

ORDINANCE NO. 14-_____

AN ORDINANCE AMENDING SECTION 201 (DEFINITIONS) OF PART 2 (DEFINITIONS); SECTIONS 702 (WASTEWATER DISCHARGE; PROHIBITIONS), 703 (WASTEWATER DISCHARGE; LIMITATIONS), AND 705 (SILVER SOURCE CONTROL) OF PART 7 (PROHIBITIONS – LIMITATIONS ON WASTEWATER DISCHARGE); SECTIONS 901 (REPORTING REQUIREMENTS) AND 903 (INSPECTION, SAMPLING AND ANALYSIS) OF PART 9 (INDUSTRIAL WASTEWATER MONITORING AND REPORTING); SECTIONS 1001 (DISCHARGE REQUIREMENTS), 1002 (MANIFEST SYSTEM), 1004 (VEHICLE MAINTENANCE REQUIREMENTS) AND 1005 (FINANCIAL ASSURANCE REQUIREMENTS) OF PART 10 (LIQUID WASTE HAULER REQUIREMENTS); SECTIONS 1102 (DISCHARGE PERMIT; APPLICATION FOR), 1104 (SIGNIFICANT INDUSTRIAL USER DISCHARGE PERMIT; CONDITIONS), 1106 (DISCHARGE PERMIT; DURATION), 1108 (LIQUID WASTE HAULER PERMIT; APPLICATIONS FOR), 1109 (LIQUID WASTE HAULER PERMIT; CONDITIONS) AND 1112 (MODIFICATION OF PERMITS AND CONTROL MECHANISMS) OF PART 11 (PERMIT AND CONTROL MECHANISM SYSTEM); AND SECTIONS 1201 (ENFORCEMENT GENERALLY; REMEDIES CUMULATIVE) AND 1207 (AFFIRMATIVE DEFENSES) OF PART 12 (ENFORCEMENT) ALL OF ARTICLE 5 (WASTEWATER TREATMENT CODE) OF CHAPTER 12 (UTILITIES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 201 (Definitions) of Part 2 (Definitions) of Article 5 (Wastewater Treatment Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

12.5.201: DEFINITIONS:

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AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER:

1. ~~If the industrial user is a corporation, a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty five million dollars (\$25,000,000.00) (in second quarter 1980 dollars);~~**A responsible corporate officer, if the industrial user is a corporation. For the purpose of this paragraph, a responsible corporate officer means:**

- a. **A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation, or**

- b. **The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility, including but not limited to: having the explicit or implicit duty of making major capital investment recommendations; initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; ensuring 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.**

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3. **A duly authorized representative of the individual designated above if the representative is responsible for the overall operation of the facility from which the indirect discharge originates or has overall responsibility for environmental matters for the company.** ~~if the a~~**Authorization is must be** made in writing to the Executive Director by ~~the~~ **an individual as** described in ~~subsections~~ **parts 1 and 2** of this definition.
4. **If an authorization under part 3 of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of part 3 of this section must be submitted to the Executive Director prior to or together with any reports to be signed by an authorized representative.**

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DAILY MAXIMUM LIMIT: The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily

discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

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SEVERE PROPERTY DAMAGE: Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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UPSET: An exceptional incident **in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation** ~~which causes temporary and unintentional noncompliance with the discharge limitations or prohibitions applicable to the user and which is beyond the reasonable control of the user.~~

Section 2. Sections 702 (Wastewater Discharge; Prohibitions), 703 (Wastewater Discharge; Limitations) and 705 (Silver Source Control) of Part 7 (Prohibitions – Limitations on Wastewater Discharge) of Article 5 (Wastewater Treatment Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

12.5.702: WASTEWATER DISCHARGE; PROHIBITIONS:

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D. * * *

2. Wastewater containing more than twenty-five milligrams per liter (25 mg/l) petroleum, as measured as hydrocarbons ~~by Soxhlet extraction, or other approved method set out in standard methods for the examination of water and wastewater~~ **by methods set forth in 40 CFR section 136**. Evidence of oil or grease in wastewater shall be based upon instantaneous or grab samples.

