

ORDINANCE NO. 2175

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 13-28 OF THE
BROOMFIELD MUNICIPAL CODE RELATED TO WASTEWATER

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD,
COLORADO:

Section 1. Subsections C and D of Section 13-28-010 of the Broomfield Municipal Code, Definitions and Abbreviations, are hereby amended to state as follows:

13-28-010 General provisions.

...

(C) Definitions. Words and phrases used in this chapter shall be as defined in this section, unless the context clearly indicates otherwise.

...

(58) Significant Industrial User (**SIU**) shall mean, **except as provided in paragraphs c. and d. of this Section:**

a. An **Industrial User** ~~industry~~ subject to categorical **Ppretreatment Sstandards**; or

b. An ~~Industrial U~~user that:

1. Discharges an average of **twenty-five thousand (25,000)** gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

2. Contributes a process wastestream which makes up five **(5)** percent or more of the average dry weather hydraulic or organic capacity of the POTW ~~treatment plant~~; or

3. Is designated by **the City** ~~the director~~ on the basis that ~~the industry~~ it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

c. The director 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 100 gpd of total categorical wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

1. The Industrial User, prior to City's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
2. The Industrial User annually submits the certification statement required in 40 C.F.R. 403.12 (q), together with any additional information necessary to support the certification statement; and
3. The Industrial User never discharges any untreated concentrated wastewater to the POTW.

d. Upon a finding that an Industrial User meets the criteria in 40 C.F.R. 403.3(v) and has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the director may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 C.F.R. 403.8(f)(6), determine that such Industrial User should not be considered a Significant Industrial User.

...

(66) Waste Hauler shall mean any individual, partnership, copartnership, firm, company, corporation, who provides waste removal, transportation, or disposal services, for grease trap, grease interceptor, or sand/oil pumping and cleaning.

(67) ~~(66)~~ Wastewater or sewage shall mean liquid and water-carried industrial wastes or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(68) ~~(67)~~ Wastewater discharge permit shall mean the permit provided for in section 13-28-040 of this Code **B.M.C.**

(69) ~~(68)~~ Wastewater treatment plant or treatment plant shall mean that portion of the POTW which is designed to provide treatment of municipal sewage.

(70) Zero Discharger Categorical Industrial User shall mean an Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard that does not discharge categorical wastewater to the POTW.

(D) Abbreviations. The following abbreviations shall have the designated meanings:

- (1) BOD shall mean biochemical oxygen demand.
- (2) ~~BMC~~ **B.M.C.** shall mean City and County of Broomfield Municipal Code.
- (3) BMPP shall mean Best Management Practice Plan.
- (4) BMR shall mean Baseline Monitoring Report.

- (5) C shall mean Centigrade.
- (6) C.F.R. shall mean Code of Federal Regulations.
- (7) CIU shall mean Categorical Industrial User.
- (8) COD shall mean chemical oxygen demand.
- (9) EPA shall mean the Environmental Protection Agency.
- (10) FOG shall mean fats, oils, and grease.
- (11) gpd shall mean gallons per day.
- (12) IU shall mean Industrial User.
- (13) mg/l shall mean milligrams per liter.
- (14) NH₃-N shall mean ammonia as nitrogen.
- (15) NPDES shall mean the National Pollutant Discharge Elimination System or as delegated Colorado Discharge Permit System.
- (16) NSCIU shall mean Non-Significant Categorical Industrial User**
- ~~(17)(46)~~ O&M shall mean wastewater treatment operations and maintenance.
- ~~(18)(47)~~ POTW shall mean publicly owned treatment works.
- ~~(19)(48)~~ RCRA shall mean Resource Conservation and Recovery Act.
- ~~(20)(49)~~ SIU shall mean significant industrial user.
- ~~(21)(20)~~ SNC shall mean significant noncompliance.
- ~~(22)(24)~~ TSS shall mean total suspended solids.
- ~~(23)(22)~~ U.S.C. shall mean United States Code.

Section 2. Section 13-28-020 of the Broomfield Municipal Code, General Sewer Use Requirements, is hereby amended to state as follows:

13-28-020 General sewer use requirements.

(A) Sewer use.

- (1) Connection required. The owner of every house, building, or structure used for human occupancy, employment, or recreation, situated within the city is hereby required, at his or her expense, to install suitable toilet facilities in accordance with the International

Plumbing Code, as adopted in Title 15 of the ~~code~~ **B.M.C.**, and to connect such facilities with the POTW or a treatment plant with a valid NPDES permit in accordance with the provisions herein within thirty days after the date of official notice to do so, provided that a sanitary sewer main is within one hundred feet of the owner's property line. Any septic tank, cesspool, privy, or similar private disposal facilities shall, upon such notice, be immediately emptied and filled with suitable material as determined by the director. No persons shall discharge, or allow to be discharged, any wastewater except as follows:

...

(2) Service connection permit required. No person other than city personnel or other persons authorized by the city shall undertake maintenance and repair work on, uncover, open into, make service connections with, use, alter, or disturb any portion of the city's POTW or manhole covers without first obtaining a city service connection permit. All service connections shall be at the permittee's expense, shall comply with all applicable provisions of this chapter, all applicable city standards and specifications and provisions of the ~~code~~ **B.M.C.**, as may be adopted from time to time, and shall be subject to all applicable fees and charges as may be established by the city.

(3) Outhouses prohibited. No person shall erect or maintain any outhouse or privy within the city; except that chemical toilets shall be permitted at construction sites and other authorized public functions.

