSS of wastewater discharged to the city's sewer system exceeds two hundred forty-nine milligrams per liter.

B. Metered Water Services – Outside City.

1. A charge, in an amount set by resolution of the city council adopted after two readings, per pound of BOD when the BOD of wastewater discharged to the city's sewer system exceeds two hundred forty-six milligrams per liter, plus;
2. A charge, in an amount set by resolution of the city council adopted after two readings, per pound of TSS when the TSS of wastewater discharged to the city's sewer system exceeds two hundred forty-nine milligrams per liter. (Ord. 5266 § 1, 2007; Ord. 4871 § 18, 2004 (part); Ord. 4153 § 6, 1996; Ord. 3995 § 1, 1994; Ord. 3959 § 6, 1993; Ord. 3884 § 1, 1993; Ord. 3315 § 18, 1986; Ord. 3117 § 3, 1984; Ord. 3021 § 3, 1983; Ord. 2060 § 3, 1982; Ord. 2040 § 1, 1982; Ord. 2005 § 3, 1981; Ord. 1939 § 3, 1980; Ord. 1867 § 2, 1980; Ord. 1536 § 5, 1976)

13.08.102 Rate review.

The city council will review all established sewer rates on an annual basis and adjust the user charge system as may be proper. (Ord. 1536 § 6, 1976)

13.08.110 Method of collection.

All sewer rental charges shall be added to and made a part of the monthly water rental bill and shall be paid in the same manner and shall be subject to the same rules, regulations and penalties as provided for payment of water bills. All sewer rental charges shall constitute a lien upon any lots, land, building or premises served from the time of use, and in the event the charges are not paid when due, the city clerk shall certify such delinquent charges to the county commissioners of Larimer County and the

charges shall be collected in the manner as though they were part of the taxes. (Ord. 3436 § 2, 1987; Ord. 1962 § 1, 1981; prior code § 14.13)

13.08.120 Sewer fund.

The revenue derived from the connections with the sewer system shall be placed in the treasury of the city and may be kept in a separate fund to be known as the "sewer fund." If the revenue is placed in such separate fund, it shall not be paid out or distributed except for the purpose of operating, renewing, improving or extending the sewage system and the payment of salaries of the employees engaged in operating the sewage system; provided, however, that the council may by ordinance divert to the general fund any surplus moneys in excess of the amounts reasonably required for the aforesaid purposes. (Prior code § 14.14)

13.08.130 Stoppage of sewers prohibited.

It is unlawful for any person to place or cause to be placed any solids or insoluble matter of any kind or nature whatsoever within any sewer belonging to the city, or any part thereof, or within any connection thereto. (Prior code § 14.15)

13.08.140 Reimbursement for wastewater mains.

- A. Any developer extending a wastewater main through or adjacent to other undeveloped property in order to serve his development and such other undeveloped property has the potential to develop in the future, the developer may request a third-party reimbursement agreement in accordance with the provisions of this section. Any developer requesting a third-party reimbursement agreement must submit a draft agreement to the water and power department prior to the time the department signs the final public improvement construction plans, and must submit a final agreement to the water and power department within thirty (30) days after initial acceptance of the wastewater main by the city. All such reimbursement agreements shall be in a form approved by the director of the water and power department in consultation with the city attorney. The reimbursement amount shall be determined on a cost per linear foot of the other undeveloped property adjacent to the wastewater main. The city shall attempt to collect the reimbursement amount, but shall not be obligated to collect the reimbursement amount, initiate or defend any legal proceeding to collect the reimbursement amount, or pay the developer a sum equal to the reimbursement amount if collection efforts are unsuccessful. The term of any third-party reimbursement agreement established hereunder shall be ten (10) years from the date of execution, regardless of whether the developer has been reimbursed. Prior to expiration of the agreement, the developer may request that the City Council approve a one-time extension of the term of the agreement, not to exceed an additional ten (10) years, for good cause shown. All third-party reimbursement agreements, and any extensions thereof, shall be recorded with the Larimer County Clerk and Recorder at the developer's expense
- B. An applicant desiring to connect to the city's wastewater system to serve property subject to a third-party reimbursement agreement shall pay to the city the reimbursement amount attributable to the applicant's property. The reimbursement amount shall be due and paid prior to connection to the city's wastewater system, or prior to the city's approval of a subdivision final plat if the property is subdivided after the date of the reimbursement agreement, whichever occurs first. No building permit for property subject to a third-party reimbursement agreement shall be issued until the reimbursement amount is paid.

- C. When the city extends a wastewater main as a system improvement at the city's expense, the city may require adjacent property owners to pay a portion of the cost of the main. The reimbursement amount shall be determined on a cost per linear foot of property adjacent to the wastewater main. The reimbursement amount shall be due and paid prior to connection to the city's wastewater system, or prior to the city's approval of a subdivision final plat if the property is subdivided after the date on which the main is placed into service, whichever occurs first. No building permit for property subject to the payment requirement set forth herein shall be issued until the reimbursement amount is paid. The reimbursement obligation shall remain in effect and shall be enforceable as long as the main is in service. The city shall record with the Larimer County Clerk and Recorder a notice of the encumbrance and reimbursement amount due for each encumbered property.
- D. If the city installs or causes a developer to install a wastewater main larger than that required to serve the wastewater demands of the developer's property, or the wastewater demands of the developer's property and adjacent properties in the case of a main intended to serve both of them, the city shall be responsible for the cost of the oversizing. The method for determining the city's share of the oversizing costs shall be established at the time the installation of the main is authorized, and payment of that oversizing amount shall be made over a period not to exceed ten (10) years following the city's acceptance of the main, subject to the limitations of Article X, Section 20 of the Colorado Constitution. The city and the developer shall enter into an oversizing reimbursement agreement, the form of which shall be approved by the director of the water and power department in consultation with the city attorney.
- E. Notwithstanding anything herein to the contrary, if the owner of property encumbered by a third-party reimbursement agreement or a recorded notice of reimbursement due to the city files a successful petition to be removed from the city's wastewater service area, said owner shall not be required to pay the reimbursement amount, and the city shall not be required to collect it. (Ord. 5849 § 5, 2014)

13.08.150 Reimbursement for lift stations.

- A. The water and power department is authorized to cause surveys or engineering studies to be made for the purpose of determining those areas either within or without the city that would require the installation and operation of lift stations to ensure adequate wastewater service to the area. The lift station service areas may include areas outside the city that might by annexation become a part of the city or that pursuant to an agreement with the city are being provided out-of-city wastewater service.
- B. When a lift station is required because of development within the lift station service area, the cost of its construction is entirely the responsibility of the owners of the property to be served by the lift station. If only a part of a lift station service area is initially developed, the developer shall be required to install a lift station of sufficient capacity to serve the entire area. The developer may request a third-party reimbursement agreement. Any developer requesting a third-party reimbursement agreement must submit a draft agreement to the water and power department prior to the time the department signs the final public improvement construction plans, and must submit a final agreement to the water and power department within thirty (30) days after initial acceptance of the lift station by the city. All such reimbursement agreements shall be in a form approved by the director of the water and power department in consultation with the city attorney. The

reimbursement amount shall be determined on a cost per developable area to be served by the lift station, as determined by the director of the water and power department. The city shall attempt to collect the reimbursement amount, but shall not be obligated to collect the reimbursement amount, initiate or defend any legal proceeding to collect the reimbursement amount, or pay the developer a sum equal to the reimbursement amount if collection efforts are unsuccessful. The term of any third-party reimbursement agreement established hereunder shall be ten (10) years from the date of execution, regardless of whether the developer has been reimbursed. Prior to expiration of the agreement, the developer may request that the City Council approve a one-time extension of the term of the agreement, not to exceed an additional ten (10) years, for good cause shown. All third-party reimbursement agreements, and any extensions thereof, shall be recorded with the Larimer County Clerk and Recorder at the developer's expense.

- C. An applicant desiring to connect to the city's wastewater system to serve property subject to a developer's third-party reimbursement agreement with the city shall pay to the city the reimbursement amount attributable to that applicant's property. The reimbursement amount shall be due and paid prior to connection to the city's wastewater system. No building permit for property subject to a third-party reimbursement agreement shall be issued until the reimbursement amount is paid.
- D. When the city constructs a lift station at the city's expense, the city may require property owners within the lift station service area to pay a portion of the cost of the lift station. The reimbursement amount shall be determined on a cost per developable area to be served by the lift station, as determined by the director of the water and power department. The reimbursement amount shall be due and paid prior to connection to the city's wastewater system. No building permit for property subject to the payment requirement set forth herein shall be issued until the reimbursement amount is paid. The reimbursement obligation shall remain in effect and shall be enforceable as long as the lift station is in service. The city shall record with the Larimer County Clerk and Recorder a notice of the encumbrance and reimbursement amount due for each encumbered property.
- E. Notwithstanding anything herein to the contrary, if the owner of property encumbered by a third-party reimbursement agreement or a recorded notice of reimbursement due to the city files a successful petition to be removed from the city's wastewater service area, said owner shall not be required to pay the reimbursement amount, and the city shall not be required to collect it. (Ord. 5849 § 6, 2014)

Chapter 13.10

WASTEWATER PRETREATMENT PROGRAM

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I. General Provisions

13.10.101 Purpose and policy.

- A. This chapter sets forth uniform requirements for all users of the publicly owned treatment works for the City of Loveland and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and the general pretreatment regulations (40 C.F.R. Part 403). The objectives of this chapter are:
 1. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
 2. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
 3. To prevent adverse impacts to worker health and safety;
 4. To provide for and promote the general health, safety, and welfare of Loveland's citizens;
 5. To enable the city to comply with its Colorado discharge permit system conditions, biosolids use and disposal requirements, and all other state and federal laws to which the POTW is subject; and
 6. To improve opportunities to recycle and reclaim municipal and industrial wastewater and sludges from the POTW.
- B. This chapter applies to all users of the POTW, regardless of whether those users are located inside or outside the city limits, and including those who are users by contract or agreement.
- C. This chapter authorizes the issuance of wastewater discharge permits and other control mechanisms; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires industrial user monitoring and reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

13.10.102 Administration.

Except as otherwise provided herein, the director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the director may be delegated by the director to other water and power department personnel.

13.10.103 Abbreviations.

The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD	Biochemical oxygen demand
BMP	Best management practice
C	Celsius
C.F.R.	Code of Federal Regulations
COD	Chemical oxygen demand
CDPS	Colorado discharge permit system
EPA	Environmental Protection Agency
F	Fahrenheit
gpd	Gallons per day
gpm	Gallons per minute
mg/l	Milligrams per liter
POTW	City of Loveland publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
s.u.	Standard units
TRC	Technical review criteria violations
TSS	Total suspended solids
U.S.C.	United States Code

13.10.104 Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

“Amalgam” means any mixture or blending of mercury with another metal or with an alloy used in dental applications.

“Amalgam waste” means any waste containing mercury or residues from the preparation, use or removal of amalgam. This includes, but is not limited to, any waste generated or collected by chair-side traps, screens, filters, vacuum systems filters, amalgam separators, elemental mercury, and amalgam capsules.

“Approval authority” means the appropriate EPA regional administrator, or upon approval of Colorado’s pretreatment program, the chief administrator of such pretreatment program.

“Authorized representative of the industrial user” means the following:

(1) If the industrial user is a corporation: 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 the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to ensure 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 control mechanism requirements;

and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

(3) If the industrial user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

(4) The individuals described above may designate another authorized representative if the authorization is in writing, specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and is submitted to the city.

“Best management practices” means the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed at 40 C.F.R. 403.5(a)(1) and (b). BMPs 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” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° C, usually expressed as a concentration (e.g., mg/L).

“Categorical pretreatment standard” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Clean Water Act (33 U.S.C. § 1317) that apply to a specific category of industrial users and that appear at 40 C.F.R. Chapter I, Subchapter N, Parts 405 – 471.

“City” means the City of Loveland, Colorado.

“Categorical industrial user” means an industrial user subject to a categorical pretreatment standard or categorical standard.

“Chemical oxygen demand” means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

“Clean Water Act” means the Federal Water Pollution Control Act amendments of 1972, PL 92-500, and subsequent amendments, 33 U.S.C. Section 1251 et seq.

“Composite sample” means a sample formed either by continuous sampling or by mixing discrete samples. The sample may be a time proportional composite sample or a flow proportional composite sample. If composite sampling is not an appropriate technique then a composite sample shall consist of a minimum of four grab samples collected at equally spaced intervals.

“Control authority” means the entity directly administering and enforcing the pretreatment standards and requirements of this chapter. The director is the control authority for the POTW.

“Control mechanism” means those mechanisms used to control the discharges of significant industrial users and other industrial users of the POTW. Control mechanisms may include wastewater discharge permits, BMPs, written authorizations to discharge, liquid waste hauler permits, and other requirements enforceable under this chapter.

“Daily maximum limit” means the allowable discharge limit of a pollutant during a calendar day. Where the daily maximum limit is expressed in units of mass, the allowable discharge limit is the total mass discharged over the course of a calendar day. Where the daily maximum limit is expressed in terms of a concentration, the allowable discharge limit is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

“Day” or “days” means calendar days except where otherwise noted.

“Dental facility” means any facility used for the practice of dentistry or dental hygiene that

discharges wastewater containing amalgam.

“Director” means the director of the department of water and power or his or her duly authorized representative.

“Domestic wastewater” or “domestic wastestream” means liquid waste from noncommercial preparation, cooking, and handling of food, or liquid waste containing only human excrement and similar matter from sanitary conveniences (*e.g.*, toilets, showers, bathtubs) of dwellings or commercial, industrial, or institutional buildings.

“Enforcement response plan” means the written plan that sets forth the specific actions the city will take to investigate and respond to violations of this chapter.

“Environmental Protection Agency” means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

“Existing source” means any source of discharge that is not a new source.

“Fats, oil, and grease” means nonpetroleum organic polar compounds derived from animal or plant sources such as fats, nonhydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established at 40 C.F.R. Part 136.

“Flow proportional sample” means a composite sample where each discrete sample is collected based upon the flow (volume) of wastewater.

“Food service establishment” means any nondomestic discharger where preparation, manufacturing, or processing of food occurs including, but not limited to, restaurants, cafes, fast food outlets, pizza outlets, delicatessens, sandwich shops, coffee shops, schools, nursing facilities, assisted living facilities, and other facilities that prepare, service, or otherwise make foodstuff available for consumption.

“Grab sample” means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

“Grease interceptor” means a large in-ground tank intended to remove, hold, or otherwise prevent the passage of fats, oil, and grease in the wastewater discharged to the POTW by gravity separation considering calculated retention times and volumes for each facility. Such interceptors include baffle(s) and a minimum of two (2) compartments and generally are located outside a building.

“Grease trap” means a device designed to reduce the amount of fats, oil, and grease in wastewater discharged into the POTW. Grease traps usually serve no more than four (4) fixtures and generally are located inside a building.

“Grease removal device” means a grease trap, grease interceptor, or other device (*i.e.*, hydromechanical) that is designed, constructed, and intended to remove, hold, or otherwise prevent the passage of fats, oil, and grease to the sanitary sewer.

“Hauled waste” means any waste from holding tanks, including, without limitation, chemical toilets, vacuum pump tank trucks, and septic tanks. Hauled waste does not include domestic waste from an individual’s recreational vehicle (*e.g.*, camper or trailer).

“Indirect discharge” means the introduction by, without limitation, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, or dumping of pollutants into the POTW from any nondomestic source.

“Individual control mechanism” means a control mechanism (*i.e.*, permit) that only is issued to a specific industrial user.

“Industrial user” means a source of indirect discharge.

“Instantaneous limit” means the maximum concentration of a pollutant or measurement of a pollutant property allowed to be discharged at any time.

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

“Local limit” means the specific discharge limits and BMPs developed, applied, and enforced by the city upon significant industrial users to implement the general and specific discharge prohibitions listed at 40 C.F.R. 403.5(a)(1) and (b).

“Monthly average limit” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

“Nanomaterials” means, without limitation, an engineered product developed using a microscopic particle(s) whose size is measured in nanometers.

“New source” means the following:

(1) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Clean Water Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that: (a) the building, structure, facility, or installation is constructed at a site at which no other source is located; (b) or the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; (c) or the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) 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 in (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has: (a) begun, or caused to begin, as part of a continuous onsite construction program, (i) any placement, assembly, or installation of facilities or equipment, or (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or (b) entered into a binding contractual obligation for the purchase of facilities or equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

“Oil and sand separator” means a trap, interceptor, or other device designed, constructed, and intended to remove, hold, or otherwise prevent the passage of petroleum products, sand, sediment, sludge, grease, or similar substances in the wastewater discharged to the POTW by gravity separation considering calculated retention times and volumes for each facility. Such separators include baffle(s) and a minimum of two (2) compartments and generally are located outside a building.

“Pass through” means a discharge that exits the POTW into waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city’s CDPS permit, including an increase in the magnitude or duration of a violation.

“Person” means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

“pH” means a measure of the acidity or alkalinity of a solution, expressed in standard units.

“Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, and industrial wastes, and certain characteristics of wastewater (*e.g.*, TSS, turbidity, color, BOD, COD, toxicity, or odor) and other substance or material (*e.g.*, nanomaterial) as determined by the director.

“Pretreatment” or “treatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration may be obtained by physical, chemical, or biological processes, process changes, or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

“Pretreatment requirements” means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

“Pretreatment standards” or “standards” means prohibited discharge standards, categorical pretreatment standards, and local limits. There are two different circumstances in which BMPs may be pretreatment standards. The first is when the director establishes BMPs to implement the prohibitions of Section 13.10.202 or the local limits of Section 13.10.205. The second is when the BMPs are categorical pretreatment standards established by the EPA.

“Publicly owned treatment works” means 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 industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, collection lines, pumping, power and other equipment, and their appurtenances and excluding service lines; extensions, improvements, additions, alterations or any remodeling thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including the land and sites that may be acquired, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment, or reuse of treated water for irrigation, recreation or commercial purposes. It does not include the stormwater system, a separate municipal operation that is not part of POTW. The municipality, as defined in Section 502(4) of the Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

“Significant industrial user” means, except as provided in (3) and (4) below:

- (1) An industrial user subject to categorical pretreatment standards; or

(2) An industrial user that: (a) discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); (b) contributes a process wastestream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (c) is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) The city may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, non-contact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met: (a) the industrial user, prior to the city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements; (b) the industrial user annually submits the certification statement required at 40 C.F.R. 403.12(q) together with any additional information necessary to support the certification statement; and (c) the industrial user never discharges any untreated concentrated wastewater.

(4) Upon a finding that the industrial user meeting the criteria in (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures at 40 C.F.R. 403.8(f)(6), determine that such industrial user should not be considered a significant industrial user.

“Significant noncompliance” means an industrial user that violates one or more of the following criteria:

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

(2) Technical review criteria violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of a numeric pretreatment standard or requirement including instantaneous limitations multiplied by the applicable TRC (TRC = one and four-tenths (1.4) for BOD, TSS, fats, oil, and grease, and one and two-tenths (1.2) for all other pollutants except pH).