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N. Wastewater: Wastewater with an instantaneous pH value of less than 5.5 standard units, **or greater than or equal to 12.5 standard units.**

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T. Waste Silver Rich Photochemical Solutions: Waste silver rich photochemical solutions not treated to greater than ninety percent (90%) removal of the initial waste silver concentrations, unless in accord with section 12.5.705 of this part and section 12.5.111108 of this article specifically authorized in writing by the Executive Director and after suitable treatment as approved by the Executive Director has been effected.

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Y. BTEX: BTEX, defined as the sum of benzene, toluene, ethylbenzene, and xylene, in excess of 0.750 mg/L.

Z. Benzene: Waste containing benzene in excess of 0.050 mg/L.

12.5.703: WASTEWATER DISCHARGE; LIMITATIONS:

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B. Local Limitations: For each significant industrial user, the following tables set forth the local limits on the ~~maximum concentration~~ **daily maximum limit** (milligrams per liter) and maximum allowable industrial loading (lbs/day) of pollutants, as measured by a composite sample and related flow measurements taken during the user's operating day, unless elsewhere specified in this article or in the significant industrial user's wastewater discharge permit.

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12.5.705: SILVER SOURCE CONTROL:

A. Any discharger (who is not otherwise a significant industrial user) of waste silver rich photochemical solutions generated from photoprocessing activities shall apply for and prior to the discharge, obtain a control mechanism authorizing discharge (per section 12.5.1111 and ~~subsection 12.5.901GF~~ of this article). Prior to the discharge, the discharger shall install, operate, maintain and monitor treatment technology in an effort to consistently achieve discharge concentrations which shall not be greater than four hundred milligrams per liter (400 mg/l).

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Section 3. Sections 901 (Reporting Requirements) and 903 (Inspection, Sampling and Analysis) of Part 9 (Industrial Wastewater Monitoring and Reporting) of Article 5

(Wastewater Treatment Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

12.5.901: REPORTING REQUIREMENTS:

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~~C. Amended Questionnaire: Industrial users who have filed industrial wastewater discharge questionnaires previously shall file an amended industrial wastewater discharge questionnaire two (2) weeks prior to any planned significant change in operations or wastewater characteristics. If significant change occurs unknowingly or is unplanned, an amended industrial wastewater discharge questionnaire shall be filed within seven (7) days after the change becomes known. A "significant change" shall mean a change which will be in effect for a period of fourteen (14) days or more and shall include, but is not limited to:~~

- ~~1. Change in number of shifts, an additional processing operation, any new substances regulated under part 7 of this article used which may be discharged.~~
- ~~2. A twenty five percent (25%) increase or decrease in the wastewater flow or production volume.~~
- ~~3. Any other change which may alter the average normal wastewater characteristics by a factor of 1.5 or more.~~
- ~~4. Any other change that triggers the applicability of a categorical pretreatment standard that had not previously applied to the user.~~
- ~~5. Any other change affecting the potential for a slug discharge.~~

DC. Baseline Monitoring Report: Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 40 CFR section 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Executive Director a report which contains the information listed in subsections **DC** 1 through **DC** 7 of this section. At least ninety (90) days prior to commencement of discharge, new sources subject to categorical standards, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Executive Director a report which contains the information listed in subsections **DC** 1 through **DC** 5 of this section, plus report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, may give estimates of the information requested in subsections **DC** 4 and **DC** 5 of this section:

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5. Measurement of Pollutants:

a. The user shall identify the pretreatment standards applicable to each regulated process; and

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c. **For sampling required in support of baseline monitoring and 90-day compliance reports required in subsections C and D of this section, 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 Executive Director may authorize a lower minimum. For the reports required by subsections E 1 and E 2 of this section, the Executive Director shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and pretreatment requirements;**~~A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, twenty four (24) hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. The Executive Director may waive flow proportional composite sampling for any industrial user that demonstrates that flow proportional sampling is infeasible. In such cases, samples may be obtained through time proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged;~~

d. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection ~~DC~~ 5;