(4) Discharge of sewage. All sewage shall be discharged into sanitary sewers through authorized connections. No person shall discharge any sewage from any premises within the city into or upon any stream, watercourse, or public property, or into any drain, cesspool, or storm sewer.

(5) Stormwater. No person shall make a connection which would allow any stormwater, surface water, ground water, roof runoff, subsurface drainage, or cooling water to discharge into any sanitary sewer, except as hereinafter provided. The city manager or a designee thereof may issue a permit to allow a sump pump in a structure or building to discharge into the sanitary sewer if the installation of a sump pump meets the following criteria:

- a. Such installation will not significantly reduce the capacity of the sanitary system as a result of the volume and rate of discharge from the sump pump;
- b. The quality of the water discharged from the sump pump will not impair the operating functions of the sanitary sewer system or otherwise cause or contribute to a violation of discharge limits in the city's NPDES permit; and
- c. Sump pump and discharge piping are properly installed in accordance with the requirements of chapter 15-24, B.M.C.

Upon ten days' written notice to a permittee, the city manager or a designee thereof may revoke a sump pump permit should the discharge from a sump pump violate subparagraphs a., b., or c. above.

(6) Hazardous waste. Any industry which discharges into the POTW a substance, which, if otherwise disposed of, would be a hazardous waste, shall comply with the requirements in subsection 13-28-060(I), and 40 C.F.R. § 403.12(p).

(7) Recreational Vehicle (RV) Wastewater Disposal Stations. The director may allow RV wastewater disposal sites within the wastewater service area if the quality or quantity of the RV wastewater does not impact the POTW, including the collection system. The RV wastewater disposal sites shall ensure adequate controlled access to its disposal site including locked access, and maintaining records for persons discharging wastewater at the disposal site, and other information, as deemed appropriate by the director. All RV wastewater disposal sites, shall comply with the requirements in subsection 13-28-020 (B)(2)(i).

(B) Prohibited discharge standards.

(1) General prohibitions. No user shall introduce or cause to be introduced, directly or indirectly, into the POTW any pollutant or wastewater which will cause pass through or interference. These general prohibitions and the specific prohibitions in paragraph (2) of this subsection apply to all users of the POTW, whether or not the user is subject to any national, state, or local pretreatment standards or requirements.

(2) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

a. Pollutants which create a fire or explosion hazard in the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (sixty degrees centigrade) using the test methods specified in 40 C.F.R. § 261.21.

b. Wastewater causing two 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 nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

c. Wastewater having a pH of less than 5.0 or more than 12.5, or otherwise capable of causing corrosive structural damage to the POTW or equipment or a hazard to city personnel.

d. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference or may cause obstruction to the flow in a sanitary sewer or other interference with the operation of the POTW or service connection, but in no case solids greater than one-half inch in any dimension.

- e. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
- f. Wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds twenty-eight degrees centigrade (eighty-two degrees Fahrenheit).
- g. Petroleum oil, nonbiodegradable cutting oil, or products of mineral origin in amounts that will cause interference or pass through.
- h. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- i. Any trucked or hauled pollutants, except at discharge points designated by the POTW and with prior approval of the director; provided, however, that recreational vehicles with a holding tank capacity of less than fifty gallons may discharge into the POTW through designated discharge points.
- j. Noxious or malodorous liquids, gases, solids, or other wastewater which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or to prevent entry into the sewers for maintenance and repair or for sampling or monitoring.
- k. Any wastewater with color exceeding 150 units, as measured by the Platinum-Cobalt Standard Method.
- l. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.
- m. Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, and unpolluted water unless specifically authorized.
- n. Medical wastes that exceed any local limit specified in subsection **13-28-020** (E) or cause or contribute to interference or pass through.
- o. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- p. Detergents, surface active agents, or other substances which might cause excessive foaming in the POTW or otherwise cause pass through or interference.
- q. Fats, oils, or greases or animal or vegetable origin in concentrations greater than **391-277** mg/l.
- r. Untreatable substances, which shall include any substance which may cause the POTW's effluent or any other product of the POTW, such as residues,

sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under section 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to federal or state statutes applicable to the sludge management method being used.

s. Any discharge through a connection made in violation of subsection 13-28-030(F).

t. Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality requirements.

u. Pollutants, substances, or wastewater prohibited by this section shall not be stored, held or retained in such a manner that they could be discharged to the POTW prior to receiving treatment or sent off site for final disposal.

(C) National Categorical Pretreatment Standards. Users must comply with the applicable Categorical Pretreatment Standards found in 40 C.F.R. chapter I, subchapter N, Parts 405—471. 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) or require the user to take other steps as necessary to allow the user and the city to determine compliance with the applicable standards.

(D) State pretreatment standards and requirements. State requirements and limitations on discharges found in the Colorado Department of Public Health and Environment, Water Quality Control Commission regulation 5CCR 1002-63, shall apply in any case where they are more stringent than federal requirements and limitations or those contained herein. The city's limitations or requirements on discharges shall apply in any case where they are more stringent than state or federal requirements or limitations.

(E) Local limits.

(1) The director is authorized to establish local limits pursuant to 40 C.F.R. § 403.5(c).