(3) Any other violation of a pretreatment standard or requirement (daily maximum limit, long term average limit, instantaneous limit, narrative standard, or BMP) that the director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent a discharge.

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

(6) Failure to provide, within thirty (30) days after the due date, any required reports such as baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(7) Failure to accurately report noncompliance.

(8) Any other violation or group of violations, which may include a violation of BMPs, that the director determines will adversely affect the operation or implementation of the pretreatment program.

“Spill” or “slug discharge” means any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in Section 13.10.202, or any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW’s regulations, local limits, or control mechanism.

“Solids interceptor” means a device designed, constructed, and intended to remove, hold, or otherwise prevent the passage of solid foodstuff (*e.g.*, coffee grounds) to the sanitary sewer.

“Stormwater” means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

“Time proportional composite sample” means a sample of equal-volume aliquots taken at regular intervals throughout the sampling period.

“Total suspended solids” or “suspended solids” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

“Wastewater” means liquid and water-carried industrial, domestic, or other polluted wastes from dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, that are contributed to the POTW.

“Wastewater treatment plant” or “treatment plant” means that portion of the POTW that is designed to provide treatment of wastewater.

II. General Sewer Use Requirements

13.10.201 Legal authority.

- A. The city operates pursuant to legal authority enforceable in federal, state, or local courts that authorizes or enables the city to apply and enforce the requirements of this chapter and 40 C.F.R. Part 403. This authority allows the director to:
 1. Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants to the POTW by industrial users where:
 - a. Such contributions do not meet applicable federal, state, or local pretreatment standards and requirements;
 - b. Could cause the treatment plant to violate its CDPS permit; or
 - c. Could cause problems in the POTW.
 2. Control through permit, order, or similar means the wastewater contributions to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements.
 3. Require compliance with applicable pretreatment standards and requirements by industrial users.
 4. Identify, locate, and notify all possible industrial users that might be subject to the pretreatment program.

13.10.202 Prohibited discharge standards.

1. General prohibitions. No industrial user shall introduce or cause to be introduced into the POTW any pollutant that causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.
2. Specific prohibitions. No industrial user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 1. Pollutants that create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° F (60° C) using the test methods specified at 40 C.F.R. 261.21.
 2. Wastewater having a pH less than five and one-half (5.5) or greater than eleven and one-half (11.5), or otherwise causing corrosive structural damage to the POTW.
 3. Solid or viscous substances in amounts that will cause obstruction to the flow in the POTW resulting in interference.
 4. Pollutants, including oxygen-demanding pollutants (*e.g.*, BOD), released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the POTW.
 5. Wastewater having a temperature greater than 104° F (40° C), or that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
 6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
 7. Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 8. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with Section 13.10.305.E.
 9. Noxious or malodorous liquids, gases, solids, or other wastewater that, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewer for maintenance or repair.
 10. Wastewater that imparts color that cannot be removed by the treatment plant process, such as, by not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent.
 11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations, or as otherwise limited by the director.
 12. Sludges, screenings, or other residues from the pretreatment of industrial wastes.
 13. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
 14. Detergents, surface-active agents, or other substances that may cause excessive foaming in the POTW or otherwise cause pass through or interference.
 15. Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter.
3. Pollutants, chemicals, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

13.10.203 National categorical pretreatment standards.

Significant industrial users must comply with the categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405 through 471.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with this section.
- B. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
- C. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with 40 C.F.R. 403.6(e).
- D. A categorical industrial user may apply for a net/gross adjustment to a categorical pretreatment standard in accordance with 40 C.F.R. 403.15.

13.10.204 State pretreatment standards.

State pretreatment standards and requirements adopted pursuant to the Colorado Water Quality Control Act shall apply in any case where they are more stringent than federal standards.

13.10.205 Local limits.

- A. The following pollutant limits are established to protect against pass through and interference and to protect beneficial use of biosolids. No significant industrial user shall discharge wastewater containing in excess of the following daily maximum limits (all concentrations are total):

Pollutant	Daily Maximum Limit
Arsenic	0.30 mg/l
Cadmium	0.12 mg/l
Chromium	1.49 mg/l
Copper	4.04 mg/l
Cyanide	0.44 mg/l
Iron	256 mg/l
Lead	1.53 mg/l
Mercury	0.0001 mg/l
Molybdenum	0.99 mg/l
Nickel	2.49 mg/l
Selenium	0.09 mg/l
Silver	1.67 mg/l
Zinc	11.12 mg/l

- B. The above daily maximum limits may apply at the significant industrial user's end of process or where the significant industrial user's facility wastewater is discharged to the POTW.
- C. The director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

D. The director may develop specific discharge limitations for any other toxic or inhibiting pollutant as necessary to prevent interference, pass through, danger to the health and safety of POTW personnel or the general public, environmental harm, a POTW permit violation, or to avoid rendering the POTW's biosolids unacceptable for economical reclamation, disposal, or beneficial use. (Ord 6098 § 1, 2017)

13.10.206 City's right of revision.

The city reserves the right to establish, by ordinance, control mechanism, or other appropriate means more stringent or additional standards or requirements for any industrial user to protect the POTW against pass through, interference, or as necessary, in the director's opinion, to protect the health and safety of POTW personnel or the general public.

13.10.207 Dilution.

No industrial user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

III. Pretreatment of Wastewater

13.10.301 Pretreatment facilities.

- A. All industrial users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with applicable categorical pretreatment standards, local limits, BMPs, and the prohibitions set out in Sections 13.10.202 through 13.10.205 within the time limitations specified by the EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided and properly operated and maintained at the industrial user's expense. The director may require that detailed plans describing such facilities and operating procedures be submitted for review and be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the director under the provisions of this chapter.
- B. The director may require an industrial user to install sampling, monitoring, or other appropriate pretreatment equipment as necessary to ensure compliance with the pretreatment standards and requirements. The equipment shall be installed, operated, and maintained at all times in a safe and proper operating condition by the industrial user at its own expense.
- C. Industrial users shall notify the director prior to any remodeling, or equipment modification or addition, that may result in an increase in flow or pollutant loading or that otherwise requires the facility to submit plans or specifications for approval through a building or zoning department, or any other formal approval process of a city, county, or other jurisdiction.

13.10.302 Additional pretreatment measures.

- A. Whenever deemed necessary, the director may require industrial users to restrict their discharge during peak or low flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic wastestreams from nondomestic wastestreams, and impose such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this chapter.

- B. Backflow prevention devices shall be installed and maintained by the industrial user in accordance with Chapter 13.06.
- C. Industrial users with the potential to discharge flammable substances may be required to install and maintain proper treatment equipment or an approved combustible gas detection meter.
- D. Individual water meters, sub-meters, or flow meters shall be installed where the director has determined it is necessary to ascertain flow data. Such devices shall be installed, tested, inspected, and repaired as needed by the industrial user at its expense.

13.10.303 Accidental discharge; slug discharge control plans.

- A. Each industrial user shall provide protection from accidental discharge of substances that have a reasonable potential to violate the POTW's regulations, local limits, or CDPS permit conditions.
- B. The director shall evaluate whether a significant industrial user needs a plan or other control mechanism to control slug discharges within one (1) year of the date on which the industrial user is designated a significant industrial user.
- C. The director may require any industrial user to develop, submit for approval, and implement a slug control plan. If the director decides that a slug control plan is needed, the plan shall include, at a minimum, the following elements:
 1. Description of discharge practices, including nonroutine batch discharges;
 2. Description of stored chemicals;
 3. Procedures for immediately notifying the director of any accidental or slug discharge, including procedures for follow-up written notification within five (5) days as required by Section 13.10.606; and
 4. 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 or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
- D. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.
- E. Significant industrial users are required to notify the POTW immediately of any changes at their facilities affecting potential for a slug discharge.

13.10.304 Best management practices.

- A. The director may develop BMPs, or require an industrial user to develop BMPs, to implement the prohibitions of Section 13.10.202 and the local limits of Section 13.10.205. BMPs shall be considered pretreatment standards and local limits for purposes of this chapter and Section 307(d) of the Clean Water Act. Additionally, BMPs may be categorical pretreatment standards established by the EPA.
- B. The director may develop general BMPs that are applicable to categories of industrial users, categories of activities, or geographic areas.
- C. Elements of a BMP may include, but are not limited to:
 1. Installation of treatment.
 2. Requirements for or prohibitions on certain practices or discharges.
 3. Requirements for the operation and maintenance of treatment equipment.
 4. Timeframes associated with key activities.
 5. Procedures for compliance certification, reporting, and records retention.

6. Provisions for reopening and revoking BMPs.
- D. Any industrial user may be required to comply with BMPs. BMPs may be incorporated in categorical pretreatment standards, control mechanisms, or orders.

13.10.305 Sector control programs.

- A. General requirements.
 1. The director may establish specific sector control programs for industrial users to control specific pollutants as necessary to meet the objectives of this chapter. Pollutants subject to these sector control programs shall generally be controlled using BMPs.
 2. The director shall implement procedures as necessary to identify industrial users for inclusion into applicable sector control programs.
 3. Facilities undergoing any physical change, change in operations, or other change that could change the nature, properties, or volume of wastewater discharge shall notify the director and may be required to submit specific documentation to ensure that current sector control program requirements are incorporated and implemented.
 4. The industrial user shall inform the director prior to:
 - a. Sale or transfer of ownership of the business;
 - b. Change in the trade name under which the business is operated; or
 - c. Change in the nature of the services provided that affect the potential to discharge sector control program pollutants.
 5. Inspections.
 - a. The director may conduct inspections of any facility with or without notice for the purpose of determining applicability and/or compliance with sector control program requirements.
 - b. If any inspection reveals non-compliance with any provision of a sector control program requirement, corrective action shall be required pursuant to the applicable sector control program.
 - c. Inspection results will be provided in writing to the facility.
 6. Closure. The director may require closure of plumbing, treatment devices, storage components, containments, or other such physical structures that are no longer required for their intended purpose. Closure may include, for example, the removal of equipment, the filling in and/or cementing, capping, or plugging of the device or structure.
- B. Mercury best management practices.
 1. These BMPs establish requirements for dental facilities for reducing the amount of amalgam waste discharged into the sanitary sewer. All dental facilities shall be required to comply with subsections A. and B. of this section as of July 1, 2013.
 2. The city's BMPs include two general requirements:
 - a. The dental facility must submit a completed amalgam waste registration form with the city; and
 - b. The dental facility must implement the required BMPs.
 3. Dental facilities that have not registered shall file a registration on a form provided by the director prior to discharging any waste to the POTW generated from dental-related activities.
 4. Annual BMP compliance certification. Dental facilities shall provide an annual certification to the city that the industrial user has implemented all required BMPs during the calendar year. This certification shall be submitted by January 28 of each year for the previous calendar year on a form provided by the director.

5. All dental facilities shall implement the following BMPs:
 - a. International Organization for Standardization 11143 certified amalgam separators shall be installed and maintained according to manufacturer's specifications. Amalgam separators shall provide a clear view of the waste collected in the device (*i.e.*, no "black box" type devices).
 - b. All amalgam separators shall be appropriately sized for the dental facility. The amalgam separator shall be installed so that all amalgam-contaminated wastewater will flow to the unit for treatment before being discharged.
 - c. All amalgam separators shall be located to provide easy access for cleaning and inspection.
 - d. Each dental facility shall inspect and maintain the amalgam separator at a frequency that would reasonably identify problems (*e.g.*, leaks, early removal of sludge).
 - e. Use precapsulated amalgam alloy and implement practices to minimize the discharge of amalgam to any drain.
 - f. Properly dispose of all amalgam waste and maintain all records that contain sufficient information to verify proper off-site disposal.
 - g. Use line cleaners designed to minimize dissolution of amalgam. Bleach, chlorine-containing, or low acidic line cleaners are specifically prohibited.
 - h. Implement the BMPs provided by the American Dental Association.
 - i. The dental facility shall maintain records of amalgam recycling on site for at least three (3) years. These records shall include the date, the name and address of the facility to which any waste amalgam is shipped, and the amount shipped. These records may be periodically reviewed by the city.

C. Fats, oil, grease, and solids requirements.

1. The requirements established in this section shall apply to food service establishments connected to, or proposing to connect to, the POTW.
2. All food service establishments that discharge to the POTW wastewater containing fats, oil, grease, or solids in quantities sufficient to cause sanitary sewer line restriction or necessitate increased POTW maintenance shall install a properly-sized grease removal device and/or solids interceptor. The director may require food service establishments to replace or upgrade the grease removal device or solids interceptor if either, in combination with BMPs, does not cause a reduction in the quantity of fats, oil, grease, or solids, or the food service establishment changes in nature, adds fixtures or equipment, or is renovated in such a manner as to increase the likelihood of discharging to the POTW wastewater contributing fats, oil, and grease or solids in quantities sufficient to cause sanitary sewer line restriction or necessitate increased POTW maintenance. Food service establishments that are unable to comply with this section due to site or plumbing constraints that make compliance impossible or financially impracticable shall apply in writing to the director for an exemption, which may be granted by the director in his sole discretion. The written request shall include the reason(s) why the food service establishment cannot comply with this section and steps the food service establishment will take to prevent sanitary sewer line restriction and increased POTW maintenance.
3. Grease removal device requirements.
 - a. Grease interceptors shall be seven hundred fifty (750) gallon minimum capacity and provide a minimum of thirty (30) minutes retention time at total peak flow. The maximum size shall be two thousand, five hundred (2,500) gallons. A series of interceptors may be necessary for grease interceptor capacities greater than two thousand, five hundred (2,500) gallons based on cleaning and maintenance frequency.

- b. Grease traps, when permitted, shall be fifty (50) gpm flow rated or provide one hundred (100) pound grease capacity. Grease traps require a flow restriction device.
- c. Other grease removal devices may be allowed by the director if it is shown that an alternative pretreatment technology is equally effective in controlling the discharge of fats, oil, and grease.
- d. Grease removal devices shall be located to provide easy access for cleaning and inspection.
- e. Unless directed otherwise, a professional engineer registered in the State of Colorado shall properly size and provide documentation to the director to support the proposed grease removal device or solids interceptor size.
- f. If required by the director, an engineer licensed by the State of Colorado shall file a written, signed certification with the director stating that the required grease removal device or solids interceptor has been installed and all sources of fats, oil, grease, or solids are discharging to the device before discharging wastewater to the POTW.

4. Food service establishments shall use the following BMPs to reduce the amount of wastewater containing fats, oil, grease, or solids discharged into the POTW:

- 1. Disconnect or minimize the use of garbage disposals (garbage grinders);
- 2. Install a 1/8" or 3/16" mesh screen over all kitchen sinks, mop sinks, and floor sinks;
- 3. Use "dry" clean-up methods, including scraping or soaking up fats, oil, and grease from plates and cookware before washing;
- 4. Use pre-wash sinks to clean plates and cookware;
- 5. Recycle fats, oil, and grease and beneficial food waste when possible;
- 6. Pour remaining liquid fats, oil, and grease from pots, pans, and other cookware into containers to be disposed of in the trash once congealed; and
- 7. Post BMPs and provide training to each employee on such BMPs.

5. Grease removal devices and solids interceptors shall be inspected, cleaned, and maintained in proper working order at all times by the industrial user at its expense. Grease removal devices in active use shall be cleaned at the frequency specified in the industrial user's control mechanism.

- a. In the event that a grease interceptor is larger than the capacity of a vacuum truck, the interceptor shall be completely evacuated within a twenty-four (24) hour period. The industrial user's documentation shall accurately reflect each pumping event.
- b. Food service establishments shall retain a State of Colorado registered waste grease transporter to completely evacuate all contents, including floating materials, wastewater, bottom solids, and accumulated waste on the walls of the grease removal device. Waste must be disposed of in accordance with federal, state, and local laws.
- c. Any food service establishment desiring a cleaning schedule less frequent than that required by the director shall submit a written request to the director requesting a change and the reasons for the change. A reduction in cleaning frequency may be granted by the director when it has been determined that the grease removal device has adequate capacity and detention time for fats, oil, grease, and solids removal. The cleaning frequency will depend on factors such as the location of the facility, type of facility, type of food prepared, hours of operation, capacity of the device, the anticipated amount of fats, oil, grease, and solids in the wastewater, and the type of BMPs in place.

6. The following are strictly prohibited:

- a. Connecting garbage grinders, garbage disposals, and dishwashers to grease traps.
- b. Altering or tampering with a grease removal device or solids interceptor.

- c. Discharging or permitting another to discharge any liquid, semi-solid, or solid back into a grease removal device or solids interceptor at any time during maintenance or cleaning operations.
- d. Discharging or permitting another to discharge any grease removal device or solids interceptor wastes into any drain, public or private sewer, or other grease removal device or solids interceptor.
- e. Using hot water or chemicals, bacteria, enzymes, or other products that will emulsify fats, oil, and grease.

D. Petroleum oil, grease, and sand requirements.

- 1. Applicability. The requirements established in this section shall apply to industrial users that generate sand, sediment, grit, gravel or other aggregate, grease, petroleum oil, or other petroleum products that may discharge to the POTW. Examples of such facilities include, without limitation, vehicle service or repair facilities, small or large equipment service or repair facilities, vehicle and equipment wash facilities, machine shops, garden nurseries, warehouses, and parking garages (if connected to sewer).
- 2. Oil/sand general requirements.
 - a. An oil/sand separator shall be provided for the proper handling of wastewater containing sand, sediment, sludge, grease, petroleum products, or similar substances.
 - b. An oil/sand separator shall be properly sized to provide adequate retention time to prevent the discharge of wastewater containing sand, sediment, sludge, grease, petroleum products, or similar substances to the POTW.
 - c. Oil/sand separators shall be installed, inspected, cleaned, and maintained, as needed, by the industrial user at its expense. All such devices shall be located to be easily accessible for cleaning and inspection.
 - d. Unless directed otherwise, a professional engineer registered in the State of Colorado shall properly size and provide documentation to the director to support the proposed oil/sand separator size.
 - e. If required by the director, an engineer licensed by the State of Colorado shall file a written, signed certification with the director stating that the required oil/sand separator has been installed and all sources of sand, sediment, sludge, grease, petroleum products, or similar substances are discharging to the device before discharging wastewater to the POTW.
- 3. Maintenance.
 - a. Oil/sand separators shall be serviced at a frequency that will prevent the separator from discharging sand, sediment, sludge, grease, petroleum products, or similar substances to the POTW. The city recommends that servicing occur when the total volume of waste in the separator reaches twenty-five percent (25%) of the separator's capacity. The director is authorized to issue a control mechanism if a separator is not serviced at an appropriate frequency as required herein.
 - b. The industrial user must document each cleaning with an invoice, waste manifest, or other acceptable document, which must be kept on site for at least three (3) years.
 - c. The industrial user must take reasonable steps to ensure that all waste is properly disposed of at a facility in accordance with federal, state and local regulations (*i.e.*, certification by the hauler included on a waste manifest).