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f. **Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR section 136 and amendments thereto. Where 40 CFR section 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the section 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the EPA;**~~Sampling and analysis shall be performed in accord with the techniques prescribed in 40 CFR section 136 and amendments thereto;~~

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6. **Certification:** A statement, reviewed by an authorized representative of the industrial user 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 for the industrial user to meet the pretreatment standards and requirements; ~~A statement, approved by an authorized representative of the user and certified by a professional engineer, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures, BMPs or additional pretreatment is required for the user to meet the pretreatment standards and requirements; and,~~

7. **Compliance schedule.** If additional pretreatment and/or operation and maintenance (O and M) will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. ~~Additional Pretreatment: If additional pretreatment, BMPs, or operation and maintenance procedures will be required to meet the pretreatment standards, then the report shall contain the shortest schedule by which the user will provide additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.~~

a. **Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR section 403.7), the combined wastestream formula (40 CFR section 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR section 403.13) at the time the User submits the report required by subsection C of this section, the information required by subsections C 6 and C 7 of this section shall pertain to the modified limits.**

b. **If the categorical pretreatment standard is modified by a removal allowance (40 CFR section 403.7), the combined wastestream formula (40 CFR section 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR section 403.13) after the user submits the report required by subsection C of this section, any necessary amendments to the information requested by subsections C 6 and C 7 of this section shall be submitted by the user to the control authority within sixty (60) days after the modified limit is approved.**

ED. **Ninety Day Compliance Reports:**

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3. **Minimum Requirements:** Any industrial user subject to pretreatment standards and requirements shall submit to the Executive Director a report containing the information described in subsections ~~C 4D4~~ through ~~C 6D6~~ of this section. For industrial users subject

to equivalent mass or concentration limits established by the Executive Director in accordance with the procedures in 40 CFR section 403.6(c), this report shall contain a reasonable measure of the 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 user's actual production during the appropriate sampling period.

FE. Self-Monitoring Compliance Report:

1. Categorical Industrial User: Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge to the POTW, shall submit to the Executive Director during the months of June and December, unless required more frequently in the pretreatment standard, in the user's permit or control mechanism, or in State or Federal regulations, or by the Executive Director, a self-monitoring report on forms provided by the Executive Director indicating the nature and concentration and flow of pollutants in the effluent which are limited by the Executive Director or the pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in subsection DC 4 of this section except that the Executive Director may require more detailed reporting of flows. These reports shall be based on sampling and analysis performed in the period covered by the report, and shall be performed in accord with the techniques described in 40 CFR section 136 and amendments thereto. Effluent monitoring results for any pollutants that are obtained in accord with methods prescribed in 40 CFR section 136 that are in addition to the frequency described in this part or in the user's discharge permit shall be included in the self-monitoring report. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the industrial user must submit documentation required by the Executive Director or the pretreatment standards to determine the compliance status of the industrial user. At the discretion of the Executive Director and in consideration of the factors as local high or low flow rates, holidays, budget cycles, etc., the Executive Director may agree to alter the months during which the above reports are to be submitted.

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~~J. I.~~ Violation: If sampling performed by an industrial user indicates a violation, the user shall notify the Executive Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis for the pollutant that was in violation and submit the results of the repeat analysis to the Executive Director within thirty (30) days after becoming aware of the violation, ~~unless otherwise notified in writing by the Executive Director.~~ The industrial user is not required to resample if the user is adhering to an approved compliance schedule.

~~K. J.~~ * * *

~~L. K.~~ * * *

~~M. L.~~ * * *

12.5.903: INSPECTION, SAMPLING AND ANALYSIS:

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B. Industrial User Sampling:

1. For Reports Required By Subsections 12.5.901 ~~CD, DE and EF~~ of this part: The reports required by subsections 12.5.901 ~~CD, DE~~ And ~~EF~~ of this part must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Executive Director shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Executive Director. Where time proportional composite sampling or grab sampling is authorized by the Executive Director, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR section 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 Executive Director, as appropriate.

2. For Reports Required By Subsections 12.5.901 CD and DE of This Part: For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections 12.5.901 CD and DE of this part, 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 Executive Director may authorize a lower minimum.