(2) The following pollutant limits are established to protect against pass through and interference and to implement provisions of this chapter. No significant industrial user shall discharge wastewater that exceeds the following limits at any time for any length of time:

Pollutant ⁽¹⁾	Concentration (mg/l)	
Total Arsenic	0.786	0.161
Total Cadmium	0.123	0.094

Total Chromium	3.689	2.90
Chromium (VI)	0.513	0.266
Total Copper	4.975	
Total Lead	0.513	0.494
Total Mercury	0.003	0.002
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Total Molybdenum	0.925	0.24
Total Nickel	2.229	1.54
Total Oil and grease	391	270
Total Selenium	0.443	
Total Silver	0.875	0.52
Total Zinc	4.848	4.0
Benzene		0.05
BTEX ⁽²⁾⁻⁽¹⁾		0.75

~~⁽⁴⁾ All pollutants are to be analyzed as total.~~

~~⁽¹⁾ ⁽²⁾ This is the sum of measured concentrations for Benzene, Toluene, Ethylbenzene, and Xylene.~~

~~⁽²⁾ The following pollutant limits are established to protect against pass through and interference and to implement provisions of this chapter. The following local limits represent the total mass that the city may receive from all permitted significant industrial users. The city shall determine the allocation of each pollutant for each user. The total mass of pollutants allocated to these users or discharged by these users shall not exceed the following limits at any time for any length of time:~~

Pollutant⁽⁴⁾	Mass in lbs/day
Copper	1.068
Selenium	0.083

~~⁽⁴⁾ All pollutants are to be analyzed as total.~~

~~⁽⁴⁾ The director may develop best management practices (BMPs) for users as needed to implement this chapter. BMPs may be implemented through a permit, order, or notice.~~

(3) Best Management Practices (BMPs). The director may develop BMPs to implement the prohibitions of subsection 13-28-020(B) B.M.C. BMPs shall be considered Pretreatment Standards and Local Limits for purposes of this section and section 307 (d) of the Act.

The director may establish specific sector control programs for Industrial Users to control specific pollutants, as necessary, to meet the objectives of this section. Pollutants subject to these sector control programs will generally be controlled using BMPs or by permits, as determined by the director. These sector control

programs shall not limit the director's authority to inspect, sample, require reports, enforce or otherwise carry out its responsibility under this section. The specific sector control program BMPs and requirements shall be developed and documented in a policy, which shall be public noticed. Elements of a BMP-based sector control program may include, but are not limited to the following:

- a. Install of appropriately-sized treatment;**
- b. Requirements of prohibitions on certain practices or discharges;**
- c. Requirements for the operation and maintenance of treatment equipment; and**
- d. Procedures for compliance certification, reporting, and record retention.**

(F) City right of revision. The City and County of Broomfield reserves the right to establish, by ordinance or in a wastewater discharge permit, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

(G) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with any discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

Section 3. Subsections D through G of Section 13-28-030 of the Broomfield Municipal Code, Pretreatment of wastewater, are hereby amended to state as follows:

13-28-030 Pretreatment of wastewater.

...

(D) Fats, oils, and grease.

(1) Facilities generating fats, oils, or greases as a result of food manufacturing, processing, or preparation or food service shall install, use, and maintain grease traps or interceptors in accordance with this section, as well as the City and County of Broomfield's standards and specifications. These facilities include, but are not limited to, restaurants, food manufacturers, food processors, hospitals, hotels and motels, nursing homes, prisons, schools, and any other facility preparing, servicing, or otherwise making any foodstuff available for consumption.

(2) It shall be the responsibility of the user and owner of the property, business or industry or an authorized representative of the user to contact the director for the purpose of obtaining a general permit application and a plan review. The permit application and plan review shall determine the need, method, and size of the interceptor required to control grease loading into the POTW. Written approval from the director must be obtained prior to installation of the interceptor.

(3) Detailed plans describing such facilities and operating procedures shall be submitted to the director for review and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City and County of Broomfield under the provisions of this chapter.

(4) Users shall:

a. Ensure grease interceptors and traps are easily accessible for inspection, cleaning, and removal of grease.

~~b. Maintain interceptors and traps at their expense and keep in efficient operating condition at all times by the regular removal of oil, grease and solids.~~

Interceptor/Trap Maintenance:

1. Proper maintenance and operation of all grease and sand/oil interceptors/traps shall be the responsibility of the owner and user, and the owner and user shall ensure that said interceptors/traps are maintained in proper working order.

2. Maintenance of interceptor/trap contents shall be performed by a contractor licensed to perform such work. Maintenance shall entail removal of entire interceptor/trap contents. Partial removal of contents (i.e., removal of grease layer, oil layer or sludge layer) is not allowed.

3. Maintenance of all interceptors/traps shall be performed at least once every three (3) months, or if the interceptor capacity is at 25% capacity.

4. The City may require maintenance of interceptors more than once every three (3) months if necessary to protect the City's wastewater collection system and POTW.

c. Document each pump out with a waste manifest which must be kept on-site for at least three years.

d. Take reasonable steps to assure that all grease interceptor waste shall be properly disposed of at a facility in accordance with federal, state and local regulations (i.e. through a certification by the hauler included on the waste **manifest for each load**).

e. In the event an interceptor is not properly maintained by the User, owner, lessee, or other authorized representative of the facility, the director may authorize such maintenance work be performed on behalf of the User if there is a potential threat to public health and safety or operations at the

POTW. The costs of such maintenance shall be added to the sewer service charge of the User. If the User fails to pay the sewer charge the City may disconnect services as prescribed in section 13-12-040 B.M.C. and or institute a lien on the property as prescribed by subsections 13-12-45 (A)(B) B.M.C. until charges are paid in full.

f. Biological and/or enzyme treatment shall not be a substitute for interceptor/trap maintenance. Use of enzymes to emulsify fats, oil and grease is prohibited, unless approved in advance by the director.

(E) Oil/sand separator.

(1) Facilities generating oily, greasy and flammable liquid waste shall install, use and maintain oil/sand separators in accordance with this section as well as the City and County of Broomfield's standards and specifications. These facilities include but are not limited to auto service or repair garages, car washing facilities, and parking garages.