E. Hauled waste requirements.

- 1. Any hauled waste meeting the definition of an RCRA hazardous waste as defined at 40 C.F.R. Part 261 will not be accepted and shall not be discharged to the POTW.

2. Persons proposing to discharge non-RCRA hazardous waste shall apply for and obtain a control mechanism from the director. Control mechanisms will be issued on a case-by-case basis. No hauled waste may be discharged without prior written consent of the director. Hauled waste may only be discharged at locations designated by the director. Hauled waste is subject to all the requirements of this chapter.
3. Any violation of the terms and conditions of a control mechanism, failure to apply for a control mechanism as required, or discharging without authorization shall be deemed a violation of this chapter.
4. The director may collect samples of each hauled waste load to ensure compliance with this chapter. The director may require the waste hauler to provide a waste analysis of any load or a waste-tracking form for every load prior to discharge.
5. The director has the right to reject any hauled waste that may be harmful to, or cause obstruction of, the wastewater collection system, or that may cause or contribute to interference or pass through of the POTW, or that may violate any local limits adopted by the city.

F. Pharmaceutical sector control program. The director has the authority to establish specific BMPs for industrial users to control discharges of applicable pharmaceuticals to the POTW, as necessary, to meet the objectives of this chapter. These BMPs shall be required through permit, where necessary, for significant industrial users and by control mechanism for other industrial users.

G. Nanomaterial sector control program. The director has the authority to establish specific BMPs for industrial users to control discharges of nanomaterial to the POTW, as necessary, to meet the objectives of this chapter. These BMPs shall be required through permit, where necessary, for significant industrial users and by control mechanism for other industrial users.

H. Nonylphenol sector control program. The director has the authority to establish specific BMPs for industrial users to control discharges of nonylphenol to the POTW, as necessary, to meet the objectives of this chapter. These BMPs shall be required through permit, where necessary, for significant industrial user and by control mechanism for other industrial users.

IV. Wastewater Discharge Permits

13.10.401 Wastewater analysis.

When requested by the director, an industrial user must submit information on the nature and characteristics of its wastewater within the time specified by the director. The director is authorized to prepare a form for this purpose and may periodically require industrial users to update this information.

13.10.402 Wastewater discharge permit requirement.

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director, except that a significant industrial user that has filed a timely application pursuant to Section 13.10.404 may continue to discharge for the time period specified therein.
- B. The director may require other industrial users to obtain a wastewater discharge permit as necessary to carry out the purposes of this chapter.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this section.
- D. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements, or with any other requirements of federal, state, and local law.

13.10.403 Wastewater discharge permitting.

Any industrial user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to beginning or recommencing such discharge. An application for this wastewater discharge permit, in accordance with Section 13.10.404, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

13.10.404 Wastewater discharge permit application contents.

A. All industrial users required to obtain a wastewater discharge permit must submit an application on a form prepared by the director. The director may require industrial users to submit as part of an application any or all of the following information:

1. Identifying information, including:
 - a. Name and address of the facility.
 - b. Name and contact information for the owner and operator.
 - c. Description of facilities, activities, and plant production processes on the premises.
2. List of any environmental control permits held by or for the facility.
3. Description of operations, including:
 - a. Brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
 - b. Types of wastes generated and a list of all raw materials and chemicals used or stored at the facility that are, or could accidentally or intentionally be, discharged to the POTW.
 - c. Number and type of employees, hours of operation, and proposed or actual hours of operation.
 - d. Type and amount of raw materials processed (average and maximum per day).
 - e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
4. Time and duration of discharges.
5. Location for monitoring all wastes covered by the permit.
6. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in subsection 13.10.203.C.
7. Measurement of pollutants, including:
 - a. Categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
 - b. Results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process.
 - c. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - d. The sample shall be representative of daily operations and shall be analyzed in accordance with Section 13.10.610. Where the standard requires compliance with a BMP or pollution

prevention alternative, the industrial user shall submit documentation as required by the director or the applicable standards to determine compliance with the standard.

- e. Sampling must be performed in accordance with Section 13.10.611.
8. Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.

B. Incomplete or inaccurate applications will be returned to the industrial user for revision.

13.10.405 Wastewater discharge permit decisions.

The director will evaluate the data furnished by the industrial user and may require additional information. Within forty-five (45) business days of receipt of a complete wastewater discharge permit application, the director will determine whether to issue a wastewater discharge permit. The director may deny any application for a wastewater discharge permit.

V. Wastewater Discharge Permit Issuance Process

13.10.501 Wastewater discharge permit duration.

A wastewater discharge permit may be issued for a period no greater than five (5) years from the date of issuance. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the director. Each wastewater discharge permit shall indicate a specific date upon which it shall expire.

13.10.502 Wastewater discharge permit contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the director 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.

- A. Wastewater discharge permits must contain:
 1. A statement that indicates the wastewater discharge permit issuance date, expiration date, and effective date.
 2. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Section 13.10.504 and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
 3. Effluent limits, including BMPs, based on applicable pretreatment standards.
 4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or BMP) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.
 5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
 6. Requirements to control slug discharge, if determined by the director to be necessary.
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
 1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
 2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.

3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
5. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.
6. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those that become effective during the term of the wastewater discharge permit.
7. Other conditions as deemed appropriate by the director to ensure compliance with this chapter and state and federal laws, rules, and regulations.

13.10.503 Wastewater discharge permit modification.

- A. The director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 2. To address alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 3. A change to the POTW's CDPS permit;
 4. Information indicating that the permitted discharge poses a threat to the POTW, city personnel, or the receiving waters;
 5. Violation of any terms or conditions of the individual wastewater discharge permit;
 6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 7. Revision of or the grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. 403.13;
 8. To correct typographical or other errors in the wastewater discharge permit; or
 9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 13.10.504

13.10.504 Wastewater discharge permit transfer.

- A. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) business days advance written notice to the director, and the director approves the wastewater discharge permit transfer. The notice to the director must include a written certification by the new owner or operator that:
 1. States that the new owner and/or operator has no intent to change the facility's operations and processes within ninety (90) days after the transfer;
 2. Identifies the specific date on which the transfer is to occur; and
 3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- B. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

13.10.505 Wastewater discharge permit revocation.

- A. The director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - 1. Failure to notify the director of changes to the wastewater prior to the changed discharge;
 - 2. Failure to provide prior notification to the director of changed conditions pursuant to Section 13.10.605;
 - 3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - 4. Falsifying self-monitoring reports and certification statements;
 - 5. Tampering with sampling or monitoring equipment;
 - 6. Refusing to allow the director timely access to the facility premises and records;
 - 7. Failure to meet effluent limitations;
 - 8. Failure to pay fines;
 - 9. Failure to pay wastewater charges and fees;
 - 10. Failure to meet compliance schedules;
 - 11. Failure to complete a wastewater survey or the wastewater discharge permit;
 - 12. Failure to provide advance notice of the transfer of the wastewater permit to a new owner or operator; or
 - 13. Violation of any pretreatment standard or requirement, any terms of the wastewater discharge permit, or this chapter.
- B. Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership to a new owner or operator without the director's approval in violation of Section 13.10.504. All wastewater discharge permits issued to an industrial user are void upon the issuance of a new wastewater discharge permit to that industrial user.

13.10.506 Wastewater discharge permit reissuance.

An industrial user with an expiring wastewater discharge permit shall apply for a wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 13.10.404, a minimum of sixty (60) business days prior to the expiration of the industrial user's existing wastewater discharge permit. In no case shall the reissued permit be for a period greater than five (5) years from the date of reissuance. A wastewater discharge permit may be reissued for a period less than five (5) years, at the discretion of the director.

13.10.507 Waste received from other jurisdictions.

If another jurisdiction, or industrial user located within another jurisdiction, contributes wastewater to the POTW, the city shall enter into an intergovernmental agreement with the contributing jurisdiction. Such intergovernmental agreement shall ensure that discharges received from entities outside of the city's jurisdictional boundaries are regulated to the same extent as are discharges from within the city's jurisdictional boundaries.

VI. Reporting Requirements

13.10.601 Baseline monitoring reports.

- A. Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report that contains the

information listed in subsection B. below. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report that contains the information listed in subsection B. below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Industrial users described above shall submit the following information:

1. All information as may be required by subsection 13.10.404.A.1. through 6. and 8.
2. Measurement of pollutants.
 - a. The industrial user shall provide the information required in subsection 13.10.405.A.7.a. through d.
 - b. The industrial user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection.
 - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the industrial user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 C.F.R. 403.6(e) to evaluate compliance with the pretreatment standards.
 - d. Sampling and analysis shall be performed in accordance with Section 13.10.610.
 - e. The director may allow the submission of a baseline report that utilizes only historical data so long as data provides information sufficient to determine the need for industrial pretreatment measures.
 - f. The baseline report shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
3. Compliance certification. A statement, reviewed by the industrial user's authorized representative as defined in Section 13.10.104 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.
4. Compliance schedule. If additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements, the shortest schedule by which the industrial user will provide such additional operation and maintenance and/or pretreatment must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 13.10.602.
5. Signature and report certification. All baseline monitoring reports must be certified and signed by an authorized representative in accordance with Section 13.10.614.

13.10.602 Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by subsection 13.10.601.B.4.:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (such events include,

without limitation, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

- B. No increment referred to above shall exceed nine (9) months.
- C. The industrial user shall submit a progress report to the director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the industrial user to return to the established schedule.
- D. In no event shall more than nine (9) months elapse between such progress reports to the director.

13.10.603 Reports on compliance with categorical pretreatment standard deadline.

Within ninety (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 into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in subsections 13.10.404.A.6. and 7, and subsection 13.10.601.B.2. For industrial users subject to equivalent mass or concentration limits established in accordance with Section 13.10.203, 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. All compliance reports must be signed and certified in accordance with Section 13.10.614. All sampling must be done in conformance with Section 13.10.611.

13.10.604 Periodic compliance reports.

- A. All significant industrial users shall, at a frequency determined by the director but in no case less than once per six (6) months, submit a report indicating the nature and concentration of pollutants in the discharge that are limited by pretreatment standards and the measured or estimated average and/or maximum daily flow for the reporting period.
- B. All wastewater samples must be representative of the industrial user's discharge. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.
- C. If an industrial user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in Section 13.10.610, the results of this monitoring shall be included in the report.

13.10.605 Reports of changed conditions.

- A. All industrial users shall promptly notify the director in advance of any significant changes to the industrial user's operations or system that might alter the nature, quality, or volume of its wastewater. For the purposes of this section, a "significant change" shall mean a change that will be in effect for a period of ten (10) days or more and shall include, but is not limited to, the following:
 1. A change in number of shifts or shift hours, an additional processing operation, or the new use or discharge of any substances regulated under Section 13.10.202 or 13.10.205.
 2. A twenty percent (20%) increase or decrease in the wastewater flow or production volume, or any other change which may alter the average normal wastewater characteristics.

3. Any other change that triggers the applicability of a categorical pretreatment standard that previously had not applied to the industrial user.
- B. The director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 13.10.404.
- C. The director may reissue an individual wastewater discharge permit under Section 13.10.506 or modify an existing wastewater discharge permit under Section 13.10.503 in response to changed conditions or anticipated changed conditions.

13.10.606 Reports of potential problems.

- A. In the case of any discharge, including, without limitation, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug discharge, that may cause potential problems for the POTW, the industrial user shall immediately telephone and notify the director of the incident. This notification shall include, at a minimum, the location of the discharge, type of waste, concentration and volume, and corrective actions taken by the industrial user.
- B. Within five (5) days following such discharge, the industrial user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measure(s) 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 that may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, penalties, or other liability that may be imposed pursuant to this chapter.
- C. Significant industrial users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

13.10.607 Reports and information.

All industrial users connected to, or proposing to connect to, the POTW shall provide appropriate reports or information to the director as the director may require to meet the requirements of this chapter. It is unlawful for any person to knowingly make a false statement, representation, or certification in any record, report, or other document submitted or required to be maintained under this chapter.

13.10.608 Notice of violation; repeat sampling and reporting.

If sampling performed by an industrial user indicates a violation, the industrial user must notify the director within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation. If the city performed the sampling and analysis in lieu of the industrial user, the city shall have the authority to require the industrial user to perform the repeat sampling and analysis.

13.10.609 Notification of the discharge of hazardous waste.

- A. Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance that, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification must include the name of the hazardous waste under 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred

(100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known or readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expended to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 13.10.605. The notification requirement in this section does not apply to pollutants already reported by industrial users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 13.10.601, 13.10.603, and 13.10.604.

- B. Dischargers are exempt from the requirements of subsection A. above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified at 40 C.F.R. 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified at 40 C.F.R. 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the director, the EPA regional waste management division director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this section, the industrial user shall certify that it 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.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a control mechanism issued thereunder, or any applicable federal or state law.

13.10.610 Analytical requirements.

All pollutant analyses, including sampling techniques, required by the director shall be performed in accordance with the techniques prescribed at 40 C.F.R. Part 136, and any amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the director or approved by the EPA.

13.10.611 Sample collection.

- A. 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.
- B. Except as indicated in subsections C. and D. below, an industrial user must collect wastewater samples using twenty-four (24) hour flow-proportional composite collection sampling techniques.

In the event flow proportional composite collection sampling is not feasible, the director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the industrial user demonstrates that this will provide a representative sample of the discharge. Using protocols (including appropriate preservation) specified at 40 C.F.R. Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the director, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- C. Grab samples must be used for oil and grease, temperature, pH, cyanide, total phenols, and volatile organic compounds. Temperature and pH must be an instantaneous measurement.
- D. For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in Sections 13.10.601 and 13.10.603, 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 for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by Section 13.10.604, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

13.10.612 Date of reports received.

Written reports will be deemed to have been submitted on the date postmarked. For reports that are not postmarked the date of receipt of the report shall govern.

13.10.613 Recordkeeping.

- A. Industrial users subject to the reporting requirements of this chapter shall 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 associated with BMPs.
- B. Records shall include, at a minimum, the date, exact place, method, and time of sampling, and the name of the person(s) taking the sample(s); the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.
- C. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the industrial user, or where the industrial user has been specifically notified of a longer retention period by the director.

13.10.614 Signature of authorized representative; certification.

- A. All documents submitted to the director pursuant to this chapter shall be signed by an authorized representative of the industrial user as defined in Section 13.10.104.
- B. The following certification shall be required on all industrial user applications and reports, and may be required by the director on surveys and questionnaires:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on

my inquiry of the person or persons who manage the system, or 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.

VII. Compliance Monitoring

13.10.701 Right of entry: inspection and sampling.

- A. The director shall have the right to enter the premises of any industrial user to determine whether the industrial user is complying with all requirements of this chapter and any control mechanism or order issued hereunder. Industrial users shall allow the director ready access to all parts of the premises for the purposes of inspection, identifying the character or volume of pollutants, sampling, records examination and copying, photographs, noncompliance investigation, and the performance of any additional duties.
- B. Where an industrial user has security measures in force that require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- C. The director may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.
- E. Unreasonable delays in allowing the director access to the industrial user's premises shall be a violation of this chapter.

13.10.702 Search warrants.

If the director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample to verify compliance with this chapter or any control mechanism or order issued hereunder, or any other pretreatment standard or requirement, or to protect the overall public health, safety, and welfare of the community, the director may seek issuance of a search warrant from the court with appropriate jurisdiction.

13.10.703 Tampering prohibited.

It shall be unlawful to interfere with or remove, alter, or tamper with sampling, monitoring, or other pretreatment equipment.

VIII. Confidential Information

13.10.801 Confidential information.

Information and data on an industrial user obtained from reports, surveys, permit applications, wastewater discharge permits, monitoring programs, and inspection and sampling activities shall be available to the public without restriction, subject to the provisions of the Colorado open records law. Wastewater constituents and characteristics and other effluent data, as defined at 40 C.F.R. 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

IX. Publication of Industrial Users in Significant Noncompliance

13.10.901 Publication of industrial users in significant noncompliance.

The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of the industrial users that, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall be applicable to all significant industrial users, and any other industrial user that violates sections (3), (4), or (8) of the definition of "significant noncompliance" set forth in Section 13.10.104.

X. Administrative Enforcement Remedies

13.10.1001 Notification of violation.

When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter or any control mechanism or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon the industrial user a written notice of violation. Within five (5) business days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction of prevention thereof, to include specific required actions, shall be submitted by the industrial user to the director. Submission of such a plan in no way relieves the industrial user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

13.10.1002 Consent orders.

The director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any industrial user responsible for noncompliance. Such documents shall include specific actions to be taken by the industrial user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Section 13.10.1004 and Section 13.10.1005 and shall be judicially enforceable.

13.10.1003 Show cause hearing.

- A. The director may order an industrial user that has violated, or continues to violate, any provision of this chapter, control mechanism, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the industrial user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally, by registered or certified mail (return receipt requested), or by commercial carrier at least ten (10) calendar days prior to the hearing. Such notice may be served on any authorized representative of the industrial user as defined in Section 13.10.104 and

required by Section 13.10.614. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

- B. The director may conduct the hearing and take the evidence, or may designate a representative to:
 1. Issue, in the name of the director, a notice of hearing requesting the attendance and testimony of witnesses and the production of relevant evidence;
 2. Take the evidence; and
 3. Transmit an audio recording or written transcript of any testimony, and any other evidence, to the director, together with a written recommendation for action thereon.
- C. Upon review of the evidence, the director shall make written findings of fact and conclusion upholding, modifying, or striking the proposed enforcement action.

13.10.1004 Compliance orders.

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

13.10.1005 Cease and desist orders.

When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter, control mechanism, or order issued hereunder, or any other pretreatment standard or requirement, or that the industrial user's past violations are likely to recur, the director may issue an order to the industrial user directing it to cease and desist all such violations and directing the industrial user to: (a) immediately comply with all requirements; and (b) take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

13.10.1006 Administrative fines.

- A. When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter, control mechanism, or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such industrial user an amount not to exceed one thousand dollars (\$1,000.00) per day, per violation. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Industrial users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Such request shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and a request for a hearing.

- C. Fines assessed under this section shall be included on the industrial user's utility bill.
- D. Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

13.10.1007 Emergency suspensions.

- A. The director may immediately suspend an industrial user's discharge, after written or verbal notice to the industrial user, whenever such suspension is necessary to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend an industrial user's discharge, after written or verbal notice and an opportunity to respond, that threatens to interfere with the operation of the POTW, or that presents, or may present, an endangerment to the environment.
- B. Any industrial user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the water or wastewater connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the industrial user to recommence its discharge when the industrial user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless termination proceedings in Section 13.10.1008 are initiated against the industrial user.
- C. An industrial user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director prior to the date of any show cause hearing under Section 13.10.1003, or termination hearing under Section 13.10.1008.
- D. Nothing herein shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

13.10.1008 Termination of discharge.

- A. In addition to the provisions in Section 13.10.505 any industrial user who violates the following conditions is subject to discharge termination:
 1. Violation of control mechanism conditions;
 2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
 3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 4. Refusal of reasonable access to the industrial user's premises for the purpose of inspection, monitoring, or sampling; or
 5. Violation of the pretreatment standards in this chapter.
- B. The industrial user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 13.10.1003 why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the industrial user.