3. For Reports Required By Subsections 12.5.901 EF and FG of This Part: For the reports required by subsections 12.5.901 EF and FG of this part, the Executive Director shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. If an industrial user subject to the reporting requirement in subsections 12.5.901 EF and FG of this part, monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Executive Director, using the procedures prescribed in subsection C of this section, the results of this monitoring shall be included in the report.

4. Record Keeping Requirements: Any industrial user subject to the reporting requirements established herein shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with best management practices. Such records shall include for all samples:

- a. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;**
- b. The dates analyses were performed;**
- c. Who performed the analyses;**
- d. The analytical techniques/methods used; and**
- e. The results of such analyses.**

C. Laboratory Analysis: Laboratory analysis of industrial wastewater samples shall be performed in accord with 40 CFR section 136, or other methods approved by the Executive Director. ~~Metals analysis will use a sample preparation technique at least as rigorous as acidification to a pH of less than 2. The determination may be run on the decant, concentrate, or filtrate of the acidified sample. When a sample is run using different sample preparation techniques, the highest measured concentration will be used to determine compliance.~~ Analysis of those pollutants not covered by these publications shall be performed in accord with procedures approved by the Executive Director. The test results of laboratory analysis performed by Utilities in accord with this section shall be presumed to be correct unless shown otherwise by competent evidence. Test methods selected shall be those most representative and precise for the concentrations in the effluent limitations.

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Section 4. Sections 1001 (Discharge Requirements), 1002 (Manifest System), 1004 (Vehicle Maintenance Requirements) and 1005 (Financial Assurance Requirements) of Part 10 (Liquid Waste Hauler Requirements) of Article 5 (Wastewater Treatment Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

12.5.1001: DISCHARGE REQUIREMENTS:

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C. More information regarding the Liquid Waste Hauler Program may be found in Utilities' Liquid Waste Hauler Program Policies and Procedures Manual.

12.5.1002: MANIFEST SYSTEM:

A. Requirements For Manifest: Any liquid waste hauler must complete a liquid waste hauler manifest on the form prescribed by the Executive Director if:

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~~B. Contents Of Manifest: The manifest shall include, at a minimum:~~

- ~~1. The name of the liquid waste hauler and vehicle identification.~~
- ~~2. Permit number of the permit issued by the Executive Director.~~
- ~~3. Signature of the liquid waste hauler at the time of pumping and disposal, the dates of pumping and disposal, and certification. The required certification is as provided in 40 CFR section 403.6(a)(2)(ii).~~
- ~~4. The name, addresses, and phone number of the waste generator.~~
- ~~5. The date and time each waste was picked up and the type of waste and volume (gallons) of each type of waste.~~
- ~~6. The name, address and phone number of the disposal location.~~
- ~~7. Signature of the centralized waste treatment facility at the time of disposal and the date of disposal.~~

~~C. Number Of Copies: The manifest consists of at least the number of copies that will provide the generator, the liquid waste hauler, the disposal facility, and the~~

Executive Director (if disposal is not to the Utilities' POTW) with one copy each for their records.

~~D. Use Of The Manifest:~~

~~1. The liquid waste hauler shall complete one manifest for each location serviced.~~

~~2. The liquid waste hauler must sign and date the manifest at the time of waste collection. The liquid waste hauler must provide a copy of the signed manifest to the generator at the time of waste collection.~~

~~3. At the time of disposal, the liquid waste hauler shall complete the manifest and sign it and date it.~~

~~4. If the liquid waste hauler disposes of the waste at a centralized waste treatment facility, the operator of the facility must also sign the manifest. The liquid waste hauler shall provide a copy of the completed and signed manifest to an operator at the centralized waste treatment facility prior to disposal.~~

~~5. If the liquid waste hauler disposes of the waste at other than the POTW, the liquid waste hauler must provide a copy of the manifest to the Executive Director within thirty (30) days.~~