(2) It shall be the responsibility of the user and owner of the property, business or industry or an authorized representative of the user to contact the director for the purpose of obtaining a general permit application and a plan review. The permit application and plan review shall determine the need, method, and size of the separator required to control loadings into the POTW. Written approval from the director must be obtained prior to installation of the separator.

(3) Detailed plans describing such facilities and operating procedures shall be submitted to the director for review and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City and County of Broomfield under the provisions of this chapter.

(F) All waste haulers must be registered with the City and County of Broomfield Industrial Pretreatment Program before performing any waste hauling, pumping, or operations.

(1) License required; application. No person shall engage in the business of pumping fats, oil, and grease interceptors or sand and oil interceptors within the city without first making an application to the City and County of Broomfield Industrial Pretreatment Program. Each application shall contain the following information:

- a. Name, address, and phone number;**
- b. Doing business as;**
- c. Number and description (weight, model, type, capacity, etc.) vehicles used;**
- d. Number of employees;**
- e. References and experience;**
- f. Site of waste material; and**

- g. Applicants shall submit a rate schedule with application and shall advise the city of any change in rates within thirty days after making such changes.**

(2) License; fee. Upon approval of a waste hauler application, the Industrial Pretreatment Department shall issue the license upon the payment of a flat fee in the sum of \$150 per year. The Industrial Pretreatment Program shall issue a receipt together with stickers to be placed on the vehicles in a clearly legible location. Stickers shall not be transferable. The waste haulers operating under this chapter shall pay the annual fee separately to the Industrial Pretreatment Program on or before January 1st of each year. All licenses issued pursuant to this chapter shall expire on the thirty-first of December of the license year, unless sooner revoked by the director.

(3) Fees prorated; limitation. In the case of any new applicant commencing the collection and removal of fats, oil, grease, and solids, the license fee levied in this chapter shall be a pro rata portion of the license fee levied for the whole year, but in no case shall the license fee paid be less than one-half of the amount levied for the whole year.

(4) Scope of provisions. Nothing in this chapter shall be deemed as making it mandatory for any person to patronize waste haulers under this chapter when the person properly or legally disposes of fats, oil, and grease, as long as he or she abides by sanitation laws on the subject. No person shall charge for the collection of fats, oil, and grease except the holder of a license issued pursuant to this chapter.

(5) Waste hauler responsibilities designated.

- a. The waste hauler shall hold the city harmless from any claims arising from the collection of fats, oil, and grease.**
- b. The holder of a license under this chapter shall have the sole burden and responsibility of disposing of waste fats, oils, and grease, and shall hold the city harmless should any claim be made regarding the collection or disposal thereof, and shall give a surety bond in the principal amount of \$1,000.00 to the city. No license shall be transferable.**
- c. Each waste hauler shall submit annual reports, which shall include the following information:**
 - 1. Amount of times the waste hauler pumped in the city;**
 - 2. How many trucks service in the city;**
 - 3. Addresses/names of locations where pumping operations occurred;**
 - 4. Disposal location(s) of waste;**

5. Total gallons of waste hauled from the city to the disposal location(s); and
 6. Other information deemed necessary as waste diversion are further developed.
- d. Annual reports shall be submitted to the Broomfield City and County Industrial Pretreatment Program by January 28, each year, via mail.

(6) Manifests and Documentation.

- a. The waste hauler must complete a manifest for each load of waste using a manifest form. The waste hauler is responsible for filling out the manifest form and obtaining the required signatures. The waste hauler must complete all sections of the manifest except for fields that are optional or not applicable to that waste greatest pick-up or drop-off transaction.
- b. The waste hauler must carry a copy of the manifest while transporting the waste. The waste hauler must provide a completed copy of the manifests to:
 1. The generator/source of the waste within thirty (30) days of delivery to the destination facility where the waste was delivered; and
 2. On a quarterly basis, to the City and County of Broomfield Industrial Pretreatment Department by 5pm on the 28th of the month following the end of each quarter.
- c. The waste haulers must keep completed manifests onsite at their facility for three (3) years from the date of waste delivery. These manifests must be available to the City and County of Broomfield Industrial Pretreatment Department for inspection.

(7) Transportation and Storage of Waste. The waste hauler may only transport waste to an approved waste collection facility and/or a domestic wastewater treatment works that is permitted to accept waste.

(8) Equipment standards. The equipment standards of each waste hauler shall be as follows:

- a. Permanent cover of canvas, or equally suitable material, to cover the entire area of the truck body;
- b. The truck body constituted so as to be permanently leakproof; and
- c. Extensions of the sideboards and tailgates, if any, shall be of permanent material.

(9) Vehicle markings. The waste hauler shall display on both sides of every vehicle operated in the conduct of fats, oil, or grease and or sand and oil interceptor collection business his or her name, address, and telephone number, in permanent, plain, and legible figures and letters not less than five inches in height

and of a color contrasting to that of the body of such vehicle. The figures and letters shall be kept in such condition as to permit them to be easily distinguished and read at a distance of at least sixty feet.

(10) License; revocation. The director, after a hearing, shall have the power to revoke, at any time, the license of the collection contractor for failure to properly perform the terms and covenants of the license, or for other good cause shown.

(11) License; refusal when. The director shall hear every application for a license under this chapter, and shall refuse a license if the character of the applicant or its officers or directors is such that a violation of any provisions of this chapter is likely to result if a license were granted, or if, in the director's opinion, licenses granted for a particular locality are adequate for the reasonable needs of the community.