XI. Judicial Enforcement Remedies

13.10.1101 Injunctive relief.

When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter, control mechanism, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the appropriate court for the issuance of a temporary or permanent injunction, as appropriate, that restrains or compels the specific performance of the control mechanism, order, or other requirement imposed by this chapter on activities of the industrial user. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the industrial user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an industrial user.

13.10.1102 Civil penalties.

- A. An industrial user who has violated, or continues to violate, any provision of this chapter, control mechanism, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.
- B. The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
- C. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, without limitation, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the industrial user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an industrial user.

13.10.1103 Criminal prosecution.

- A. An industrial user who willfully or negligently violates any provision of this chapter, a control mechanism, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) per violation, per day.
- B. An industrial user who willfully or negligently introduces any substance into the POTW that causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of up to one thousand dollars (\$1,000) per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- C. An industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained pursuant to this chapter, a control mechanism, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine not more than one thousand dollars (\$1,000.00) per violation, per day.

13.10.1104 Remedies nonexclusive.

The remedies provided for in this chapter are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant industrial user. Enforcement of pretreatment

violations will generally be in accordance with the city's enforcement response plan. However, the director may take other action against any industrial user when the circumstances warrant.

XII. Supplemental Enforcement Action

13.10.1201 Performance bonds.

The director may decline to issue or reissue a control mechanism to any industrial user who has failed to comply with any provision of this chapter, a previous control mechanism, or order issued hereunder, or any other pretreatment standard or requirement, unless such industrial user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance.

13.10.1202 Liability insurance.

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

13.10.1203 Payment of outstanding charges, fees, fines, and penalties.

The director may decline to issue or reissue a control mechanism to any industrial user who has failed to pay any outstanding charges, fees, fines, or penalties incurred as a result of any provision of this chapter, a previous control mechanism, or order issued hereunder.

13.10.1204 Suspension of water or wastewater service.

- A. The director may suspend water or wastewater service when such suspension is necessary, in the opinion of the director, to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference to the POTW, or causes the POTW to violate any condition of its CDPS permit.
- B. Any industrial user notified of suspension of its water or wastewater service or their control mechanism shall immediately stop the discharge. In the event of a failure of the industrial user to comply voluntarily with the suspension order, or in the event notification has been attempted but not accomplished, the director may take such steps as deemed necessary, including the entry onto private property, for the purpose of immediately severing the sewer connection or otherwise ceasing the flow, to prevent or minimize damage to the POTW or endangerment to any individual. The city and its officers, agents, and employees shall not be liable for any damages resulting from any such entry or service suspension. The director may reinstate the water or wastewater service upon proof of the cessation of the noncomplying discharges. A detailed written statement submitted by the industrial user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the director within fifteen (15) days of the date of suspension.
- C. The industrial user shall pay all costs and expenses for any such suspension and restoration of service.

13.10.1205 Public nuisances.

A violation of any provision of this chapter, a control mechanism, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person creating a public nuisance shall be subject to the provisions of the city code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

XIII. Affirmative Defenses to Discharge Violations

13.10.1301 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 preventative maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection C. below are met.
- C. An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and the industrial user can identify the cause(s) of the upset;
 - 2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
 - 3. The industrial user has submitted the following information to the director within twenty four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - i. A description of the indirect discharge and cause of noncompliance;
 - ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have burden of proof.
- E. Industrial users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- F. Industrial users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of their 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.

13.10.1302 Bypass.

- A. For the purposes of this section:
 - 1. “Bypass” means the intentional diversion of wastestreams from any portion of an industrial user’s treatment facility.
 - 2. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss

of natural resources that 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.

- B. An industrial user may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of subsections C. and D. below.
- C. Bypass notifications. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the director at least ten (10) days before the date of the bypass, if possible. An industrial user shall provide verbal notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D. Bypass. Bypass is prohibited, and the director may take an enforcement action against an industrial user for a bypass, unless:
 1. 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 back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
 3. The industrial user submitted notices as required in subsection C. above.

XIV. Wastewater Pretreatment Charges and Fees

13.10.1401 Pretreatment charges and fees.

The city may adopt reasonable charges and fees for reimbursement of the costs of operating the city's pretreatment program in an amount as established by resolution of the city council adopted after two readings. These charges and fees, which shall be included on the industrial user's utility bill, may include the following:

- A. Fees for wastewater discharge permit applications, including the cost of processing such applications;
- B. Charges for monitoring, inspection, and surveillance procedures, including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users;
- C. Charges for reviewing accidental spill/slug control procedures and construction;
- D. Charges for the cost of publication in the newspaper for annual significant noncompliance notifications;
- E. Fees for filing appeals; and
- F. Other charges and fees as the city may deem necessary to carry out the requirements contained herein.

13.10.1402 Cost recovery.

- A. Any industrial user that violates any of the provisions of this chapter or that discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the POTW shall be liable to the city for any expense, loss, or damage caused by such violation or discharge, including, without limitation, all costs and expenses related to suspending or terminating service and costs of labor, materials, and specified fees.
- B. The city shall charge the industrial user for the cost incurred by the city for any monitoring surveillance, cleaning, repair, or replacement work caused by the violation or discharge and for costs incurred by the city in investigating the violation or discharge and in enforcement this chapter, including reasonable attorneys' fees, court costs, and other expenses of litigation.
- C. In the event that an industrial user discharges pollutants that cause the city to violate any condition of its CDPS permit and the city is fined by the EPA or the state for such violation, then such industrial user shall be fully liable for the total amount of the fine.

13.10.1403 Lien.

All fines, charges, fees, costs, and expenses imposed by this chapter shall constitute a lien upon the property where the wastewater is used from the time of use and shall be a perpetual charge against said property until paid, and in the event the charges are not paid when due, the city clerk may certify such delinquent charges to the treasurer of Larimer County and the charges may be collected in the same manner as though they were part of the taxes.

XV. Miscellaneous Provisions

13.10.1501 Leased property.

Where the industrial user is leasing the property subject to the control mechanism, the director shall notify the record owner of the property where the industrial user is in significant noncompliance with applicable pretreatment standards and requirements. The property owner shall be responsible for ensuring that the industrial user is in compliance with this chapter and shall be subject to enforcement under this chapter for noncompliance.

13.10.1502 Enforcement response plan.

The director is authorized to develop and maintain an enforcement response plan containing procedures indicating how the director will investigate and respond to industrial user noncompliance in conformance with this chapter and all applicable state and federal laws and regulations. (Ord. 5702 all, 2012; Ord. 5143 § 1, 2006)

Chapter 13.12

ELECTRICITY

Sections:

- 13.12.010 Establishment of service.**
- 13.12.020 Electric Development Standards.**
- 13.12.030 Electric cooperatives.**
- 13.12.040 Electric meters.**
- 13.12.050 Overhead electric systems.**
- 13.12.060 Underground electric systems – Residential.**
- 13.12.070 Underground electric systems – Commercial and industrial.**
- 13.12.080 Oversizing of electric lines.**
- 13.12.090 Electric line extensions.**
- 13.12.100 Costs – How paid.**
- 13.12.110 Undergrounding of existing overhead electrical systems.**
- 13.12.120 Interior wiring.**
- 13.12.130 Electrical system disturbances.**
- 13.12.140 Dangerous conditions.**
- 13.12.150 Electric facilities expansion fund.**
- 13.12.160 Street lighting.**
- 13.12.170 Unmetered service for street lighting.**
- 13.12.180 Cogeneration and small power production.**
- 13.12.190 Interconnection Standard.**
- 13.12.200 Pole Attachments.**

All cross-references to such sections in the Loveland Municipal Code shall be updated in accordance with the renumbering set forth in this Section 1. (Ord. 5850 § 1, 2014)

13.12.010 Establishment of service.

All electric energy consumed in the city for residential, institutional, commercial and industrial purposes, shall be furnished by Loveland Water and Power, also referred to in this chapter as the "department," unless the city council has granted a franchise to a different provider, pursuant to state law, authorizing such other provider to furnish electric energy. (Ord. 4276 § 1, 1997; Ord. 3480 § 1, 1987; Ord. 3434 § 4, 1987; prior code § 12.1)

13.12.020 Electric Development Standards.

All electric facilities that are to become part of or to be connected with the city's electric utility shall be constructed and connected in accordance with the "Requirements for Electric Service," adopted in Section 16.24.012. (Ord. 5511 § 1, 2010)

13.12.030 Electric cooperatives.

Notwithstanding any provision of this code to the contrary, when the city annexes any land, all or part of which includes territory certificated to a cooperative electric association by the Colorado Public Utilities Commission, the city reserves the right to allow the cooperative electric association to continue to serve existing customers and to serve future customers with existing facilities, all in competition with Loveland Water and Power. If the city does allow the cooperative electric association to continue to

serve existing customers and to serve future customers with existing facilities, such decision will constitute a recognition of the cooperative electric association's grandfathered rights and does not represent the consent of the city to use public rights-of-way or to expand the cooperative electric association facilities. The city reserves the right to impose reasonable police power regulations on any cooperative electric association operating within the city and reserves all authority to impose all lawful taxes and fees on any such association. (Ord. 4276 § 2, 1997; Ord. 3860 § 1, 1992)

13.12.040 Electric meters.

The department shall furnish and install all necessary meters, and the same shall remain the property of the city. The location of all new meters for new construction shall be determined by the city and installed on the outside of the customer's premises. All meters now located on the inside of a customer's premises shall be moved to the outside when there is a change of service. (Ord. 5850 § 2, 2014; Ord. 3480 § 8 (part), 1987; Ord. 3071 § 1, 1984; Ord. 1776 § 2 (part), 1979)

13.12.050 Overhead electrical systems.

The city shall design, furnish material, install, and energize all overhead electric system extensions, and the same shall remain the property of the city. The cost of the system necessary to provide service, including direct and indirect costs of design, inspection, labor, material, and equipment, shall be borne by the customer, owner, developer, or contractor receiving the service. The electric department shall furnish material, energize, and maintain all individual overhead services up to the weatherhead, and the same shall remain the property of the city. (Ord. 5850 § 3, 2014; Ord. 3480 § 8 (part), 1987; Ord. 2074 § 1, 1983; Ord. 1776 § 2 (part), 1979)

13.12.060 Underground electrical systems--Residential.

The city shall design, furnish material, and energize all underground electric system extensions. The cost of the system necessary to provide service, including direct and indirect costs of design, inspection, labor, material, and equipment, shall be borne by the customer, owner, developer, or contractor receiving the service. Such person receiving the service will provide the earth work, including installation of vaults, trenching, backfilling, and compaction, and install primary and secondary CIC cables at his own expense and to city specifications. Contractor personnel designated to handle the primary and secondary cables must first be qualified by the electric department. The city may elect to bid the earth work and installation of CIC cables, and perform such work if so requested. The city's bid price is to be based on current electric department unit prices; such prices to periodically be reviewed and updated. The installation of transformers and all primary and secondary terminations will be performed by the electric department. The underground service from the secondary/service splice box or transformer to the meter shall be installed by, and at the expense of, the person receiving the service, and such work shall be owned and installed by the city at the expense of the customer, owner, developer, or contractor receiving the service. (Ord. 5850 § 4, 2014; Ord. 3295 § 1 (part), 1986; Ord. 3169 § 1, 1985)

13.12.070 Underground electrical systems--Commercial and industrial.

The city shall design, furnish, install and energize all primary underground commercial and industrial electric system extensions necessary to provide service up to and including the transformer or transformers. The cost of the system necessary to provide service, including direct and indirect costs of design, inspection, labor, material and equipment shall be borne by the consumer, owner, developer or

contractor receiving the service. The person receiving the service shall supply and install all subsurface structures required, including conduits and vaults. Service cables, from the transformer or transformers to the premises, shall be supplied and installed by the person receiving service at his cost and in accordance with city specifications. Thereafter, the portion of the service between the transformer(s) and the premises shall be owned and maintained by the owner of the premises. (Ord. 3295 § 1 (part), 1986; Ord. 3169 § 2, 1985)

13.12.080 Oversizing of electric lines.

The cost of any capacity designed into the system in excess of that necessary to serve the customer, as determined by the city, shall be borne by the city. (Ord. 5850 § 5, 2014)

13.12.090 Electric line extensions.

As determined necessary by the department, electric feeders shall be installed to the furthest point(s) of a development project area and within all rights-of-way. Such installation is intended to facilitate the orderly continuation of the electric system and to provide adequate service to the properties beyond a development project area. All feeders and electric lines providing service to or within a development project area shall be at the sole cost of the developer. For the purposes of this section, "development project area" shall mean an area approved by the city for development or re-development. (Ord. 5850 § 6, 2014)

13.12.100 Costs--How paid.

The city shall begin engineering of facilities upon receipt of a deposit sufficient to cover estimated engineering costs. The city shall provide material and perform their portion of the construction upon receipt of an advance in aid-of-construction in the amount estimated by the city to cover the cost of the city's expenditures. The requirement for an advance may be satisfied by paying one-half thereof before materials are supplied and one-half before the system is energized; provided, that the city has been furnished with a letter of credit or other security satisfactory to the city attorney to assure the payment of the entire balance due. All charges of the city for engineering and construction will be based on unit prices in effect at the time the work is requested, provided, however, that if the work is delayed beyond six months from such request for reasons beyond the control of the city, such charges may, at the option of the city, be based upon unit prices in effect at the time the work is accomplished. All unit prices shall be reviewed at least annually, and shall be adjusted as necessary to reflect actual costs to the city. If the actual cost of any work done by the city is less than the estimated costs, the excess amount of advance or deposit will be refunded. If the actual cost of any work done by the city is more than the estimated costs, the additional costs shall be paid by the person receiving the service. (Ord. 3480 § 2, 1987; Ord. 3169 § 3, 1985)

13.12.110 Undergrounding of existing overhead electrical systems.

The city shall, if sufficient funds are available, underground existing overhead electrical systems located adjacent to or in proximity of the boundary of any lot or parcel upon the request of the owner or developer receiving the electrical service at said lot or parcel. The cost of said undergrounding shall be paid as follows: the requesting party shall pay all costs of construction and material for the substructure work, including excavation, vaults, conduit, backfill and associated labor; the city shall pay for wire, terminations, risers and labor necessary to incorporate the new underground facilities into the electrical system. If an existing underground substructure system is present and can be used which would accommodate placement of all or a portion of the overhead electrical system, then the requesting party

shall pay to the city, in addition to the above recited costs, the estimated value of the substructure system to be used. The estimated value shall be based on a pro rata portion of the current new installation cost for a like substructure system. The city shall pay all costs associated with removal of the overhead system, including, if appropriate, the installation of underground fed street light poles, mast arms and street lights. Prior to the commencement of the undergrounding project, the requesting owner or developer shall post a deposit with the city as described in Section 13.12.098 of this Code. (Ord. 3677 § 1, 1990)

13.12.120 Interior wiring.

All interior wiring shall be furnished and installed by the consumer and the department shall have no responsibility with reference thereto. (Ord. 3480 § 8 (part), 1987; Ord. 1149 § 2 (part), 1971; prior code § 12.7-3)

13.12.130 Electrical system disturbances.

Whenever an electrical consumer's equipment causes system disturbances such as, but not limited to, voltage dips, spikes or harmonics, the department may require such consumer to take corrective action, including disconnection of such equipment, at the consumer's expense. In the event the consumer fails to take such corrective action, the department may discontinue electric service to the consumer until such time as corrective action has been taken. (Ord. 3480 § 3, 1987)

13.12.140 Dangerous conditions

Electric service may be disconnected by the City's electric utility immediately and without notice upon determination by the electric utility that the installation or use of any electrical equipment is dangerous to persons or property. A notice of disconnect and the reasons therefore shall be placed upon the premises at the time of disconnect. It shall be unlawful for any person to remove said notice or to reconnect electric service until the cause of the dangerous condition has been remedied to the electric utility's satisfaction.

13.12.150 Electric facilities expansion fund.

There is created a fund to be known as the electric facilities expansion fund, and all moneys received from the collection of electric plant investment fees shall be paid into such fund. The fund shall be kept separate and apart from all other funds of the city and expenditures therefrom shall be made only for the purposes of paying the costs of improvement, expansion, or extension of the electric distribution systems of the city; provided that, in the event that the city council determines that an emergency exists affecting the immediate health, peace, safety and welfare of the citizens, such funds may be used as necessary to alleviate the emergency if provisions are made for repayment to the fund, together with reasonable interest thereon, of the funds so used. (Ord. 1842 § 3, 1980)

13.12.160 Street lighting.

The city shall install and maintain at its own expense all street lighting equipment except the unmetered commercial lighting approved by the Director pursuant to this Section and the unmetered lighting provided for in Section 13.12.200. The original installation cost for new street lights on city arterials and major collectors shall be borne by the city. The original installation cost for street lights required by the city within the boundaries of new residential subdivisions or within commercial or industrial or other developments shall be borne by the developer. The street lights shall be furnished and installed by the city at the developer's expense, except that the owner of a commercial development may

install and maintain street lights at the developer's own expense if approval is first obtained from the Director of the Water and Power Department. Area lighting, parking lot lighting or lighting for other than dedicated city streets shall be the responsibility of the owner or developer. (Ord. 4276 § 3, 1997; Ord. 3480 § 5, 1987; Ord. 3097 § 1 (part), 1984; Ord. 2004 § 5, 1981; Ord. 1776 § 2 (part), 1979)

13.12.170 Unmetered service for street lighting.

The city shall furnish unmetered current for one forty-watt lamp to each residential unit and unmetered current for two forty-watt lamps to each residential unit located on a corner lot in subdivisions for which the electrical substructure design has been completed prior to August 4, 1997. Post lights shall be installed by the builder of a residential unit, at the builder's own expense, for each residential unit to which the city furnishes such unmetered electric service. Upon approval of the Director of the Water and Power Department, a developer may elect to install additional street lights at the developer's expense in a subdivision for which the electrical substructure design has been completed prior to August 4, 1997 in order to remove the post light requirement. All post lights shall be for the purpose of lighting the streets in residential sections of the city. These post lights are, unless specifically excepted, subject to the following regulations:

- A. Multiple units at ground level and facing the street may have individual lights provided the lights are located not less than fifty feet apart.
- B. The lighting fixture must be affixed to a post or pedestal at least four feet high on the street side of the residence.
- C. No unmetered current shall be allowed for lamps on enclosed porches, camp cottages or apartment houses.
- D. Wiring shall be a continuous run extending from either the meter box, if the electric system source is at the rear of the residence, or from the electric system source, if it is located at the front of the residence. The run shall be protected with a proper fuse to limit the carrying capacity of the circuit to a maximum of forty watts to the light fixture, and shall serve no other light fixture or appliance.
- E. This circuit shall be fed at a point easily accessible and easily changed to feed through the meter if so desired.
- F. Any customer abusing the privilege of unmetered current either by burning the light during the daylight or by attaching any fixture or appliance thereto, or using a lamp of more than forty-watt rating shall be subject to having such unmetered service discontinued.
- G. Each new post light installation shall have an electric eye installed as part of the unmetered street light system to turn the post light on at dusk and off at daylight. (Ord. 4276 § 4, 1997; Ord. 3480 § 6, 1987; Ord. 3097 § 1 (part), 1984; Ord. 1149 § 7, 1971; Ord. 826 § 1, 1963; prior code § 12.12)

13.12.180 Cogeneration and small power production.

- A. The city is contractually obligated to purchase all of its requirements for electric power and energy from the Platte River Power Authority ("Platte River"). Therefore, the city cannot purchase power or energy from qualifying cogeneration and small power production facilities ("qualifying facilities") as required by the appropriate sections of the Public Utility Regulatory Policies Act ("PURPA") and Federal Energy Regulatory Commission ("FERC") regulations, without breaching its contractual obligations. A "qualifying facility" is a cogeneration or small power production facility as defined herein and which is a "qualifying facility" under Subpart B

of Section 201 of the Public Utilities Regulatory Policy Act of 1978 as may be amended from time to time.