~~6. The liquid waste hauler must retain a copy of the completed and signed manifest for three (3) years following disposal. The manifests shall be made available for inspection and copying to the Executive Director immediately upon request. (Ord. 99-163; Ord. 01-42; Ord. 10-82)~~

12.5.1004: VEHICLE MAINTENANCE-REQUIREMENTS:

A. Liquid waste hauler vehicles used for hauling liquid wastes shall be maintained and operated so as to assure a safe and sanitary condition. ~~This includes:~~

~~A. Maintaining tanks, pumps, valves, hoses, racks, cylinders, diaphragms, pipes, connections, and other appurtenances on a vehicle in good repair and free from leaks, airtight to prevent the escape of any noxious gases or offensive odors; and~~

~~B. Providing a safety plug or cap for each tank; and~~

~~C. Ensuring that the vehicle exterior is clean at the beginning of each work day (prior to entry to the POTW) and that all tools and appliances used in the cleaning and removal are kept and maintained in sanitary condition; and~~

~~D. Cleaning the inside of tanks to ensure that nonpermitted residual wastes are not left in the tank and allowed to mix with permitted wastes; and~~

~~B.E. Liquid waste haulers vehicles shall be licensed by~~ **obtain an inspection report from the** El Paso County Department of Health and Environment **for all permitted vehicles**, when applicable.

12.5.1005: FINANCIAL ASSURANCE REQUIREMENTS:

A. Liability Insurance: The liquid waste hauler shall maintain liability insurance **and any other means of financial assurance** as required by ~~Colorado Revised Statutes section 10-4-705~~ **the Executive Director** and as otherwise provided by law.

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Section 5. Sections 1102 (Discharge Permit; Application For), 1104 (Significant Industrial User Discharge Permit; Conditions), 1106 (Discharge Permit; Duration), 1108 (Liquid Waste Hauler Permit; Application For), 1109 (Liquid Waste Hauler Permit; Conditions) and 1112 (Modification of Permits and Control Mechanisms) of Part 11 (Permit and Control Mechanism System) of Article 5 (Wastewater Treatment Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

12.5.1102: DISCHARGE PERMIT; APPLICATION FOR:

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D. Amended Application: Permitted industrial users who have filed industrial wastewater discharge applications previously shall file an amended industrial wastewater discharge application two (2) weeks prior to any planned significant change in operations or wastewater characteristics. If a significant change occurs unknowingly or is unplanned, an amended industrial wastewater discharge application shall be filed within seven (7) days after the change becomes known. A "significant change" shall mean a change which will be in effect for a period of fourteen (14) days or more and shall include, but is not limited to:

- 1. Change in number of shifts, an additional processing operation, any new substances regulated under part 7 of this article which may be discharged.**
- 2. A twenty-five percent (25%) increase or decrease in the wastewater flow or production volume.**

3. Any other change which may alter the average normal wastewater characteristics by a factor of 1.5 or more.
4. Any other change that triggers the applicability of a categorical pretreatment standard that had not previously applied to the user.
5. Any other change affecting the potential for a slug discharge.

12.5.1104: SIGNIFICANT INDUSTRIAL USER DISCHARGE PERMIT; CONDITIONS:

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R. Requirements for reporting significant changes, as indicated in subsection ~~12.5.1102D901C~~ of this article, shall be included in the information provided by the permittee in the permit application. **permit.**

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12.5.1106: DISCHARGE PERMIT; DURATION:

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B. Annual permit renewal charges shall be paid as required by the wastewater tariffs **by the due date set forth by the Executive Director.**

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12.5.1108: LIQUID WASTE HAULER PERMIT; APPLICATION FOR:

A. A liquid waste hauler permit charge including deposit, as required by the wastewater tariffs per section 12.1.107 of this chapter, shall be payable by the applicant ~~at the time the application is submitted.~~

B. Liquid waste haulers seeking a permit shall complete and file with the Executive Director a complete application on the form prescribed by the Executive Director. The application shall be certified as true, complete and accurate as provided in 40 CFR section 403.6(a)(2)(ii). ~~In support of this application, the liquid waste haulers at a minimum shall be required to submit the following information:~~ **Any supplemental information deemed necessary in order to evaluate the application shall be provided by the liquid waste hauler upon request by the Executive Director.**