(12) Civil action. The city may, at its option, proceed by injunction, abatement, suit for collection or any other legal action which it may deem advisable for the enforcement of this chapter and collection of the fees provided for herein; provided that such election shall not in any way be deemed a waiver of or release of any person from the penalties provided for in section 1-12-020 B.M.C. Conviction under this chapter shall not preclude the city from proceeding with any other legal action that it may deem advisable.

(G) ~~(F)~~ Special user agreement. Nothing contained in this chapter shall be construed as prohibiting special written agreements between the city and any other person allowing industrial waste of unusual strength or character to be admitted into the POTW, provided that said person compensates the city for any additional costs of treatment. No such agreement may permit any discharge prohibited or otherwise limited by federal or state regulations or this chapter.

Section 4. Subsections C through F of Section 13-28-050 of the Broomfield Municipal Code, Wastewater discharge permit conditions and contents, is hereby amended to state as follows:

13-28-050 Wastewater discharge permit conditions and contents.

....

(C) Permit modification.

(1) The director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

- b. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;
- c. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- d. Information indicating that the permitted discharge poses a threat to the POTW, the City and County of Broomfield personnel, or the receiving waters;
- e. Violation of any terms or conditions of the wastewater discharge permit;
- f. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- g. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. § 403.13;
- h. To correct typographical or other errors in the wastewater discharge permit; or
- i. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection **13-28-050(D)** below.

(D) Wastewater discharge permit transfer.

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

- a. States that the new owner or operator has no immediate intent to change the facility's operations and processes;
- b. Identifies the specific date on which the transfer is to occur; and
- c. Acknowledges full responsibility for complying with the existing wastewater discharge permit, including complying with all change in operation notification requirements specified at subsection 13-28-060(E).

(2) Upon completion of subsection 13-28-050(D)(1) the director will provide a copy of the wastewater discharge permit to the new owner or operator.

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

(E) Wastewater discharge permit revocation.

(1) The director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- a. Failure to notify the director of significant changes to the wastewater prior to the change in discharge;
- b. Failure to provide prior notification to the director of changed conditions pursuant to subsection 13-28-060(E);
- c. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- d. Falsifying any required reports, including self-monitoring reports and certification statements;
- e. Tampering with monitoring equipment;
- f. Refusing to allow the director timely access to the facility premises and records;
- g. Violations of any pretreatment standards or requirements or any terms of the wastewater discharge permit;
- h. Failure to pay fines;
- i. Failure to pay sewer charges;
- j. Failure to pay permit and sampling fees;
- k. Failure to meet compliance schedules;
- l. Failure to complete a wastewater survey or the wastewater discharge permit application; or
- m. Failure to provide notification of change in ownership required under subsection **13-28-050(D)** above.

(2) Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a user are void upon the issuance of a new wastewater discharge permit to that user.

(F) Mass-based limitations. The director may impose mass limitations on industrial users, through their industrial wastewater discharge permit where not prohibited by categorical pretreatment standards, which are using flow equalization to meet applicable federal, state, or city pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection **13-28-050(B)** will contain the mass allocation for each pollutant, any concentration-based categorical standards, maximum flow allowed, and the appropriate monitoring and reporting requirements. Where mass limits have been established, the report required by subsection **13-28-050(B)** shall also indicate the mass of limited pollutants in the wastewater of the user. These reports shall also contain the

results of sampling and analysis of the discharge, including production and mass of pollutants contained therein which are limited by the applicable pretreatment standards and requirements.

Section 5. Section 13-28-060 of the Broomfield Municipal Code, Reporting requirements, is hereby amended to state as follows:

13-28-060 Reporting requirements.

(A) Baseline monitoring reports.

(1) Within either 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 industrial users currently discharging into or scheduled to discharge into the POTW shall submit to the director a report which contains the information listed in paragraph **13-28-060(2)** below. At least ninety days prior to commencement of their 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 which contains the information listed in paragraph (2) below. A new source shall report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged from regulated process streams and other nonprocess streams.

(2) Users described above shall submit the information set forth below:

a. All information required in section 13-28-040 paragraphs (C)(1)a., (C)(2), (C)(3)a., and (C)(6).

b. Measurement of pollutants.

1. The user shall provide the information required in subparagraphs 13-28-040(C)(**4**), (**5**)**a. through e.**~~(7)a. through d. above~~

2. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph.

3. 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 user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 C.F.R. § 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. § 403.6(e), this adjusted limit along with supporting data shall be submitted to the director.

4. Sampling and analysis shall be performed in accordance with subsection **13-28-060(J)**;

5. The director may allow the submission of a baseline monitoring report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

6. The baseline monitoring 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 into the POTW.

(3) Compliance certification. A statement, reviewed by the user's authorized representative as defined in subsection 13-28-010(C)(3), and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) or additional pretreatment is required to meet the pretreatment standards and requirements.

(4) Compliance schedule. If additional pretreatment or O&M will be required to meet the pretreatment standards, the industrial user shall submit the shortest schedule by which the user will provide such additional pretreatment or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection **13-28-060(B)** below.

(5) Signature and report certification. All baseline monitoring reports must be certified in accordance with paragraph **13-28-060(N)(1)** below and signed by an authorized representative as defined in subsection 13-28-010(C)(3).

(B) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by paragraph **13-28-060(A)(4)** above:

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

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

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

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

(C) Reports on compliance with categorical pretreatment standard deadline. Within ninety days following the date for final compliance with applicable categorical pretreatment standards, or in case of new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in section 13-28-040**(C)(1) through (7)** ~~paragraphs (F)(6) and (F)(7) and subparagraph (A)(2)b~~ above. For users subject to equivalent mass or concentration limits established in accordance with the procedures in subsection 13-28-020(C), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with paragraph **13-28-060(N)(1)** below. All sampling and analysis will be done in conformance with subsections **13-28-060(J)** and (K) below.