- B. In order to meet its obligations under federal law and avoid breaching its contractual obligations, the city has arranged for Platte River to purchase any power or energy offered to the city by a qualifying facility located in the city's service territory. This arrangement is governed by the Parallel Generation Purchase and Sale Agreement, dated June 24, 1981, as is amended from time to time (the "agreement"), between the city and Platte River and applicable tariffs of Platte River governing purchases from qualifying facilities. The city will fulfill all of its obligations under this agreement and may, in its discretion, exercise any rights provided by the agreement or applicable Platte River tariffs.
- C. The city will provide electric service to all qualifying facilities located in its service territory pursuant to applicable rate schedules and the city's rules and regulations governing electric service. Supplementary, backup, maintenance and interruptible power may be provided to qualifying facilities, upon request, at a rate determined on a case-by-case basis.
- D. The city must be consulted in advance of any construction by the qualifying facility. The qualifying facility shall provide to the city all information requested by the city relevant to the proposed construction. The city will evaluate each proposal on a case-by-case basis and may prescribe reasonable terms and conditions governing operations and interconnection of the qualifying facility.
- E. The city may require the execution of a written agreement prior to interconnection containing such terms and conditions as deemed reasonable by the city governing the relationship between the city and the qualifying facility.
- F. The qualifying facility shall indemnify and hold harmless the city from any and all liability arising from the operation or interconnection of the qualifying facility. All facilities constituting the qualifying facility are subject to the inspection and approval of the city at any time after construction has begun. The qualifying facility is required to procure and maintain such insurance as is deemed necessary by the city, solely at the expense of the qualifying facility. The city may require disconnection of the qualifying facility from the city's system for reasons of safety, reliability or at the request of Platte River.
- G. Any and all costs of interconnection, including those incurred by the city, shall be the sole responsibility of the qualifying facility. The city may require any costs that the city may incur to be estimated and paid in advance.
- H. Based on mutual agreement, the city may transmit energy or power and energy, supplied by the qualifying facility, to another utility, other than Platte River, pursuant to an appropriate contract, to the extent that transmission capacity is available. The city may make an appropriate charge to the qualifying facility for such transmission. (Ord. 3097 § 2 (part), 1984)

13.12.190 Interconnection Standard.

All private electric facilities that are interconnected with the city's electric utility shall be interconnected in accordance with the "Standard for Interconnecting Distributed Resources with the City of Loveland Electric Power System," which are contained within the "Requirements for Electric Service," adopted in Section 16.24.012. (Ord. 5511 § 2, 2010)

13.12.200 Pole Attachments.

A. Definitions

“Assigned space” means space on the poles that can be used, as defined in the city’s electric standards and all other standards adopted in Title 16, for the attachment or placement of wires, cables, small cell facility, and associated equipment for the provision of communications facilities, small cell facility, or electric service. The neutral zone or safety space is not considered assigned space.

“Attachments” means each point of contact between licensee’s communications facilities or small cell facility and the poles, whether placed directly on the poles or overlashed onto an existing attachment, but does not include a riser or a service drop attached to a single pole where licensee has an existing attachment on such pole. Attachment(s) shall include, without limitation, the following points of strain: down guys, main line attachments, and any other attachment that could shorten the life cycle of the pole.

“Capacity” means the ability of a pole segment to accommodate an additional attachment based on applicable standards, including space and loading considerations.

“Climbing space” means that portion of a pole’s surface and surrounding space that is free from encumbrances to enable city employees and contractors to safely climb, access, and work on city facilities and equipment.

“Common space” means space on the poles that is not used for the placement of wires or cables but which jointly benefits all users of the poles by supporting the underlying structure and/or providing safety clearance between attaching entities and electric utility facilities.

“Communications facilities” means wire or cable facilities including, but not limited to, fiber optic, copper, and/or coaxial cables or wires utilized to provide communications service including any and all associated equipment. The term communications facilities does not include wireless antennas, small cell facilities, receivers, or transceivers.

“Micro wireless facility” means a small wireless facility that is no larger in dimensions than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that has an exterior antenna, if any, that is no more than eleven inches in length.

“Overlash” means to place an additional wire or cable communications facility onto an existing attachment owned by licensee.

“Pole” means a pole owned by the city used for the distribution of electricity and/or Communications Service that is capable of supporting attachments for communications facilities or small cell facilities.

“Small cell facility” means a wireless services facility that meets both of the following qualifications:

- i. each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and
- ii. primary equipment enclosures are no larger than seventeen cubic feet in volume, excluding equipment located outside of the primary equipment enclosure. A small cell facility includes a micro wireless facility.

B. Pole Attachments in general.

1. No one may attach communication facilities or a small cell facility without obtaining a license and permits for each pole. Unauthorized attachments shall be issued a penalty and shall come into compliance with this section.

2. All attachments to electrical facilities, poles or towers, must be licensed by the Water and Power Department. Applications for attachments in the right-of-way must be submitted to the Public Works Department for initial review. The Water and Power Department (hereafter “Department”) will provide final review and issue the license and permits for each pole approved for an attachment.
3. Any modifications or additions necessary to make a pole ready for safe attachment will be the responsibility of the applicant, as well as all associated design and engineering or other costs. Licensee is responsible for payment for all work performed by the city to accommodate the applicant’s attachments.
4. The city may refuse to issue a permit where safety concerns cannot be adequately addressed through engineering.
5. A permit is authorization for attachment to specific poles, one for each pole or overlash.
6. One license application may be submitted for multiple pole attachments.
7. The city will issue a permit only when the city determines, in its sole judgment, exercised reasonably, that the pole has sufficient capacity to accommodate the request safely.

C. Annual Fees

1. Fees shall be published in the Water and Power Rates, Fees, and Charges
2. Fees will be charged annually for all attachments. The city shall invoice annually for the attachment fee, for a period that shall conclude each December 31. All attachments shall comply with all applicable standards. Attachments, overlash, or other components shall not interfere with the operation of any city facilities. Any changes or work needed to safely attach to a pole is the responsibility of the applicant.

D. Permit Application Process

An applicant for any attachment to any city utility pole shall file a written application on forms furnished by the city.

1. An applicant for a license to attach to any poles or other power utility facility shall submit a written request to perform a pre-construction inspection. The request must include a preliminary route description and minimum design review information.
2. Following a pre-construction inspection, applicant shall submit a completed permit application that includes route map, utility pole number(s), pole height and class, guy attachments, attachment height, number of inches below utility while maintaining clearance, span length for each attachment, inches sag, ground clearance, and recommendations on work required to allow the pole to safely support the attachment.
3. The application must include an affirmative statement that the applicant or its contractor is not delinquent in payments due the city on prior work.
4. The applicant must include or provide copies of all permits, licenses, or easements (including required insurance, deposits, bonding and warranties) required to do the proposed work and to work in the rights-of-way, if licenses or permits are required under the laws of the United States, the State of Colorado, any other political subdivision, or the ordinances or regulations of the city.
5. Applicants shall update any new information on permit applications within ten days after any material change occurs.
6. Applicants seeking multiple attachments may submit one application for a license and include permit applications for each pole or overlash. Applicants will receive permits for

each pole or overlash approved for attachment deemed to be safe after any modifications or construction in accordance with standards adopted by the city.

7. The city will review recommendations from the inspection and the application and discuss any issues or changes needed with the applicant.
8. Upon finalization of a written agreement, the city will work with the applicant to perform any work needed for installation.
9. The applicant's professional engineer or city-approved employee shall submit written certification that he/she completed a post-construction inspection and that the installation was done in accordance with the provisions of the permit.

E. Specifications

1. When a permit is issued, applicant agrees to install and maintain attachments in accordance with all applicable standards and in accordance with a pole attachment agreement.
2. For any work not performed by the city, the applicant shall comply with the insurance requirements set forth in Section 12.16.070.

F. Abandonment and Removal

1. At its sole expense, the holder of the license shall remove any of its attachments or any part thereof that becomes nonfunctional, creates a safety hazard, violates any provision of applicable law or violates the license holder's pole attachment agreement. Removal shall occur within sixty days of written notification that an attachment must be removed due to becoming nonfunctional or a safety hazard.
2. If the city desires at any time to abandon, remove, or underground any utility facilities to which licensee's communications facilities or small cell wireless facility is attached, city shall provide licensee notice in writing at least sixty days prior to the date on which it intends to abandon or remove such facilities, and licensee shall remove its communications facilities or small cell wireless facility at its sole cost and expense within that time period. The city may grant an option to purchase the pole in its sole discretion.
3. Failure to pay the annual fee shall be considered abandonment. The city shall issue a notice to remove the attachment(s) if such fee is more than sixty days past due.
4. Licensee may surrender any permit or license for attachment(s) and remove them from affected poles. Licensee must notify city of the plan for removal, including the name of the party performing the work and dates and times when such work will be performed.
5. If licensee abandons communications facilities or small cell wireless facility or surrenders its license and fails to remove its attachments, the city shall have the right to remove licensee's attachments at licensee's expense. (Ord 6119 § 1, 2017)

Chapter 13.14

PUBLIC RECORDS

Sections:

- 13.14.010 Requests for billing information for residential properties.**
- 13.14.020 Trade secrets, privileged information and confidential commercial and financial data and information otherwise protected.**

13.14.010 Requests for billing information for residential properties.

The Department will release actual billing records for a residential property only after receipt of a request signed by the customer residing at that address or after a request received over the telephone if the person making the request provides sufficient information to identify that person as the customer. When a request is received over the telephone, the information will only be sent to the address listed for the customer. (Ord. 4230 § 1 (part), 1996)

13.14.020 Trade secrets, privileged information and confidential commercial and financial data and information otherwise protected.

The Department will treat as confidential and will refuse to release information provided to the Department by its customers if such information is characterized by the customer as confidential, privileged or a trade secret.

Because of the sensitive nature of consumption data to certain industries, the consumption data for customers in the Small General Service (Schedule SG), Large General Service (Schedule LG), Primary Service (Schedule PS), Primary Service with Transformer (PT and HP), and Transmission Voltage (Schedules FP and IP) rate classes are deemed confidential and will not be released by the Department without written authorization by the customer. Any such authorization must be on the customer's letterhead, signed by customer or an employee of customer with authority to request the release of such information.

The Department shall refuse access to any information otherwise protected under statutory exceptions to the Open Records Act, including, for example, contracts entered into with customers having competitive alternatives. (Ord. 4230 § 1 (part), 1996)

Chapter 13.16

CABLE SYSTEMS*

Sections:

- 13.16.010 Cable system franchises.**
- 13.16.020 Unlawful acts.**
- 13.16.030 Customer service standards.**

*Prior history: Ords. 1787, 3814, 3845 and 4577.

13.16.010 Cable system franchises.

- A. Franchise Required. To the extent allowed by law, no person, corporation, or other business entity shall own or operate a cable system (including a cable television system) in the city, except by virtue of a franchise granted by the city. No exclusive franchise shall ever be granted by the city.
- B. Public Hearing Required. The city council shall award a franchise only after a public hearing on the application or proposal, notice of which hearing shall be published in a local newspaper of general circulation at least twenty days before the date of the hearing.
- C. Franchise Agreement. An applicant awarded a franchise by the city council shall execute a franchise agreement with the city in such a form as may be required by the city council. Said agreement shall cover all matters provided for herein and such other provisions as the city council may consider necessary or appropriate.
- D. Local Access. The cable system shall have available on one or more channels, as designated in the franchise agreement, public access, educational access, local governmental access and leased access channels.
- E. Franchise Fees. During the term of any franchise granted pursuant to this section, the franchisee shall pay to the city for the use of streets and public ways and the privilege to construct and operate a cable system, franchise fees pursuant to the provisions of the franchise agreement. (Ord. 4048 § 1 (part), 1994)

13.16.020 Unlawful acts.

- A. It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, to any part of the franchisee's cable system for the purpose of enabling himself or others to receive any television signals, radio signals, data signals, or other telecommunication signals transmitted over franchisee's cable system without payment to the franchisee.
- B. It is unlawful for any person, without the consent of the owner, to wilfully tamper with, remove or injure any cable, wires or other equipment used for the distribution of television signals, radio signals, data signals, or other telecommunication signals transmitted over franchisee's cable system.
- C. Every person convicted of a violation of any provision stated or adopted in this chapter shall be punished as provided in Section 1.12.010 of this code. (Ord. 4048 § 1 (part), 1994)

13.16.030 Customer service standards.

- A. Policy.

1. The cable operator should resolve citizen complaints without delay and interference from the city. Where a given complaint is not addressed by the cable operator to the citizen's satisfaction, the city should intervene. In addition, where a pattern of unremedied complaints or noncompliance with the standards is identified, the city should prescribe a cure and establish a reasonable deadline for implementation of the cure. If the noncompliance is not cured within established deadlines, monetary sanctions should be imposed to encourage compliance and deter future non-compliance.
2. These standards are intended to be of general application and are expected to be met under normal operating conditions; however, the cable operator shall be relieved of any obligations hereunder if it is unable to perform due to a region-wide natural emergency or in the event of force majeure affecting a significant portion of the franchise area. The cable operator is free to exceed these standards to the benefit of its customers and such shall be considered performance for the purposes of these standards.
3. These standards supersede any contradictory or inconsistent provision in federal, state, or local law (source: 47 U.S.C. § 552(a)(1) and (d)); provided, however, that any provision in federal, state, or local law, or in any original franchise agreement or renewal agreement, that imposes a higher obligation or requirement than is imposed by these standards, shall not be considered contradictory or inconsistent with these standards. In the event of a conflict between these standards and a franchise agreement, the franchise agreement shall control.
4. These standards apply to the provision of any cable service provided by a cable operator over a cable system within the city of Loveland, Colorado.

B. Definitions. When used in these customer service standards (the "standards"), the following words, phrases, and terms shall have the meanings given below.

"Adoption" shall mean the process necessary to formally enact the standards within the city's jurisdiction under applicable ordinances and laws.

"Affiliate" shall mean any person or entity that is owned or controlled by, or under common ownership or control with, a cable operator and provides any cable service or other service.

"Applicable law" shall mean, with respect to these standards and any cable operator's privacy policies, any statute, ordinance, judicial decision, executive order, or regulation having the force and effect of law that determines the legal standing of a case or issue.

"Cable operator" shall mean any person or group of persons who: (a) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or (b) otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system (source: 47 U.S.C. § 522(5)).

"Cable service" shall mean: (a) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service; and (b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service (source: 47 U.S.C. § 522(6)). For purposes of this definition, "video programming" is programming provided by, or generally considered comparable to programming provided by a television broadcast station (source: 47 U.S.C. § 522(20)). "Other programming service" is information that a cable operator makes available to all subscribers generally (source: 47 U.S.C. § 522(14)).

"Cable system" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include: (a) a facility that serves only to retransmit the

television signals of one or more television broadcast stations; or (b) a facility that serves subscribers without using any public right-of-way. (source: 47 U.S.C. § 522(7)).

“City” shall mean the city of Loveland, Colorado.

“Contractor” shall mean a person or entity that agrees by contract to furnish materials or perform services for another at a specified consideration.

“Customer” shall mean any person who receives any cable service from a cable operator.

“Customer service representative” shall mean any person employed with or under contract or subcontract to a cable operator to assist, or provide service to, customers, whether by telephone, writing service or installation orders, answering customers’ questions in person, receiving and processing payments, or performing any other customer service-related tasks.

“Escalated complaint” shall mean a complaint that is referred to a cable operator by the city.

“Necessary” shall mean required or indispensable.

“Non-cable-related purpose” shall mean any purpose that is not necessary to render or conduct a legitimate business activity related to a cable service or other service provided by a cable operator to a customer. Market research, telemarketing, and other marketing of services or products that are not related to a cable service or other service provided by a cable operator to a customer shall be considered non-cable-related purposes.

“Normal business hours” shall mean those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include at least some evening hours one night per week, and include some weekend hours (source: 47 C.F.R. § 76.309).

“Normal operating conditions” shall mean those service conditions which are within the control of a cable operator. Conditions which are not within the control of a cable operator include, but are not necessarily limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the control of a cable operator include, but are not necessarily limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade to the cable system.

“Other service(s)” shall mean any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service.

“Personally identifiable information” shall mean specific information about an identified customer, including, but not limited to, a customer’s: (a) login information for the use of cable service and management of a customer’s cable service account; (b) extent of viewing of video programming or other services; (c) shopping choices; (d) interests and opinions; (e) energy uses; (f) medical information; (g) banking data or information; or (h) any other personal or private information. “Personally identifiable information” shall not mean any aggregate information about customers which does not identify particular persons, or information gathered by a cable operator necessary to install, repair, or service equipment or cable system facilities at a customer’s premises.

“Service interruption” or “interruption” shall mean the loss or substantial impairment of picture and/or sound on one or more cable television channels.

“Service outage” or “outage” shall mean a loss or substantial impairment in reception on all channels.

“Subcontractor” shall mean a person or entity that enters into a contract to perform part or all of the obligations of another’s contract.

“Writing” or “written” as the term applies to notification shall include electronic communications.

Any terms not specifically defined in these standards shall be given their ordinary meaning, or where otherwise defined in applicable federal law, such terms shall be interpreted consistent with those definitions.

