HAILEY ORDINANCE NO. 1070

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING CHAPTER 13.05.OF THE HAILEY MUNICIPAL CODE ENTITLED WASTEWATER PRETREATMENT, TO ADD AND CLARIFY DEFINITIONS, DISCHARGE STANDARDS, ADDITIONAL PRETREATMENT MEASURES, AND ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS, TO ESTABLISH FEES BY RESOLTUION AND ADD FEES FOR PRETREATMENT DISCHARGE PERMITS, TO CLARIFY ADMINISTRATION PROCEDURES, TO CLARIFY ADMINISTRATIVE AND JUDICIAL ENFORCEMENT PROCEDURES, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS OF CHAPTER 13.05, A PRETREATMENT DISCHARGE PERMIT, AN ORDER ISSUED UNDER CHAPTER 13.05 OR OTHER PRETREATMENT STANDARD OR REQUIREMENT, OR FOR INTRODUCING ANY SUBSTANCE INTO THE PUBLICLY OWNED TREATMENT WORKS WHICH CAUSES PERSONAL INJURY OR PROPERTY DAMAGE; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City enacted Chapter 13.05 of the Hailey Municipal Code to provide regulations for the pretreatment of wastewater;

WHEREAS, the City desires to amend Chapter 13.05 to better conform with state and federal regulations for the pretreatment of wastewater; and

WHEREAS, the Mayor and City Council find that the amendments to Chapter 13.05 of the Hailey Municipal Code will further the public health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Chapter 13.05 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and the addition of the underlined language, as follows:

Chapter 13.05

WASTEWATER PRETREATMENT

Sections:

13.05.010	General provisions.
13.05.020	Abbreviations.
13.05.030	Definitions.
13.05.040	Regulations/Prohibited Discharge Standards.
13.05.050	Fees.

13.05.060 Administration.
13.05.070 Enforcement.
~~13.05.080 Penalties.~~
13.05.0980 Records retention.
13.05.~~11~~090 Nonliability.

13.05.010 General provisions. A. Purpose and Policy. This chapter sets forth uniform requirements for users of the city wastewater collection system and publicly owned treatment works (POTW) for the city of Hailey and enables the city to protect public health and to comply with all applicable local, state and federal laws, including the Clean Water Act (33 USC sec. 1251, et seq.) and the general pretreatment regulations (40 CFR Part 403).

The objectives of this chapter are:

1. To prevent the introduction of pollutants into the POTW which will interfere with the normal operation of the system and the use and disposal of the resulting municipal sludge;
2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the system;
3. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
4. To improve the opportunity to recycle and reclaim wastewater and sludge from the system and to ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
5. To allow the city to control wastewater inflow and to require users of the POTW with unacceptable effluents to pretreat those effluents for the removal of unacceptable compounds.

B. This chapter provides for the regulation of discharges into the POTW and shall apply to all users of the POTW. This chapter authorizes the issuance of pretreatment discharge permit; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. This chapter does not provide for recovery of operations, maintenance or replacement costs of the POTW, or the costs associated with the construction of collection and treatment systems used by industrial users, in proportion to their use of the POTW, which are the subject of other provisions set forth in Hailey Municipal Ordinance Title 13.

C. Except as otherwise provided herein, the Public Works Director, wastewater division head or ~~his~~ their designee shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Public Works Director or wastewater division head may be delegated when appropriate ~~by the wastewater department head~~ to other city personnel.

13.05.020 Abbreviations.

The following abbreviations shall have the designated meanings:

ASPP	accidental spill prevention/slug control plan
BOD	biochemical oxygen demand
CFR	Code of Federal Regulations
COD	chemical oxygen demand
EPA	US Environmental Protection Agency
gpd	gallons per day
l	liter
mg	milligrams
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	operation and maintenance
POTW	publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SIU	significant industrial user
SU	sewer user
SWDA	Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
TSS	total suspended solids
TTO	Total Toxic Organics
USC	United States Code

13.05.030 Definitions.

"Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act of 1972, 33 U.S.C. 1251, et seq., as amended.