(D) Periodic compliance reports.

(1) Any industrial user subject to a federal, state, or city pretreatment standard or requirement must, at a frequency determined by the director, submit no less than once per six months, unless required more frequently in the permit or by the director, reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the user.

(2) The director may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

- a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
- b. The monitoring waiver is valid only for the duration of the effective period of the wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent wastewater discharge permit. See paragraph 13-28-040 **(C)(6)** ~~(F)(8)~~.

c. In making a demonstration that a pollutant is not present, the industrial user must provide **analysis** data from **a minimum of four samplings separate sampling events that were conducted on four different days** representative of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

d. The request for a monitoring waiver must be signed by an authorized representative of the industrial user as specified in subsection 13-28-010(C)(3) and include the certification statement in paragraph **13-28-060(N)** below.

e. Nondetectable sample results may be used only as a demonstration that a pollutant is not present if the EPA-approved method from 40 C.F.R. Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

f. Any grant of the monitoring waiver by the director must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in his or her request for the waiver must be maintained by the director for three years after expiration of the waiver.

g. Upon approval of the monitoring waiver and revision of the user's permit by the director, the industrial user must certify on each report with the statement in paragraph **13-28-060(N)** that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.

h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements specified in the user's permit, or other more frequent monitoring requirements imposed by the director, and notify the director of any changes.

i. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(3) All periodic compliance reports must be signed and certified in accordance with subsection **13-28-060(N)**.

(4) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that the sample results are unrepresentative of its discharge.

(5) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director, using the methods and procedures prescribed in subsections **13-28-060(J)** and (K), the results of this monitoring shall be included in the report.

(E) Reports of changed conditions. Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty days before the change. This includes the discharge of listed or characteristic hazardous wastes for which the industrial user has submitted notification under subsection **13-28-060**(l) below. A significant change shall be a change equal to or greater than twenty percent in the mass of a pollutant or volume of flow discharged into the POTW.

(1) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 13-28-050(B).

(2) The director may issue a wastewater discharge permit under subsection 13-28-040(A) or modify an existing wastewater discharge permit under subsection 13-28-050(C) in response to changed conditions or anticipated changed conditions.(F) Reports of potential problems.

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the director of the incident. This notification shall include the:

- a. Name of the facility;
- b. Location of the facility;
- c. Name of the caller;
- d. Date and time of discharge;
- e. Date and time discharge was halted;
- f. Location of the discharge;
- g. Estimated volume of discharge;
- h. Estimated concentration of discharge;
- i. Pollutants that may be present;
- j. Corrective actions taken to halt the discharge; and
- k. Method of disposal if applicable.

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

the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(3) Significant industrial users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

(G) Reports from unpermitted users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require. These reports include, but are not limited to, industrial wastewater questionnaires, permit applications, and reports demonstrating compliance with best management practices. These reports shall include the signatory certification statement specified in subsection **13-28-060(N)(1)** below.

(H) Notice of violation/repeat sampling reporting.

(1) If sampling performed by a user indicates a violation, the user must:

- a. Notify the director within twenty-four hours of becoming aware of the violation (e.g., receipt of analytical results from the laboratory).
- b. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty days after becoming aware of the violation.

(2) Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(I) Notification of the discharge of hazardous waste.

(1) Any user 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 which, if otherwise disposed of, would be hazardous waste under 40 C.F.R. Part 261. Such notification to the POTW shall be made within the time frames specified in section 13-28-~~060~~ ~~030~~ paragraphs (F) and (H), ~~B.M.C. and subsection (E)~~ above as required. Notification to the state and the EPA is the responsibility of the user and shall be made as required under 40 C.F.R. § 403.12(p). The user shall copy the director on all notifications made to the State and the EPA. Such notification must include:

- a. The name of the hazardous waste as set forth 40 C.F.R. Part 261;
- b. The EPA hazardous waste number;
- c. The type of discharge (continuous, batch, or other);
- d. An identification of the hazardous constituents contained in the wastes;

- e. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
- f. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months;
- g. Certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and
- h. Signatory certification as required by subsection **13-28-060(N)(1)**.

(2) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety days of the effective date of such regulations.

(3) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued hereunder, or any applicable federal or state law.

(J) Analytical requirements. All pollutant analysis to be submitted as part of a wastewater discharge permit application, report, permit or other analysis or report required under this chapter shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 and 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 the Part 136 analytical techniques are inappropriate for the pollutant in question, analyses shall be performed by using validated analytical methods, including procedures suggested by the director or other parties approved by the EPA.

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

(1) Except as indicated in subsection **13-28-060(K)(2)** and (3) below, the user must collect representative wastewater samples using twenty-four-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the director, the samples must be representative of the permitted discharge.

(2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136 and

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

(3) For sampling required in support of baseline monitoring and ninety-day compliance reports required in subsections **13-28-060(A)** and (C) above, and 40 C.F.R. § 403.12(b) and (d), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical representative sampling data do not exist. Where historical data are available, the director may authorize a lower minimum. For the reports required by subsection **13-28-060(D)** and 40 C.F.R. § 403.12(e) and (h), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(L) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of the receipt of the report shall govern.