1. ~~Name and address of hauler.~~
2. ~~Copy of vehicle liability insurance.~~

~~3. Number, capacity and type of all vehicles that are owned and/or operated by the liquid waste hauler and are used for pumping and/or hauling any liquid wastes.~~

~~4. Types of materials pumped by the hauler and the specific disposal methods and location(s) for the materials, including names, addresses and phone numbers of the proposed disposal locations.~~

~~5. Identification of all other permits or licenses for transportation or management of wastes (liquid, solid, hazardous or otherwise) and whether any permits or licenses have been or are suspended, revoked, or terminated for cause.~~

~~6. El Paso County Department of Health and Environment systems cleaner inspections report of vehicle(s) that tank for holding of wastes is so constructed and maintained as to be completely spill and leak proof, airtight and vehicle(s) and equipment are maintained in a safe and sanitary condition.~~

~~7. Other items as the Executive Director deems appropriate to assure compliance with this article.~~

12.5.1109: LIQUID WASTE HAULER PERMIT; CONDITIONS:

A. Conditions contained in the liquid waste hauler permit may include, but are not limited to:

1. Firm name **and**, address, ~~and phone number.~~

2. Authorized representative information and signature.

3. Certification of permittee of knowledge and acceptance of the permit conditions.

~~4. Date of expiration and due date for filing renewal application~~ **Effective and expiration dates.**

5. Statement of nontransferability of the permit.

6. Listing of authorized vehicles to transport and dispose of waste at the POTW.

~~7. General permit requirements.~~

~~8. Specific prohibitions and applicable pretreatment standards and requirements.~~

7. Listing of authorized waste types that the permittee may discharge.

~~10. Sampling, analysis and reporting requirements.~~

- ~~11. Updating proof of insurance and financial assurance before expiration.~~
- ~~12. Restrictions of hours of operation if applicable.~~
- ~~13. Conditions upon which permit revocation may occur.~~
- ~~14. Limitation on freon extractable grease and oil (FEGO), hydrocarbon, BOD, total suspended solids, flow, or other pollutants.~~
- 158.** Permit number, card number(s).
- ~~16. Recordkeeping, reporting, and manifesting requirements.~~
- ~~17. Compliance with rules and regulations of Utilities and El Paso County Department of Health and Environment regarding watertightness, cleanliness, and sanitary conditions.~~
- ~~18. Requirements to immediately notify the Executive Director of any unusual circumstances observed during liquid waste pumping operations.~~
- ~~19. Deposit per tariffs per section 12.1.107 of this chapter to assure payment of charges due.~~
- 209.** A statement regarding the obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.
- ~~21. Statement of applicable civil and criminal penalties for violation of any conditions, requirements, or standards.~~
- 2210.** Other conditions, limitations or prohibitions deemed appropriate by the Executive Director.

~~B. Any significant change in the information provided by the permittee on the liquid waste hauler permit application form shall be reported to the Executive Director as follows:~~

- ~~1. Fourteen (14) days prior to known date of a planned significant change.~~
- ~~2. Within seven (7) days after known date of an unplanned significant change.~~
- ~~3. For purposes of this section, "significant change" shall mean:~~
 - ~~a. Change in number of disposal vehicles operated by the permittee.~~
 - ~~b. Replacement of a disposal vehicle operated by the permittee.~~
 - ~~c. Alteration of tank size of any disposal vehicle operated by the permittee.~~

~~d. Change in the nature of the wastes hauled and/or disposed to the wastewater treatment system.~~

~~e. Other items as specified in the liquid waste hauler permit.~~

12.5.1112: MODIFICATION OF PERMITS AND CONTROL MECHANISMS:

The terms and conditions of a permit or control mechanism may be subject to modification and change by the Executive Director during the life of the permit or control mechanism, as limitations or requirements as identified in this article are modified and changed. The user shall be informed of any proposed changes in the permit or individual control mechanism at least thirty (30) days prior to the effective date of change unless the change is initiated by a violation of this Wastewater Treatment Code. Any change or new condition in the permit shall include a reasonable time schedule for compliance. **The Executive Director may provide relief from permit requirements in writing, provided the relief does not conflict with federal requirements.** Modification of general control mechanisms must be in accord with subsection 12.1.109B of this chapter.