C. Customer service.

1. Courtesy. Cable operator employees, contractors, and subcontractors shall be courteous, knowledgeable, and helpful and shall provide effective and satisfactory service in all contacts with customers.
2. Accessibility.
 - a. A cable operator shall provide customer service centers/business offices (“service centers”) which are conveniently located and which are open during normal business hours. Service centers shall be fully staffed with customer service representatives offering the following services to customers who come to the service center: bill payment, equipment exchange, processing of change of service requests, and response to customer inquiries and request. Unless otherwise requested by the city, a cable operator shall post a sign at each service center, visible from the outside of the service center, advising customers of its hours of operation and of the telephone number at which to contact the cable operator if the service center is not open at the times posted. The cable operator shall use commercially reasonable efforts to implement and promote “self-help” tools and technology in order to respond to the growing demand of customers who wish to interact with the cable operator on the customer’s own terms and timeline and at their own convenience, without having to travel to a service center. Without limitation, examples of self-help tools or technology may include self-installation kits to customers upon request, pre-paid mailers for the return of equipment upon customer request, an automated phone option for customer bill payments, and equipment exchanges at a customer’s residence in the event of damaged equipment. A cable operator shall provide free exchanges of faulty equipment at the customer’s address if the equipment has not been damaged in any manner due to the fault or negligence of the customer.
 - b. A cable operator shall maintain local telephone access lines that shall be available twenty-four hours a day, seven days a week for service/repair requests and billing/service inquiries. Customers shall be provided an option, through the local telephone access lines, to speak to a live customer service representative, able to converse clearly with the customer, in either English or Spanish, at the customer’s option.
 - c. A cable operator shall have dispatchers and technicians on call twenty-four hours a day, seven days a week, including legal holidays.
 - d. If a customer service telephone call is answered with a recorded message providing the customer with various menu options to address the customer’s concern, the recorded message must provide the customer the option to connect to and speak with a customer service representative within sixty seconds of the commencement of the recording. During normal business hours, a cable operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to technical service/repair and billing/service inquiry lines are answered by a customer service representative within thirty seconds or less from the time a customer chooses a menu option to speak directly with a customer service representative or chooses a menu option that pursuant to the automated voice message, leads to a direct connection with a customer service representative. Under normal operating conditions, this thirty second telephone

answer time requirement standard shall be met no less than ninety percent of the time measured quarterly.

- e. Under normal operating conditions, a customer shall not receive a busy signal more than three percent of the time. This standard shall be met ninety percent or more of the time, measured quarterly.
- 3. Responsiveness.
 - a. Guaranteed seven day residential installation.
 - i. A cable operator shall complete all standard residential installations or modifications to service requested by customers within seven business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five feet from the existing distribution system. If the customer requests a nonstandard residential installation, or the cable operator determines that a nonstandard residential installation is required, the cable operator shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.
 - ii. All underground cable drops to the home shall be buried at a depth of no less than twelve inches, or such other depth as may be required by the franchise agreement or local code provisions, or if there are no applicable franchise or code requirements, at such other depths as may be agreed to by the parties if other construction concerns preclude the twelve inch requirement, and within no more than one calendar week from the initial installation, or at a time mutually agreed upon between the cable operator and the customer.
 - b. Residential installation and service appointments.
 - i. The "appointment window" alternatives for specific installations, service calls, and/or other installation activities will be either a specific time, or at a maximum, a four hour time block between the hours of 8:00 a.m. and 6:00 p.m., six days per week. A cable operator may schedule service calls and other installation activities outside of the above days and hours for the express convenience of customers. For purposes of this subsection "appointment window" means the period of time in which the representative of the cable operator must arrive at the customer's location.
 - ii. A cable operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment, unless the customer's issue has otherwise been resolved.
 - iii. If a cable operator is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the cable operator shall take reasonable efforts to contact the customer promptly, but in no event later than the end of the appointment window. The appointment will be rescheduled, as necessary at a time that is convenient to the customer, within normal business hours or as may be otherwise agreed to between the customer and cable operator.
 - iv. A cable operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, and, if the customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the cable operator. In such circumstances, the cable operator shall contact the customer within forty-eight hours.
 - c. Residential service interruptions.

- i. In the event of system outages resulting from cable operator equipment failure, the cable operator shall correct such failure within two hours after the third customer call is received.
- ii. All other service interruptions resulting from cable operator equipment failure shall be corrected by the cable operator by the end of the next calendar day.
- iii. Records of complaints.
 - (a) A cable operator shall keep an accurate and comprehensive file of any complaints regarding the cable system or its operation of the cable system, in a manner consistent with the privacy rights of customers, and the cable operator's actions in response to those complaints. These files shall remain available for viewing by the city during normal business hours at the cable operator's business office, and shall be retained by the cable operator for a period of at least three years.
 - (b) Upon written request a cable operator shall provide the city an executive summary quarterly, which shall include information concerning customer complaints referred by the city to the cable operator and any other requirements of a franchise agreement, but no personally identifiable information. These summaries shall be provided within fifteen days after the end of each quarter. Once a request is made, it need not be repeated, and quarterly executive summaries shall be provided by the cable operator until notified in writing by the city that such summaries are no longer required.
 - (c) Upon written request a summary of service requests, identifying the number and nature of the requests and their disposition, shall also be completed by the cable operator for each quarter and submitted to the city by the fifteenth day of the month after each calendar quarter. Once a request is made, it need not be repeated, and quarterly summary of service requests shall be provided by the cable operator until notified in writing by the city that such summaries are no longer required. Complaints shall be broken out by the nature of the complaint and the type of cable service subject to the complaint.
- iv. Records of service interruptions and outages. A cable operator shall maintain records of all outages and reported service interruptions. Such records shall indicate the type of cable service interrupted, including the reasons for the interruptions. A log of all service interruptions shall be maintained and provided to the city quarterly, upon written request, within fifteen days after the end of each quarter. Such records shall be submitted to the city with the records identified in subsection C.3.c.3.b. above if so requested in writing, and shall be retained by the cable operator for a period of three years.
- v. All service outages and interruptions for any cause beyond the control of the cable operator shall be corrected within thirty-six hours, after the conditions beyond its control have been corrected.

d. Television reception.

- i. A cable operator shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission ("FCC"). A cable operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and 6:00 a.m.

- ii. If a customer experiences poor video or audio reception attributable to a cable operator's equipment, the cable operator shall:
 - (a) assess the problem within one day of notification;
 - (b) communicate with the customer regarding the nature of the problem and the expected time for repair; and
 - (c) complete the repair within two days of assessing the problem unless circumstances exist that reasonably require additional time.
- iii. If an appointment is necessary to address any video or audio reception problem, the customer may choose a block of time described in subsection C.3.b.1. At the customer's request, the cable operator shall repair the problem at a later time convenient to the customer, during normal business hours or at such other time as may be agreed to by the customer and cable operator. A cable operator shall maintain periodic communications with a customer during the time period in which problem ascertainment and repair are ongoing so that the customer is advised of the status of the cable operator's efforts to address the problem.

e. Problem resolution. A cable operator's customer service representatives shall have the authority to provide credit for interrupted service, waive fees, schedule service appointments, and change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the customer within four hours and resolve the problem within forty-eight hours or within such other time frame as is acceptable to the customer and the cable operator.

f. Billing, credits, and refunds.

- i. In addition to other options for payment of a customer's service bill, a cable operator shall make available a telephone payment option where a customer without account irregularities can enter payment information through an automated system, without the necessity of speaking to a customer service representative.
- ii. A cable operator shall allow at least thirty days from the beginning date of the applicable service period for payment of a customer's service bill for that period. If a customer's service bill is not paid within that period of time the cable operator may apply an administrative fee to the customer's account. The administrative fee must reflect the average costs incurred by the cable operator in attempting to collect the past due payment in accordance with applicable law. If the customer's service bill is not paid within forty-five days of the beginning date of the applicable service period, the cable operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two days of the beginning date of the applicable service period, the cable operator may disconnect the customer's service, provided it has provided two weeks' notice to the customer that such disconnection may result.
- iii. The cable operator shall issue a credit or refund to a customer within thirty days after determining the customer's entitlement to a credit or refund.
- iv. Whenever the cable operator offers any promotional or specially-priced service(s), its promotional materials shall clearly identify and explain the specific terms of the promotion, including, but not limited to, the manner in which any payment credit will be applied.

g. Treatment of property. To the extent that a franchise agreement does not contain the following procedures for treatment of property, a cable operator shall comply with the procedures set forth in this section.

- i. A cable operator shall keep tree trimming to a minimum. Trees and shrubs or other landscaping that are damaged by a cable operator, or any employee or agent of a cable operator, during installation or construction shall be restored to their prior condition or replaced within seven days, unless seasonal conditions require a longer time, in which case such restoration or replacement shall be made within seven days after conditions permit. Trees and shrubs on private property shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.
- ii. A cable operator shall, at its own cost and expense, and in a manner approved by the property owner and the city, restore any private property to as good condition as before the work causing such disturbance was initiated. A cable operator shall repair, replace, or compensate a property owner for any damage resulting from the cable operator's installation, construction, service, or repair activities. If compensation is requested by the customer for damage caused by any cable operator activity, the cable operator shall reimburse the property owner one hundred percent of the actual cost of the damage.
- iii. Except in the case of an emergency involving public safety or service interruption to a large number of customers, a cable operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided, however, that in the case of construction operations, such notice shall be delivered or provided at least twenty-four hours prior to entry, unless such notice is waived by the customer. For purposes of this subsection, "reasonable notice" shall be considered:
 - (a) for pedestal installation or similar major construction, seven days.
 - (b) for routine maintenance, such as adding or dropping service, tree trimming, and the like, reasonable notice given the circumstances. Unless a franchise agreement has a different requirement, reasonable notice shall require, at a minimum, prior notice to a property owner or tenant before entry is made onto that person's property.
 - (c) for emergency work a cable operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Door hangars must describe the issue and provide contact information where the property owner or tenant can receive more information about the emergency work.

Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

- iv. Cable operator personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

4. Services for customers with disabilities.

- a. For any customer with a disability, a cable operator shall deliver and pick up equipment at the customer's home at no charge unless the malfunction was caused by the actions of the customer. In the case of malfunctioning equipment, the technician shall provide

replacement equipment, hook it up, and ensure that it is working properly, and shall return the defective equipment to the cable operator.

- b. A cable operator shall provide either TTY, TDD, TYY, VRS service, or other similar service that is in compliance with the Americans With Disabilities Act and other applicable law, with trained operators who can provide every type of assistance rendered by the cable operator's customer service representatives for any hearing-impaired customer at no charge.
- c. A cable operator shall provide free use of a remote control unit to mobility-impaired (if disabled, in accordance with subsection C.4.d.) customers.
- d. Any customer with a disability may request the special services described above by providing a cable operator with a letter from the customer's physician stating the need, or by making the request to the cable operator's installer or service technician where the need for the special services can be visually confirmed.

5. Cable services information.

- a. At any time a customer or prospective customer may request, a cable operator shall provide the following information, in clear, concise, written form, easily accessible and located on the cable operator's website (and in Spanish, when requested by the customer):
 - i. products and services offered by the cable operator, including its channel lineup;
 - ii. the cable operator's complete range of service options and the prices for these services;
 - iii. the cable operator's billing, collection, and disconnection policies;
 - iv. privacy rights of customers;
 - v. all applicable complaint procedures, including complaint forms and the telephone numbers and mailing addresses of the cable operator and the FCC;
 - vi. use and availability of parental control/lock out device;
 - vii. special services for customers with disabilities; and
 - viii. the days and times of operation and locations of the service centers;
- b. At a customer's request, a cable operator shall make available either a complete copy of these standards and any other applicable customer service standards, or a summary of these standards, in a format to be approved by the city, which shall include, at a minimum, the URL address of a website containing these standards in their entirety; provided however, that if the city does not maintain a website with a complete copy of these standards, a cable operator shall be under no obligation to do so. If acceptable to a customer, a cable operator may fulfill customer requests for any of the information listed in this section by making the requested information available electronically, such as on a website or by electronic mail.
- c. Upon written request, a cable operator shall meet annually with the city to review the format of the cable operator's bills to customers. Whenever the cable operator makes substantial changes to its billing format, it will contact the city at least thirty days prior to the time such changes are to be effective in order to inform the city of such changes.
- d. Copies of notices provided to the customer in accordance with subsection C.5.e. shall be filed (by fax or email acceptable) concurrently with the city.
- e. A cable operator shall provide customers with written notification of any change in rates for nondiscretionary cable services, and for service tier changes that result in a deletion of programming from a customer's service tier, at least thirty days before the effective date of change. For purposes of this section, "nondiscretionary" means the subscribed tier and

any other cable services that a customer has subscribed to at the time the change in rates are announced by the cable operator.

- f. All officers, agents, and employees of the cable operator or its contractors or subcontractors who are in personal contact with customers, and/or when working on public property, shall wear on their outer clothing identification cards bearing their name and photograph and identifying them as representatives of the cable operator. The cable operator shall account for all identification cards at all times. Every vehicle of the cable operator shall be clearly visually identified to the public as working for the cable operator. Whenever a cable operator work crew is in personal contact with customers or public employees, a supervisor must be able to communicate clearly with the customer or public employee. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor and further identified as contracting or subcontracting for the cable operator.
- g. Each customer service representative, technician, or employee of the cable operator in each contact with a customer shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed. A written estimate of the charges shall be provided to the customer before the actual work is performed.

6. Customer privacy.

- a. Cable customer privacy. In addition to complying with the requirements in this subsection, a cable operator shall fully comply with all obligations under 47 U.S.C. Section 551.
- b. Collection and use of personally identifiable information.
 - i. A cable operator shall not use the cable system to collect, monitor, or observe personally identifiable information without the prior affirmative written or electronic consent of the customer unless, and only to the extent, that such information is: (a) used to detect unauthorized reception of cable communications; or (b) necessary to render a cable service or other service provided by the cable operator to the customer and as otherwise authorized by applicable law.
 - ii. A cable operator shall take such actions as are necessary using then-current industry standard practices to prevent any affiliate from using the facilities of the cable operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit an affiliate unauthorized access to personally identifiable information on equipment of a customer (regardless of whether such equipment is owned or leased by the customer or provided by a cable operator) or on any of the facilities of the cable operator that are used in the provision of cable service. This subsection shall not be interpreted to prohibit an affiliate from obtaining access to personally identifiable information to the extent otherwise permitted by this subsection.
 - iii. A cable operator shall take such actions as are necessary using then-current industry standard practices to prevent a person or entity (other than an Affiliate) from using the facilities of the cable operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit such person or entity unauthorized access to personally identifiable information on equipment of a customer (regardless of whether such equipment is owned or leased by the customer or

provided by a cable operator) or on any of the facilities of the cable operator that are used in the provision of cable service.

- c. Disclosure of personally identifiable information. A cable operator shall not disclose personally identifiable information without the prior affirmative written or electronic consent of the customer, unless otherwise authorized by applicable law.
 - i. A minimum of thirty days prior to making any disclosure of personally identifiable information of any customer for any non-cable-related purpose as provided in this subsection, where such customer has not previously been provided the notice and choice provided for in subsection C.6.i, the cable operator shall notify each customer (that the cable operator intends to disclose information about) of the customer's right to prohibit the disclosure of such information for non-cable-related purposes. The notice to customers may reference the customer to his or her options to state a preference for disclosure or non-disclosure of certain information, as provided in subsection C.6.i.
 - ii. A cable operator may disclose personally identifiable information only to the extent that it is necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the customer.
 - iii. To the extent authorized by applicable law, a cable operator may disclose personally identifiable information pursuant to a subpoena, court order, warrant, or other valid legal process authorizing such disclosure.
- d. Access to information. Any personally identifiable information collected and maintained by a cable operator shall be made available for customer examination within thirty days of receiving a request by a customer to examine such information about himself or herself at the local offices of the cable operator or other convenient place within the city designated by the cable operator, or electronically, such as over a website. Upon a reasonable showing by the customer that such personally identifiable information is inaccurate, a cable operator shall correct such information.
- e. Privacy notice to customers
 - i. A cable operator shall annually mail or provide a separate written or electronic copy of the privacy statement to customers consistent with 47 U.S.C. Section 551(a)(1), and shall provide a customer a copy of such statement at the time the cable operator enters into an agreement with the customer to provide cable service. The written notice shall be in a clear and conspicuous format, which at a minimum, shall be in a comparable font size to other general information provided to customers about their account as it appears on either paper or electronic customer communications.
 - ii. In or accompanying the statement required by subsection C.6.e.i, a cable operator shall state substantially the following message regarding the disclosure of customer information: "Unless a customer affirmatively consents electronically or in writing to the disclosure of personally identifiable information, any disclosure of personally identifiable information for purposes other than to the extent necessary to render, or conduct a legitimate business activity related to, a cable service or other service, is limited to:
 - (a) Disclosure pursuant to valid legal process authorized by applicable law.

(b) Disclosure of the name and address of a customer subscribing to any general programming tiers of service and other categories of cable services provided by the cable operator that do not directly or indirectly disclose: (i) a customer's extent of viewing of a cable service or other service provided by the cable operator; (ii) the extent of any other use by a customer of a cable service; (b) the nature of any transactions made by a customer over the cable system; or (d) the nature of programming or websites that a customer subscribes to or views (i.e., a cable operator may only disclose the fact that a person subscribes to a general tier of service, or a package of channels with the same type of programming), provided that with respect to the nature of websites subscribed to or viewed, these are limited to websites accessed by a customer in connection with programming available from their account for cable services."

The notice shall also inform the customers of their right to prohibit the disclosure of their names and addresses in accordance with subsection C.6.c.i. If a customer exercises his or her right to prohibit the disclosure of name and address as provided in subsection C.6.c.i. or this subsection, such prohibition against disclosure shall remain in effect, unless and until the customer subsequently changes their disclosure preferences as described in subsection C.6.i below.

- f. Privacy reporting requirements. The cable operator shall include in its regular periodic reports to the city required by its franchise agreement information summarizing:
 - i. The type of personally identifiable information that was actually collected or disclosed by cable operator during the reporting period.
 - ii. For each type of personally identifiable information collected or disclosed, a statement from an authorized representative of the cable operator certifying that the personally identifiable information collected or disclosed was: (a) collected or disclosed to the extent necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator; (b) used to the extent necessary to detect unauthorized reception of cable communications; (c) disclosed pursuant to valid legal process authorized by applicable law; or (d) a disclosure of personally identifiable information of particular subscribers, but only to the extent affirmatively consented to by such subscribers in writing or electronically, or as otherwise authorized by applicable law.
 - iii. The standard industrial classification codes or comparable identifiers pertaining to any entities to whom such personally identifiable information was disclosed, except that a cable operator need not provide the name of any court or governmental entity to which such disclosure was made pursuant to valid legal process authorized by applicable law.
 - iv. The general measures that have been taken to prevent the unauthorized access to personally identifiable information by a person other than the customer or the cable operator. A cable operator shall meet with city if requested to discuss technology used to prohibit unauthorized access to personally identifiable information by any means.
- g. Nothing in this subsection C.6. shall be construed to prevent the city from obtaining personally identifiable information to the extent not prohibited by Section 631 of the Communications Act, 47 U.S.C. Section 551, and applicable laws.