(M) Recordkeeping. 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 user independent of such requirements and documentation associated with best management practices established under subsection 13-28-020(E)(4). Records shall include the date, exact place, method, and time of sampling and the name of the person taking the sample; the dates analyses were performed; who performed the analyses; analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of three years. This period shall be automatically extended for the duration of any litigation concerning the user or the City and County of Broomfield, or where the user has been specifically notified of a longer retention period by the director.

(N) Certification statements.

(1) Signatory certification for required reports. The following certification statement is required to be signed and submitted by users submitting reports to the director required under this chapter and the wastewater discharge permit:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly

responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(2) Certification of pollutants not present. Users that have an approved monitoring waiver based on paragraph **13-28-060(D)(2)** must certify on each report with the following statement that there has been no increase of the pollutant in its wastestream due to activities of the user.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 C.F.R. ____ (specify applicable National Pretreatment Standard part), I certify that, to the best of my knowledge and belief, there has been no increase in the level of ____ (list pollutant) in the wastewaters due to the activities at the facility since filing of the last periodic report under subsection 13-28-060(D)(2) B.M.C."

(3) Annual Certification for Non-Significant Categorical Industrial Users:

- a. **A facility determined to be a Non-Significant Categorical Industrial User by the director pursuant to subsection 13-28-010(C)(58) must annually submit the following certification statement signed in accordance with the signatory requirements in subsection 13-28-010(C)(3).**
- b. **This certification must accompany an alternative report required by the director.**

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 C.F.R. ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ [months, days, year] to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 13-28-10(C)(58);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

Section 6. Subsection A of Section 13-28-090 of the Broomfield Municipal Code, Publication of users in significant noncompliance, is hereby amended to state as follows:

13-28-090 Publication of users in significant noncompliance.

(A) The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other user that violates paragraphs **13-28-090** (3), (4) or (8) of this subsection) and shall mean:

...

Section 7. Subsections A, B, F, G, and H of Section 13-28-100 of the Broomfield Municipal Code, Administrative Enforcement Remedies, are hereby amended to state as follows:

13-28-100 Administrative enforcement remedies.

(A) Notification of violation. When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon the user a written notice of violation. Within **five (5) calendar-working 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 user to the director. Submission of such a plan in no way relieves the 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.

(B) Consent orders. The director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections **13-28-100(E)** and (F) below and shall be judicially enforceable.

...

(F) Administrative fines.

(1) When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user **in accordance with the penalties set forth in chapter 1-12, of the B.M.C.** ~~an amount not to exceed \$1,000.00 per day.~~ Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(2) Unpaid charges, fines, and penalties shall, after thirty calendar days, be assessed an additional penalty of twenty-five percent of the unpaid balance, and interest shall accrue

thereafter at a rate of five percent per month. A lien against the user's property shall be sought for unpaid charges, fines, and penalties.

(3) Users desiring to appeal such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within fifteen days of being notified of the fine. Such notice of appeal shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and request for a hearing. The notice of appeal shall not waive or cause a delay to the requirement that a user pay the administrative penalty within thirty days as specified above.

(4) Date of hearing. On receipt of a notice of appeal, the director shall set it for hearing within fifteen days. Notice of the time, date, and place for the hearing shall be served or mailed by certified mail to the party filing the notice of appeal at least ten days prior to the hearing. The director may continue the hearing, from time to time, thereafter, as the director deems necessary, without further notice. Whether or not a duly notified user appears or is represented at the hearing, the director may immediately pursue any other enforcement action authorized under this chapter. In the event the user's appeal is successful and the entire or a portion of the payment is ordered returned to the user, the payment, together with any interest accruing thereto, shall be returned to the user. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

(G) Emergency suspensions.

(1) The director may immediately suspend a user's discharge, after notice to the user, whenever such suspension is necessary to stop a discharge which: (a) reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons; (b) interferes or threatens to interfere with the operation of the POTW; or (c) which presents, or may present, an endangerment to the environment. Notice may include: hand delivery of the emergency notice during working hours, posting of such notice at the business, telephone or email notice to the authorized representative, and any other methods as determined to be appropriate by the director under the emergency suspension action.

(2) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure or inability to immediately comply with the suspension notice, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The user shall submit a detailed written statement, describing the causes of the discharge and the measures taken to prevent any future occurrence. The director may allow the user to recommence

its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed.

(3) Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user, including initiating termination proceedings as set forth in subsection **13-28-100**(H).

(H) Termination of discharge.

(1) The city may revoke a wastewater discharge permit and terminate any discharge as described in subsection 13-28-050(E).

(2) Such user will be notified of the proposed revocation and termination of its discharge and be offered an opportunity to show cause under subsection **13-28-050**(C) above why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

...

Section 8. Subsections B and C of Section 13-28-110 of the Broomfield Municipal Code, Judicial Enforcement remedies, are hereby amended to state as follows:

13-28-110 Judicial enforcement remedies.

...

(B) Civil penalties.

(1) A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City and County of Broomfield **in accordance with the penalties set forth in chapter 1-12, of the B.M.C.** ~~for a maximum civil penalty of \$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.~~

(2) 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 and County of Broomfield.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(C) Criminal prosecution.

(1) A user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable **in accordance with the penalties set forth in chapter 1-12, of the B.M.C.** ~~by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than ninety days, or both.~~

(2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty **in accordance with the penalties set forth in chapter 1-12, of the B.M.C.** ~~of at least \$1,000.00, or be subject to imprisonment for not more than ninety days, or both.~~ This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, 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 **in accordance with the penalties set forth in chapter 1-12, of the B.M.C.** ~~of not more than \$1,000.00 per violation, per day, or imprisonment for not more than ninety days, or both.~~

(4) In the event of a second conviction, a user shall be punished by a fine **in accordance with the penalties set forth in chapter 1-12, of the B.M.C.** ~~of not more than \$1,000.00 per violation, per day or imprisonment for not more than ninety days, or both.~~

...