Section 6. Sections 1201 (Enforcement Generally; Remedies Cumulative) and 1207 (Affirmative Defenses) of Part 12 (Enforcement) of Article 5 (Wastewater Treatment Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

12.5.1201: ENFORCEMENT GENERALLY; REMEDIES CUMULATIVE:

A. Consistent with the Federal Clean Water Act section 309, 33 USC section 1319, strict liability for noncompliance with the requirements of this article, any regulation, control mechanism or permit thereunder shall constitute a violation, regardless of fault, negligence or intent. The discretion to pursue enforcement shall be upon consideration of the magnitude of the violation; its duration; its effect on the receiving water, collection or treatment facilities, City employees and contractors, and the public health, safety and welfare; the user's compliance history; the good faith of the user; and the resources available to support the enforcement action. Enforcement shall be in accord with this part and this chapter, including subsections 12.1.114A and C of this chapter, but to the exclusion of the dispute resolution procedure of other Utilities matters provided in the Utilities tariffs or the restitution provided at subsection 12.1.114B of this chapter. These enforcement remedies apply to ~~all permits, industrial user control mechanisms, and BMPs required by this article and any orders under~~ **any violation of this article.**

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12.5.1207: AFFIRMATIVE DEFENSES:

A. Upsets:

1. Defined: An "upset" is defined as an exceptional incident which causes temporary and unintentional noncompliance with the discharger's ~~technology based limitations~~ or categorical pretreatment standards because of actions beyond the reasonable control of the user. Upsets do not include incidents or noncompliance caused by:

* * *

2. Claims: Claims of an upset shall constitute an affirmative defense to a charge that a user has violated ~~a technology based limitation~~ **categorical pretreatment standard** if and only if the following requirements are satisfied:

* * *

~~d. The user must establish that notice to the POTW of the incident was effected within twenty four (24) hours, and that the notice described the discharge and its cause, the period of noncompliance, and the steps being taken at the time of notification to prevent a recurrence of the incident.~~ **The industrial user has submitted the following information to the POTW and Executive Director within twenty four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):**

i. **A description of the indirect discharge and cause of noncompliance;**

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

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

* * *

4. **Reviewability Of Agency Consideration Of Claims Of Upset:** In the usual exercise of prosecutorial discretion, enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final action subject to judicial review. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

5. **User Responsibility In Case Of Upset:** The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its

treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

B. Bypass: Bypass, which exceeds applicable pretreatment standards, is prohibited unless all of the following conditions are met:

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

~~2. There were no feasible alternatives to bypass, such as use of auxiliary treatment facilities, retention of wastes, maintenance during normal periods of equipment downtime, or discontinuance of the process generating the wastewater; and~~

~~3. The industrial user submitted notices which:~~

~~a. Were made, if possible, ten (10) days before the date of the bypass;~~

~~b. If after a bypass, within twenty four (24) hours of it, orally notify Utilities of an unanticipated bypass that exceeds applicable pretreatment standards or requirements. A written explanation for the bypass, description of it, and correction measures shall be submitted within seven (7) days. This written report may be waived by Utilities if the oral report is adequate.~~

1. Prohibition Of Bypass: Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass, unless;

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

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate 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

c. The industrial user submitted notices as required under subsection B 4 of this section.

2. Approval Of Bypass By Control Authority: The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three conditions listed in subsection B 1 of this section.

3. Bypass Not Violating Applicable Pretreatment Standards or Requirements: An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections B 1 and B 4 of this section.

4. Notice:

a. Anticipated Bypass: If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Executive Director, if possible at least ten (10) days before the date of the bypass.

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

* * *

Section 7. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by charter.

Section 8. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance shall be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2014.

Finally passed: _____

Keith King, Council President

ATTEST:

Sarah B. Johnson, City Clerk