- h. Destruction of personally identifiable information. A cable operator shall destroy any personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection C.6.d., pursuant to a court order or other valid legal process, or pursuant to applicable law.
- i. Notice and choice for customers. The cable operator shall at all times make available to customers one or more methods for customers to use to prohibit or limit disclosures, or permit or release disclosures, as provided for in this subsection C.6. These methods may include, for example, online website “preference center” features, automated toll-free telephone systems, live toll-free telephone interactions with customer service agents, in-person interactions with customer service personnel, regular mail methods such as a postage paid, self-addressed post card, an insert included with the customer’s monthly bill for cable service, the privacy notice specified in subsection C.6.e., or such other comparable methods as may be provided by the cable operator. Website “preference center” features shall be easily identifiable and navigable by customers, and shall be in a comparable size font as other billing information provided to customers on a cable operator’s website. A customer who provides the cable operator with permission to disclose personally identifiable information through any of the methods offered by a cable operator shall be provided follow-up notice, no less than annually, of the customer’s right to prohibit these disclosures and the options for the customer to express his or her preference regarding disclosures. Such notice shall, at a minimum, be provided by an insert in the cable operator’s bill (or other direct mail piece) to the customer or a notice or message printed on the cable operator’s bill to the customer, and on the cable operator’s website when a customer logs in to view his or her cable service account options. The form of such notice shall also be provided on an annual basis to the city. These methods of notification to customers may also include other comparable methods as submitted by the cable operator and approved by the city in its reasonable discretion

7. Safety. A cable operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever a cable operator receives notice that an unsafe condition exists with respect to its equipment, the cable operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.
8. Cancellation of new services. In the event that a new customer requests installation of cable service and is unsatisfied with their initial cable service, and provided that the customer so notifies the cable operator of their dissatisfaction within thirty days of initial installation, then such customer can request disconnection of cable service within thirty days of initial installation, and the cable operator shall provide a credit to the customer’s account consistent with this section. The customer will be required to return all equipment in good working order. If the equipment is returned in good working order, then the cable operator shall refund the monthly recurring fee for the new customer’s first thirty days of cable service and any charges paid for installation. This provision does not apply to existing customers who request upgrades to their cable service, to discretionary cable service such as pay-per-view or movies purchased and viewed on demand, or to customer moves and/or transfers of cable service. The service credit shall be provided in the next billing cycle.

D. Complaint procedure.

1. Complaints to a cable operator.
 - a. A cable operator shall establish written procedures for receiving, acting upon, and resolving customer complaints, and crediting customer accounts, and shall have such procedures printed and disseminated at the cable operator's sole expense, consistent with subsection C.5.a.v. of these standards.
 - b. Said written procedures shall prescribe a simple manner in which any customer may submit a complaint by telephone or in writing to a cable operator that it has violated any provision of these customer service standards, any terms or conditions of the customer's contract with the cable operator, or reasonable business practices. If a representative of the city notifies the cable operator of a customer complaint that has not previously been made by the customer to the cable operator, the complaint shall be deemed to have been made by the customer as of the date of the city's notice to the cable operator.
 - c. At the conclusion of the cable operator's investigation of a customer complaint, but in no more than ten calendar days after receiving the complaint, the cable operator shall notify the customer of the results of its investigation and its proposed action or credit.
 - d. A cable operator shall also notify the customer of the customer's right to file a complaint with the city in the event the customer is dissatisfied with the cable operator's decision, and shall thoroughly explain the necessary procedures for filing such complaint with the city.
 - e. A cable operator shall immediately report all customer escalated complaints that it does not find valid to the city.
 - f. A cable operator's complaint procedures shall be filed with the city prior to implementation.
2. Complaints to the city.
 - a. Any customer who is dissatisfied with any proposed decision of the cable operator or who has not received a decision within the time period set forth below shall be entitled to have the complaint reviewed by the city.
 - b. The customer may initiate the review either by calling the city or by filing a written complaint together with the cable operator's written decision, if any, with the city.
 - c. The customer shall make such filing and notification within twenty days of receipt of the cable operator's decision or, if no decision has been provided, within thirty days after filing the original complaint with the cable operator.
 - d. If the city decides that further evidence is warranted, the city shall require the cable operator and the customer to submit, within ten days of notice thereof, a written statement of the facts and arguments in support of their respective positions.
 - e. The cable operator and the customer shall produce any additional evidence, including any reports from the cable operator, which the city may deem necessary to an understanding and determination of the complaint.
 - f. The city shall issue a determination within fifteen days of receiving the customer complaint, or after examining the materials submitted, setting forth its basis for the determination.
 - g. The city may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution.
3. Security fund or letter of credit. A cable operator shall comply with any franchise agreement regarding letters of credit. If a franchise agreement is silent on letter of credit the following shall apply:

- a. Within thirty days of the written notification to a cable operator by the city that an alleged franchise violation exists, a cable operator shall deposit with an escrow agent approved by the city fifty thousand dollars or, in the sole discretion of the city, such lesser amount as the city deems reasonable to protect subscribers within its jurisdiction. Alternatively, at the cable operator's discretion, it may provide to the city an irrevocable letter of credit in the same amount. The escrowed funds or letter of credit shall constitute the "security fund" for ensuring compliance with these standards for the benefit of the city. The escrowed funds or letter of credit shall be maintained by a cable operator at the amount initially required, even if amounts are withdrawn pursuant to any provision of these standards, until any claims related to the alleged franchise violation(s) are paid in full.
- b. The city may require the cable operator to increase the amount of the security fund if it finds that new risk factors exist which necessitate such an increase.
- c. The security fund shall serve as security for the payment of any penalties, fees, charges, or credits as provided for herein and for the performance by a cable operator of all its obligations under these customer service standards.
- d. The rights reserved to the city with respect to the security fund are in addition to all other rights of the city, whether reserved by any applicable franchise agreement or authorized by law, and no action, proceeding, or exercise of a right with respect to same shall in any way affect or diminish any other right the city may otherwise have.

4. Verification of compliance. A cable operator shall establish its compliance with any or all of the standards required through annual reports that demonstrate said compliance, or as requested by the city.
5. Procedure for remedying violations.
 - a. If the city has reason to believe that a cable operator has failed to comply with any of these standards, or has failed to perform in a timely manner, the city may pursue the procedures in its franchise agreement to address violations of these standards in a like manner as other franchise violations are considered.
 - b. Following the procedures set forth in any franchise agreement governing the manner to address alleged franchise violations, if the city determines in its sole discretion that the noncompliance has been substantiated, in addition to any remedies that may be provided in the franchise agreement, the city may:
 - i. impose assessments of up to one thousand dollars per day, to be withdrawn from the security fund in addition to any franchise fee until the non-compliance is remedied; and/or
 - ii. order such rebates and credits to affected customers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with these standards; and/or
 - iii. reverse any decision of the cable operator in the matter; and/or
 - iv. grant a specific solution as determined by the city; and/or
 - v. except for in emergency situations, withhold licenses and permits for work by the cable operator or its subcontractors in accordance with applicable law.

E. Non-waiver. Failure to enforce any provision of these standards shall not operate as a waiver of the obligations or responsibilities of a cable operator under said provision, or any other provision of these standards. (Ord. 6033 § 1, 2016)

Chapter 13.18

STORMWATER MANAGEMENT

Sections:

- 13.18.010 Intent.**
- 13.18.020 Definitions.**
- 13.18.030 Stormwater utility.**
- 13.18.040 Stormwater management fund.**
- 13.18.050 Use of stormwater management fund.**
- 13.18.060 Stormwater utility fees.**
- 13.18.070 Unpaid stormwater utility fees--Lien.**
- 13.18.080 System investment fees.**
- 13.18.090 Master drainage plan.**
- 13.18.100 Storm Drainage Criteria and Storm Drainage Standards.**
- 13.18.110 Collection and enforcement of fees.**

13.18.010 Intent.

It is the intent of this chapter to promote the public health, safety and welfare by permitting the movement of emergency vehicles during flooding periods and minimizing flood losses and the inconvenience and damage resulting from uncontrolled and unplanned stormwater runoff; to establish a stormwater utility to coordinate, design, construct, manage, operate and maintain the stormwater management system; to establish a reasonable and equitable program to finance stormwater management capital projects and operation, maintenance and administrative activities; and to encourage and facilitate urban water resources management techniques, including, without limitation, detention of stormwater, reduction of need to construct storm sewers, reduction of pollution and enhancement of the environment. (Ord. 3420 § 1 (part), 1987)

13.18.020 Definitions.

As used in this chapter, unless the context in which they are used clearly requires otherwise:

- A. "Customer" means the owner of record of a lot, tract or parcel of land within the city containing an impervious surface.
- B. "Runoff" means that part of snowfall, rainfall or other stormwater which is not absorbed, transpired, evaporated or left in surface depressions, and which then flows controlled or uncontrolled into a watercourse or body of water.
- C. "Stormwater facilities" means any one or more of various devices used in the collection, treatment or disposition of storm, flood or surface drainage waters, including manmade structures and natural watercourses for the conveyance of runoff, such as detention areas, berms, swales, improved watercourses, channels, bridges, gulches, streams, gullies, flumes, culverts, gutters, pumping stations, pipes, ditches, siphons, catchbasins and street facilities, inlets, collection, drainage or disposal lines, intercepting sewers, joint storm and sanitary sewers, pumping plans and other equipment and appurtenances and all extensions, improvements, remodeling, additions and alterations thereof; and any and all rights or interests in such sewerage or stormwater facilities.
- D. "Stormwater system" means all of the stormwater facilities used by the city for the control of runoff. (Ord. 3420 § 1 (part), 1987)

13.18.030 Stormwater utility.

There is established a stormwater utility in the water/wastewater department of the city. Such utility shall construct, maintain and operate the stormwater system of the city. (Ord. 3420 § 1 (part), 1987)

13.18.040 Stormwater management fund.

There is established a stormwater management fund. All moneys received from stormwater utility fees shall be paid into such fund. Such fund shall be used only for the purposes set forth in Section 13.18.050 of this chapter, and shall not be used for general governmental purposes. (Ord. 3420 § 1 (part), 1987)

13.18.050 Use of stormwater management fund.

The stormwater management fund shall be used only to pay the costs of construction, operation and maintenance of the stormwater system and the costs of administration of the stormwater utility. The city may pledge all or any portion of the fund, including revenues anticipated to be collected, to the payment of principal, interest, premium, if any, and reserves for general obligation bonds, revenue bonds or any other obligations lawfully issued or otherwise contracted for by the city for the payment or other financing of costs of the stormwater system, or for the purpose of refunding any obligations issued or otherwise contracted for such purposes. (Ord. 3420 § 1 (part), 1987)

13.18.060 Stormwater utility fees.

- A. There is imposed on each customer a stormwater utility fee. The amount of such fee shall be as set by the city council by resolution adopted after two readings and may be changed from time to time.
- B. All public highways, streets, roadways, sidewalks, bike paths and other public rights-of-way, and lakes used as stormwater facilities, are part of the stormwater facilities and shall be exempt from all stormwater utility fees imposed by this chapter. (Ord. 4871 § 20, 2004 (part); Ord. 3420 § 1 (part), 1987)

13.18.070 Unpaid stormwater utility fees--Lien.

All stormwater utility fees shall be a lien upon the respective lots or parcels of land of each customer from the time when due and shall be a perpetual charge against such lots or parcels of land until paid, and in the event that charges are not paid when due, the city clerk shall certify such delinquent charges to the treasurer of the county and the charges shall be collected in the same manner as though they were part of the taxes. (Ord. 3420 § 1 (part), 1987)

13.18.080 System investment fees.

- A. There is a fee imposed upon every acre of residential, commercial, industrial and institutional development, to be known as the stormwater system investment fee, in an amount as established by resolution of the city council after two readings, for the purposes set forth in the resolution creating the public works fund, as amended from time to time, which fund was established pursuant to Section 16.38.100 of this code.
- B. The fees provided by this section shall be imposed upon development occurring on or after January 1, 1989. Development, for the purpose of any activity requiring a building permit, or which would require a building permit if not exempt on account of governmental ownership or

occupancy, shall be deemed to occur before January 1, 1989, if such building permit is applied for prior to January 1, 1989, and is actually issued within thirty days thereafter, unless issuance is delayed for causes beyond the control of the applicant. For any industrial use not requiring the issuance of a building permit, such use shall be deemed to have been established prior to January 1, 1989, if such use was actually in place and was being actively pursued on January 1, 1989. Any expansion of such use by more than fifty percent over the level of such use on January 1, 1989, shall be deemed to be an expansion of such activity, and shall require the payment of stormwater system investment fees for expansion beyond the initial fifty percent of expansion.

C. For the purposes of this section, the following definitions shall apply:

1. "Industrial" means any premises devoted primarily to manufacturing, processing, assembly or storage of tangible personal property, research facilities, experimental or testing laboratories, warehouses, distribution and wholesale uses, utility service facilities, aircraft hangars and repair facilities for aircraft, and caretaker's quarters and other accessory buildings reasonably required for maintenance or security of the uses set out in this section.
2. "Institutional" means any premises devoted primarily to schools, hospitals, churches, libraries and similar public and quasi-public uses.
3. "Commercial" means any premises not devoted to residential, industrial or institutional uses.

D. Such fees shall be due and payable as follows:

1. In the case of any activity requiring a certificate of occupancy, not later than the time that a final inspection for a certificate of occupancy is requested;
2. Upon a change in the use of property which new use is in a different category for which the fee is higher than the existing use, whether or not a building permit is required to change such use; and
3. For all other activities, including expansion or remodeling which creates additional dwelling units, additional square footage devoted to commercial uses, and acreage devoted to industrial uses for which the capital expansion fee has not been previously paid, at the time such additional space and acreage is available for such use. (Ord. 4871 § 21, 2004 (part); Ord. 4446 § 7, 1999; Ord. 4395 § 26, 1999; Ord. 4154 § 1, 1996; Ord. 3545 § 1, 1988; Ord. 3420 § 1 (part), 1987)

13.18.090 Master drainage plan.

The master drainage plan prepared by WRC Engineering, Inc., dated May 15, 1986, together with all amendments thereto, which amendments may be made by resolution of the city council, is adopted as the master drainage plan for the city. Such plan shall guide the stormwater utility in the construction, maintenance and operation of stormwater facilities. (Ord. 3420 § 1 (part), 1987)

13.18.100 Storm Drainage Criteria and Storm Drainage Standards.

All stormwater facilities that are to become part of or be connected with the city's stormwater utility shall be designed, constructed, and connected in accordance with the "City of Loveland Storm Drainage Criteria" and the "City of Loveland Storm Drainage Standards," adopted in Section 16.24.014. (Ord. 5707 § 1, 2012; Ord. 4755 § 12, 2002; Ord. 3420 § 1 (part), 1987)

13.18.110 Collection and enforcement of fees.

All charges and fees imposed by this chapter shall be a lien upon the property to which such fees are billed from the date such fees are billed until paid. The customer shall be liable for the fees, and the liability and lien therefore may be enforced by the city by an action at law or a suit to enforce the lien. In

case any tenant in possession of any premises pays the fees, the customer shall be relieved from such obligation and lien, but the city shall not be required to seek payment from any person other than the customer. In the event any fees or charges are not paid when due, the city clerk may certify such fees or charges to the treasurer of Larimer County and the same shall be collected in the manner as through they were part of the taxes. (Ord. 3458 § 1, 1987)

Chapter 13.20

STORMWATER QUALITY

Sections:

- 13.20.010 Interpretation.**
- 13.20.020 Intent.**
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- 13.20.140 Permanent BMPs.**
- 13.20.150 Remedies for Noncompliance.**

13.20.010 Interpretation.

The following principles shall be used in interpreting this chapter:

- A. The provisions of this chapter shall be regarded as the minimum requirements for the protection of the public health, safety, general welfare, and environment. This chapter shall therefore be regarded as remedial and shall be liberally construed to further its underlying purposes.
- B. This chapter is not intended to interfere or conflict with, abrogate, or annul any other regulation, ordinance, statute, or provision of law.
- C. Whenever a provision of this chapter and a provision of any other law, ordinance, resolution, rule, or regulation of any kind, including any other provision of this chapter, contains any restrictions covering the same subject matter, the more restrictive shall govern.
- D. The foregoing principles notwithstanding, the City Council directs those city officials responsible for enforcement of this chapter to utilize a reasonable common sense approach in the interpretation and application of the specific provisions of this chapter. To this end, city officials charged with the responsibility for enforcement and administration of provisions of this chapter shall be entitled to utilize discretion in waiving specific application requirements, provided that such discretion shall be exercised in a manner to preserve the purposes and intention of this chapter and to not jeopardize the health, safety, or general welfare of the public or the environment. When exercising discretion to waive or modify any specific application requirements, said City official shall consider:
 1. The scope and nature of the proposed project;
 2. The impact of the project on the properties in the general vicinity of the project;
 3. The impact of the project on municipal facilities and services, including without limitation, streets, water, sewer, drainage, police, and fire protection services; and
 4. Whether the information contained in a requirement sought to be waived is reasonable and readily available from other materials submitted in conjunction with the application.

13.20.020 Intent.

The intent of this chapter is to enhance the quality of water in the City's drainageways and subsequent receiving waters by establishing requirements for grading and erosion control permits for construction and development and by defining certain other activities as illicit discharges. (Ord. 4874 § 1, 2004)

13.20.030 General.

Any person who undertakes or causes to be undertaken any activity, which involves disturbance of the surface of land shall ensure that soil erosion, sedimentation, increased pollutant loads and changed water flow characteristics resulting from the activity are controlled so as to minimize pollution of receiving waters. The requirements of this chapter are minimum standards and a person's compliance with the same shall not relieve such person from the duty of enacting all measures necessary to minimize pollution of receiving waters.

13.20.040 Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the following meanings:

- A. "Acknowledgement Certificate" means a document an applicant signs certifying that they have received, read and fully understand the information within the City of Loveland's Stormwater Quality Enforcement Policy and agree to abide by the policies set forth therein.
- B. "Applicant" means a landowner or agent of a landowner who has filed an application for a Stormwater Quality Permit.
- C. "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "state waters". BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage of leaks, sludge or waste disposal, or drainage from raw material storage.
- D. "Builder" means a person undertakes construction activities.
- E. "Business Owner" means a person who owns title to a commercial property.
- F. "City Inspector" means the person or person(s) authorized by the City Manager to inspect a site for the purpose of determining compliance with the provisions of this chapter.
- G. "Compliance Date" means the final deadline by which a user is required to correct a violation of a prohibition or limitation or to meet a pretreatment standard or requirement as specified in a compliance schedule, industrial discharge permit or federal, state or local regulation adopting an applicable pretreatment standard.
- H. "Compliance Order" means an administrative order that directs a user to comply with the provisions of this chapter, or of a permit or administrative order issued hereunder, by a specific date. The order may include a compliance schedule involving specific actions to be completed within specific time periods.
- I. "Compliance Schedule or Schedule of Compliance" means an enforceable schedule specifying a date or dates by which user must comply with a pretreatment standard, a pretreatment requirement or a prohibition or limitation and which may include increments of progress to achieve such compliance.
- J. "Construction Activities" means clearing, grading, excavating, and other ground disturbance activities. Construction Activities does not include routine maintenance performed by public agencies, or their agents to maintain original line grade, hydraulic capacity, or original purpose of the facility.
- K. "Construction Site Stormwater Management Plan (CSSMP)" means a Plan submitted to the City of Loveland that addresses erosion, sediment erosion control and water quality issues pertaining to a Site for which an application for a Stormwater Quality Permit is filed. A CSSMP shall contain such information as, site description, location and description of appropriate Temporary or Permanent BMPs, inspection and maintenance procedures and other matters necessary or appropriate to comply with a Stormwater Quality Permit.