Section 9. Subsection E of Section 13-28-120 of the Broomfield Municipal Code, Supplemental enforcement actions, is hereby amended to state as follows:

13-28-120 Supplemental enforcement actions.

...

(E) Public nuisances. A violation of any provision of this chapter, a wastewater discharge permit 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 ~~code~~ **B.M.C.** governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

...

Section 10. Subsection C of Section 13-28-130 of the Broomfield Municipal Code, Affirmative defenses to discharge violations, is hereby amended to state as follows:

13-28-130 Affirmative defenses to discharge violations.

...

(C) Bypass.

...

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections **13-28-130** (3) and (4).

...

(4) Bypass.

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

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
3. The user submitted notices as required under subsection **13-28-130(C)(3)** above.

...

Section 11. Subsections A and B of Section 13-28-140 of the Broomfield Municipal Code, Wastewater treatment rates, are hereby amended to state as follows:

13-28-140 Wastewater treatment rates.

(A) Sewer services. The City and County of Broomfield's sewer services charges are listed in chapter 13-12 of the ~~code~~ **B.M.C.**

(B) Industrial pretreatment program fees. In addition to the sewer use fees and charges provided for in chapter 13-12, the city may adopt reasonable fees for reimbursement of costs of setting up and operating the industrial pretreatment program, which may include:

(1) Fees for a wastewater discharge permit, including the cost of processing such applications; users shall be subject to wastewater discharge permit fees as set forth in section 13-28-145 below, which is incorporated herein by this reference.

(2) Classification of industrial users. Industrial users may be divided into various classifications, including but not limited to significant industrial users and nonsignificant industrial users, and the fees within such classifications reflect the differing costs to the city.

(3) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users; users shall be subject to wastewater analysis fees as set forth in section 13-28-145 below, which is incorporated herein by this reference.

(4) Fees for reviewing and responding to accidental discharge procedures and construction;

(5) Fees for filing appeals;

(6) Fees to recover administrative and legal costs (not included in subsection **13-28-140(A)** above) associated with the enforcement activity taken by the director to address industrial user noncompliance;

(7) Sump pump permit fee. A permit fee of \$75.00 shall be charged by the city for each permit issued to an applicant for a sump pump permit as provided in subparagraph 13-28-020(A)(5)c.

(8) Recreation vehicle-camper permit fee. A permit fee of ~~\$25.00~~ **\$30.00** shall be charged by the city for each nonresidential permit issued to an applicant for a recreation vehicle-camper permit. **A card replacement fee of \$10.00 shall be charged by the city for additional or replacement permit access cards.**

(9) Damage to facilities. When a user's wastewater causes obstruction or damage or, because of the nature of the wastewater, increases the costs for managing the effluent of the sludge of the POTW, the user shall pay for such increased cost.

(10) Other fees as the City and County of Broomfield may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

...

Section 12. Section 13-28-145 of the Broomfield Municipal Code, Permit fees, monitoring schedule, and analysis fees, is hereby amended to state as follows:

13-28-145 Permit fees, monitoring schedule, and analysis fees.

(A) Permit fees.

Class	Permit Fees (per year)
Significant industrial user	\$1,700.00
Non-significant Categorical Industrial User	\$1,700.00
Zero Discharger Categorical Industrial User	\$750.00
Nonsignificant industrial user	\$750.00

(B) Monitoring schedule for significant industries. All parameters specifically limited will be monitored by the industrial user at least twice per year. Pollutants most likely to be present in the wastewater discharge shall be monitored more frequently, as determined by the director.

(C) Annual analysis. Once per year a complete analysis shall be made by the city. Subsequent samplings during the year may be for specific pollutants, as determined by the director.

(D) Wastewater analysis fees.

Sample pick-up and preparation:	\$120.00 160.00
Analysis:	
COD	22.00 25.00
TSS	18.00
BOD	36.00 57.00
pH	6.00 7.00
Ammonia-nitrogen	18.00
Cyanide, total	36.00 38.00
Metals, any 4	70.00 76.00
Oil and grease	58.00 75.00
Chromium (hexavalent)	32.00 33.00

Mercury	32.00
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For pollutants other than those listed above, fees will be charged at a rate of \$30.00 per man-hour involved in analysis.

Section 13. Subsections B and C of section 13-28-160 of the Broomfield Municipal Code, Regulation of users from outside jurisdictions, are hereby amended to state as follows:

13-28-160 Regulation of users from outside jurisdictions.

...

(B) Prior to entering into an agreement required by subsection **13-28-160(A)** above, the director shall request the following information from the contributing municipality:

- (1) A description of the quality and volume of wastewater discharged into the POTW by the contributing municipality;
- (2) An inventory of all users located within the contributing municipality that are discharging into the POTW; and
- (3) Such other information as the director may deem necessary.

(C) The intermunicipal agreement, as required by subsection **13-28-160 (A)** above, shall contain the following conditions:

...

Section 14. This ordinance shall be effective seven days after publication following final passage.

INTRODUCED AND APPROVED after first reading on March 29, 2022, and ordered published in full.

INTRODUCED A SECOND TIME and approved on May 10, 2022, and further ordered published.

THE CITY AND COUNTY OF BROOMFIELD,
COLORADO



Mayor

ATTEST:



Office of the City and County Clerk



APPROVED AS TO FORM:





City and County Attorney

First Publication: April 3, 2022

Second Publication: May 15, 2022