- L. “Developer” means a person who undertakes land disturbance activities.
- M. “Development” means any activity, excavation or fill, alteration, subdivision, change in land use, or practice, undertaken by private or public entities that affect the discharge of stormwater runoff. The term “development” does not include the maintenance of stormwater runoff facilities.
- N. “Disturbed Area” means that area of the land’s surface disturbed by any work activity upon the property by means including but not limited to grading; excavating; stockpiling soil, fill or other materials; clearing; vegetation removal; removal or deposit of any rock, soil, or other materials; or other activities which expose soil. Disturbed area does not include the tillage of land that is zoned agricultural or the tillage of a parcel zoned PUD (planned unit development) within the area identified for agricultural uses. It also does not include performance of emergency work necessary to prevent or ameliorate an immediate threat to life, property, or the environment. Any person(s) performing such emergency work shall immediately notify the Public Works Engineering Manager of the situation and the actions taken. The Public Works Engineering Manager may, however, require such person(s) to obtain a Stormwater Quality Permit to implement remedial measures to minimize erosion resulting from the emergency.
- O. “Drainageway” means an open linear depression, whether constructed or natural, that functions for the collection and drainage of surface water.
- P. “Illicit Discharge” means any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater runoff, with some exceptions. These exceptions are discharges from National Pollutant Discharge Elimination System (NPDES) permitted industrial sources and those stated in Section 13.20.130.
- Q. “Jurisdictional Wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
- R. “Land Disturbance Activity” means any activity, which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made drainageway.
- S. “Landowner” means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
- T. “Municipal Separate Storm Sewer System (MS4)” means a conveyance or system of conveyances (including: roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by a State, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes designed or used for collecting or conveying stormwater that is not a combined sewer and that is not part of a POTW.
- U. “Operator” means the entity that has day-to-day supervision and control of Construction Activities or Development occurring at a construction site. This can be the Landowner, the Developer, the general contractor or other agent of one of these parties, in some circumstances. It is anticipated that at different phases of Construction Activities or Development, different parties may satisfy the definition of “Operator,” and that the Stormwater Quality Permit may apply to all Construction Activities or Development on a site subject to a Stormwater Quality Permit by any such party.
- V. “Performance Security” means an irrevocable letter of credit, or cash deposit submitted to the City to ensure the fulfillment of the erosion and sediment control plan.

W. "Permanent BMPs" means those permanent stormwater quality BMPs such as, but not limited to, grass buffers and swales, modular block porous pavement, porous pavement and landscape detention, sand filter and extended detention basins, constructed wetlands basins and channels, and proprietary (underground) BMPs to be properly installed and regularly maintained in order to treat stormwater runoff and ensure long term water quality enhancements.

X. "Permit" means a Stormwater Quality Permit issued pursuant to this Chapter 13.20.

Y. "Permittee" means the holder of a Stormwater Quality Permit.

Z. "Person" means any natural person or any firm, corporation, partnership, association, legal representative, trustee, estate, limited liability Company, or any other entity.

AA. "Plan" means a document approved at the site design phase that outlines the measures and practices used to control stormwater runoff at a site.

BB. "Publicly Owned Treatment Works" (POTW)" means a publicly owned domestic wastewater treatment facility. This includes any publicly owned devices and systems used in the storage, treatment, recycling or reclamation of municipal sewage or treatment of industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances if they are publicly owned or if they convey wastewater to a POTW treatment plant.

CC. "Receiving Waters" means any classified stream segment (including tributaries) in the State of Colorado into which stormwater related to construction activities discharges. This definition includes all water courses, even if they are usually dry, such as borrow ditches, arroyos, and other unnamed drainageways.

DD. "Significant Storm Event" means any storm event, including but not limited to rain and snowmelt, which results in water and/or sediment being transported across the site.

EE. "State Water" means any and all surface and subsurface waters which are contained in or flow in or through this State, but does not include waters in sewage systems, waters in treatment works or disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

FF. "Stop Work Order" means an order issued by the city which requires that all Construction Activity on a site be stopped.

GG. "Stormwater" means precipitation-induced surface runoff.

HH. "Stormwater Discharge Permit (SDP)" means a permit issued to a Developer by the Colorado Department of Public Health & Environment Water Quality Control Division to discharge stormwater runoff from Construction Activities.

II. "Stormwater Quality Enforcement Policy" means a policy adopted by the City Manager or his designee to administer the Stormwater Quality Ordinance.

JJ. "Stormwater Quality Permit" means a permit issued to developers pursuant to Section 13.20.060 by the City of Loveland Public Works Department Stormwater Utility Division to conduct certain land disturbance activity.

KK. "Stormwater Runoff" means that part of snowfall, rainfall or other precipitation which is not absorbed, transpired, evaporated, or left in surface depressions, and which then flows controlled or uncontrolled into receiving waters.

LL. "SWMP" means a Stormwater Management Plan.

MM. "SWMP Administrator" means a specific individual(s), position or title designated by the Landowner or Developer who is responsible for developing, implementing, maintaining, and revising the SWMP. The activities and responsibilities of the SWMP Administrator shall address all aspects of the facility's SWMP.

NN. "Temporary BMPs" means temporary sediment and erosion control BMPs such as, but not limited to, silt fencing, wattles, vehicle tracking control pads, inlet filters, diversions, rundowns, sediment traps and ponds, dewatering structures, rip rap, and erosion control mats, and waste control BMPs, such as, but not limited to, concrete washouts, to be installed and regularly maintained to prevent erosion and keep sediment and waste from discharging off-site until the site is sufficiently stabilized.

OO. "Vegetative Cover" means grasses, shrubs, bushes, trees, ground cover and other plants. (Ord. 5706 § 1, 2012)

13.20.050 Compliance with Storm Drainage Standards and Criteria.

All applications for Stormwater Quality Permits shall be reviewed for compliance with the City of Loveland's Storm Drainage Standards, the Larimer County Urban Area Street Standards, and the City of Loveland Storm Drainage Criteria, as amended. (Ord. 5706 § 2, 2012)

13.20.060 Stormwater Quality Permits.

A. Permit required.

It shall be unlawful for any person to conduct any activity resulting in a land disturbance activity equal to or greater than one-half ($\frac{1}{2}$) acre OR for land disturbance activities less than one-half ($\frac{1}{2}$) an acre that are part of a larger common plan of development or sale that would disturb one-half ($\frac{1}{2}$) acre or more without first obtaining a Stormwater Quality Permit from the City. Total disturbed area includes any parcel of a project that meets the definition of "disturbed area," whether or not such parcels are contiguous. The City may also require a Stormwater Quality Permit regardless of the size of the total disturbed area in conjunction with approval of a final subdivision plat, special use permit, or site development plan. It shall be unlawful for any such person to fail to obtain a Stormwater Quality Permit.

B. Permit application.

Persons required to obtain a Stormwater Quality Permit shall complete and file with the City an application on a form prescribed by the City. In support of the application, the Applicant shall submit all information required on the City's form and any additional information requested by the City. The application shall be signed by a person responsible for compliance with the permit throughout the permit's validity.

C. Permit issuance/denial.

The City shall, upon its receipt of a completed Stormwater Quality Permit application, either issue or deny a Permit. If a Permit is denied, the Applicant shall be notified of such in writing. The notification shall set forth the grounds for denial and inform the Applicant of what corrective actions must be taken to obtain a Permit. An Applicant may appeal the denial in writing to the Public Works City Engineer no later than thirty (30) calendar days from the date of issuance of denial. The appeal must set forth the grounds for the appeal and include any documents in support of the Applicant's appeal. The Public Works City Engineer shall within thirty (30) calendar days of receipt of an appeal rule on the matter based solely upon review of the application, denial, appeal, and all documents related thereto. The parties shall receive written notice of the Public Works City Engineer's decision.

D. Permit requirements.

Stormwater Quality Permits shall contain, at a minimum, the following:

E. A statement of duration of the Permit;

F. Requirements for the installation, operation, and maintenance of stormwater runoff quality control measures, including Temporary and Permanent BMPs and schedules where appropriate;

G. Identification of the person(s) responsible for compliance with the Permit, including such person's address and telephone number;

H. Other conditions as deemed appropriate by the City to ensure compliance with this chapter; and

I. A signed Acknowledgement Certificate certifying that the Applicant has received a copy of the City of Loveland Stormwater Quality Enforcement Policy.

13.20.070 Security Requirement.

As a condition for the issuance of a Stormwater Quality Permit, Applicants may be required to provide Performance Security in the form of an agreement for sediment/erosion control Best Management Practices (BMPs) cash deposit or an agreement for sediment/erosion control Best Management Practices (BMPs) irrevocable letter of credit, which agreement shall be approved as to the form and sufficiency by the City Attorney. The amount of the Performance Security shall be based upon the estimated cost of the work required to ensure compliance with the Permit's terms and conditions and requirements of this chapter. In determining the cost of work, a fifteen (15%) contingency shall be included. (Ord. 5706 § 3, 2012)

13.20.080 Release of Security.

The Performance Security, less any deductions, shall be released upon the City's determination that the Permittee has successfully completed all required work and met all other requirements of this chapter.

13.20.090 Assessment.

If the Permittee or other responsible party does not successfully complete all required work or violates any requirement of the Permit or this chapter, the City may take corrective measures and charge the cost of such to the Permittee and/or other responsible party. Such costs shall include the actual cost of any work deemed necessary by the city plus reasonable administrative and inspection costs and penalties pursuant to the City's Stormwater Quality Enforcement Policy, which policy shall be approved by the City Manager. If the total of such costs exceeds the Performance Security, the Permittee shall be responsible for payment of the remaining balance within thirty (30) calendar days of receipt of an accounting of and a bill for such from the City.

13.20.100 Establishment of Fees and Charges.

City council shall establish all fees and charges deemed necessary by the City to implement the requirements of this chapter. (Ord. 5706 § 4, 2012)

13.20.110 Maintenance Requirements.

Developers, Builders, Business Owners, and Landowners shall be responsible for ensuring that all BMPs identified in the Stormwater Quality Permit application are properly installed, maintained and are in good working order as hereafter provided.

A. Developers shall be responsible for ensuring that:

1. Any Temporary and/or Permanent BMPs are installed as call for in a CSSMP and are properly maintained and are in good working order.
2. The site is fully developed, stabilized, and acceptable vegetative cover has been established and maintained.
3. Any deficiencies noted by the City prior to the expiration of the two-year warranty period for public improvements have been corrected.
4. Individual lots have been sold to one or more Builders.
5. Stormwater runoff quality requirements of individual lots are shared with Builders at time of closing.

B. Builders shall be responsible for ensuring that:

1. Any Temporary and/or Permanent BMPs installed prior to lot purchase from Developer and/or Landowner as part of CSSMP are being properly maintained and are in good working order.
2. Acceptable vegetative cover has been established and maintained.
3. Any Temporary and/or Permanent BMPs called for in the CSSMP and/or necessary for the site(s) has been properly installed, maintained and remain in good working order until the property has been sold to a Business, Landowner.
4. Stormwater runoff quality requirements of individual site(s) are shared with purchasers at time of closing.

C. Business Owners and Landowners shall be responsible for ensuring that:

1. Any Temporary BMPs installed prior to lot purchase from Developer, Landowner, and/or Builder as part of CSSMP are properly maintained and remain in good working order until the lot is stabilized.
2. Acceptable vegetative cover has been established and maintained.
3. If not installed prior to individual lot purchase, Temporary and/or Permanent BMPs will be installed within ten (10) days from date of purchase at the base of all gutter downspouts and maintained until the property is sufficiently stabilized.
4. If not installed prior to individual lot purchase, Temporary and/or Permanent BMPs will be installed within ten (10) days from date of purchase around the perimeter of the site where needed to prevent sediment from moving off-site.
5. Business Owners and Landowners shall be responsible for the maintenance of all Temporary and Permanent BMPs constructed or installed on their property pursuant to this chapter.
6. All Temporary BMPs shall be removed within fourteen (14) calendar days after work on the site has been completed and the measures are no longer needed. (Ord. 5706 § 5, 2012)

13.20.120 Inspection.

City inspector shall enforce the requirements of this chapter as described in Section 13.20.140.

13.20.130 Illicit Discharges.

- A. It is unlawful and constitutes a nuisance for any person to discharge or cause to be discharged or spilled, or to maintain a condition upon any property that may result in the discharge of, any substance other than naturally occurring stormwater runoff into the City's storm drainage system (any of which shall constitute an "Illicit Discharge").
- B. The following shall not be considered an illicit discharge prohibited under subsection A. above (any of which shall constitute an "allowable non-stormwater discharge"):
 1. Landscape irrigation.
 2. Lawn watering.
 3. Diverted stream flows.
 4. Irrigation return flow.
 5. Rising ground waters.
 6. Uncontaminated ground water infiltration (defined at 40 C.F.R. 35.2005(20)).
 7. Uncontaminated pumped ground water.
 8. Springs.
 9. Flows from riparian habitats and wetlands.
 10. Water line flushing.
 11. Discharges from potable water sources.
 12. Foundation drains.

13. Air conditioning condensation.
14. Water from crawl space pumps.
15. Footing drains.
16. Individual residential car washing.
17. Dechlorinated swimming pool discharges.
18. Water incidental to street sweeping (including associated sidewalks and medians) and that is not associated with construction.
19. Discharges resulting from emergency firefighting activities.
20. Discharges specifically authorized under a separate CDPS permit.
21. Discharges addressed in the Colorado Department of Public Health and Environment, Water Quality Control Division's Low Risk Policy guidance documents.
22. Other waters determined by the city to be non-contaminated and acceptable for return to the storm drainage system and receiving waters.

C. Nothing contained in this section shall be construed to relieve any person discharging or causing to be discharged any substance into the storm drainage system from any liability for damage caused by the quantity, quality, or manner of discharge. (Ord. 5706 § 6, 2012)

13.20.140 Permanent BMPs.

- A. Permanent BMPs shall be required for all new or redevelopment projects that disturb greater than or equal to one (1) acre, including projects less than one (1) acre that are part of a larger common plan of development or sale.
- B. All Permanent BMPs shall be properly operated and maintained. (Ord. 5706 § 7, 2012)

13.20.150 Remedies for Noncompliance.

- A. City inspector. If a City inspector determines that eroded soils are leaving a Disturbed Area, a Stormwater Quality Permit or SWMP has been violated, or any provision of this chapter has been violated, the City inspector may direct, in writing, the Business Owner, Landowner, Developer, Builder and/ or agents or representatives of such person on the site to repair, replace and/or install any Temporary or Permanent BMPs required under a Stormwater Quality Permit and/or a SWMP for the site, suggest that additional BMPs be installed if deemed necessary by the City inspector to minimize the identified condition or mitigate an illicit discharge, including the issuance of stop work orders and/or suspension or revocation of any Permit. It shall be unlawful for any Business Owner, Landowner, Developer, Builder or the agents or representatives of such persons to fail to take all necessary measures to comply with such written directive and take all measures necessary to prevent soil erosion from migrating off site, correct violation of a Stormwater Quality Permit and/or a SWMP, or eliminate and/or mitigate an illicit discharge, or remedy any other violation of the requirements of this chapter.
- B. Right of entry. In accordance with the terms of the signed Acknowledgement Certificate the City inspector may, where reasonable cause exists, with or without a warrant issued by a court of competent jurisdiction and where the City has given verbal notice to the Landowner(s), or such owner's agent(s) or representative(s) if such owner(s) or representative(s) is/are immediately accessible, enter upon any property or site for examination of the same to ascertain whether a violation of the requirements of this chapter exists, and shall be exempt from any legal action or liability on account thereof. The City will verbally communicate a findings summary of such inspection at the conclusion of the inspection to the Landowner, or such owner's agent(s) or representative(s) if such owner(s) or representative(s) is/are immediately available. The City will

mail a written summary of the findings of such inspection within thirty (30) days of such inspection to the legal address of the non-compliant site.

C. Remediation procedures.

1. Compliance orders.

- a. Whenever the City determines that any activity is occurring that is not in compliance with a Stormwater Quality Permit, SWMP, and/or the requirements of this chapter, the City may issue a written compliance order to the Operator or Landowner containing a compliance schedule. The schedule shall contain specific actions that must be completed, including dates for the completion of the actions. It shall be unlawful for any Operator or Landowner to fail to comply with any compliance order requirement.
- b. Should any person cause, permit, cause to be permitted, or maintain a condition on any property that may result in an Illicit Discharge, the City may issue a written compliance order setting forth the action required to mitigate the Illicit Discharge. It shall be unlawful for any person to fail to comply with a written compliance order for mitigation of an Illicit Discharge within twenty-four (24) hours after the date specified in the compliance order.
- c. Should any person cause responsible for the operation and maintenance of any Permanent or Temporary BMP, the City may issue a written compliance order setting forth the action required to operate and maintain the Permanent or Temporary BMP. It shall be unlawful for any person to fail to comply with a written compliance order for operation or maintenance of a Permanent or Temporary BMP within twenty-four (24) hours after the date specified in the compliance order.

2. Suspension and revocation of Permit.

The City may suspend or revoke a Stormwater Quality Permit for violation of any provision of this chapter, violation of the Permit or SWMP, and/or misrepresentations by the Permittee or the Permittee's agents, employees, or independent contractors.

D. Stop work orders. Whenever the City determines that any activity is occurring that is not in compliance with a Stormwater Quality Permit, a SWMP, and/or the requirements of this chapter, the City can order such activity stopped upon service of written notice upon the person responsible for or conducting such activity. Such person shall immediately stop all activity until authorized in writing by the City to proceed. If the appropriate person cannot be located, the notice to stop work shall be posted in a conspicuous place upon the area where the activity is occurring. The notice shall state the nature of the violation. The notice shall not be removed until the violation has been cured or authorization to remove the notice has been issued by the City. It shall be unlawful for any person to fail to comply with a stop work order.

E. Violations and penalties.

1. It shall be unlawful for any person to violate any provision of a Stormwater Quality Permit, a SWMP, and/or the requirements of this chapter.
2. Any person violating any provision of a Stormwater Quality Permit, a SWMP, or the requirements of this chapter shall be deemed guilty of a misdemeanor, and subject to the penalties as set forth in Section 1.12.010 of this Code.
3. In the event of an Illicit Discharge or failure to operate or maintain a Permanent or Temporary BMP, the City may, after written issuance of a compliance order for mitigation and the failure to perform such mitigation within twenty-four (24) hours after the date specified in the written compliance order (or such addition a time for mitigation as may be specified by the City), enter the affected property and perform or cause to be performed the mitigation work and assess the charge(s) for such work against the person, in accordance with the procedures set forth in

Section 13.20.090. The remedy set forth in this subsection shall be in addition to the penalties that may be imposed pursuant to Section 1.12.010. (Ord. 5706 § 7, 2012; Ord. 5386 § 1, 2009; Ord. 5105 § 1, 2006; Ord. 4874 § 1, 2004)

End Title 13