Applicable Pretreatment Standards. For any specified pollutant, the "applicable pretreatment standards" shall include the following:

1. General discharge prohibitions;
2. The city's specific limitations on discharge as set forth in this chapter, the NPDES permit, or other local ordinance;
3. State standards;
4. Categorical pretreatment standards promulgated by the ~~U.S.~~ EPA, or other applicable federal standards or regulations, when effective.

Where several standards apply, the most stringent standard shall govern.

Authorized Representative of the User.

1. If the user is a corporation:

a. The president, secretary, treasurer, vice-president, or board of directors, 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

~~b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second quarter 1980 dollars), if~~

~~authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;~~

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

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

4. The individuals described in paragraphs 1 through 3 above may designate another authorized representative, if the authorization is in writing and is submitted to the city, and if the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates, or having overall responsibility for environmental matters for the company, organization, and/or agency.

"**Best Management Practices or BMPs**" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 403.5(a)(1) and (b) of the Act. BMP also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

"Biochemical oxygen demand" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty degrees centigrade, usually expressed as a concentration (milligrams per liter, mg/l).

"Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by the ~~U.S.~~ EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317), which apply to a specific category of users and which appear in 40 CFR Ordinance I, Subchapter N, Parts 405–471.

"Categorical user" means a user covered by one of the federal EPA categorical pretreatment standards.

"City" means the city of Hailey~~, or its representatives~~.

"City council" means the duly elected legislative branch of local government of the city of Hailey, Idaho.

"**Color**" The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

"Composite sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

"Cooling water" or "noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water can be discharged from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

"Domestic user (residential user)" means any person and/or residential dwelling unit who contributes, causes, or allows the contribution of wastewater into the Hailey POTW at a similar volume and/or chemical makeup generally accepted as that of a residential dwelling unit. Users from a residential dwelling unit typically include up to one hundred gallons per capita per day, 0.2 pounds of BOD per capita, and 0.17 pounds of TSS per

capita and contain no other substances that may be harmful to the POTW or to city personnel. A domestic user shall exclude users with nontypical discharges and/or spill potential to the Hailey POTW. Such nontypical users shall be treated as "user" for the purposes of this chapter.

"Environmental protection agency (EPA)" means the ~~U.S.~~ Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

"Existing source" means any source of discharge, the construction or operation of which commenced prior to publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act, 33 ~~U.S.C. 1251, et seq~~.

"Existing user" means, for noncategorical users, any user which is discharging wastewater prior to the effective date of the ordinance codified in this chapter.

"Grab sample" means a sample which is taken from a waste stream which is representative of a specific time and place without regard to flow.

"Indirect discharge <u>or discharge</u>" means the introduction of pollutants into ~~a~~ <u>the</u> POTW from an nondomestic source regulated under Section 307 (b), (c), or (d) of the Act. This discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches and all constructed devices and appliances appurtenant thereto.

"Industrial waste" means solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.

"Interference" means a discharge which alone or in conjunction with discharges from other sources, either:

1. Inhibits or disrupts the POTW, its treatment processes or operations;
2. Inhibits or disrupts the POTW's sludge processes, use or disposal; or
3. Is a cause of a violation of any requirement of the city's NPDES permit, or

to the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations, permits issued thereunder, or more stringent state or location regulations: Section 405 of the Clean Water Act; the federal Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA)); the federal Clean Air Act; the federal Toxic Substances Control Act; and state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, or in compliance with any other applicable federal legislation.

"Maximum allowable discharge limit" means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Medical wastes" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

"New source" means:

1. Any building, structure, facility or installation from which there is, or may be a discharge of pollutants, the construction of which commenced after publication of proposed ~~federal~~ categorical pretreatment standards under Section 307 (c) of the Clean Water Act which standards will be applicable to such source if ~~proposed~~ such standards are ~~published and~~ thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, shall be considered.

2. Construction on a site at which an existing source is located and results in a modification of an existing source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1) (a), (b) or (c) of this definition but otherwise alters, replaces or adds to our existing process or production equipment.

Construction of a new source as defined under this paragraph has commenced if the owner or operator has~~: a. B~~ begun, or caused to begin, as part of a continuous onsite construction program:

i. Any placement, assembly or installation of facilities or equipment; or

ii. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; ~~or~~

~~b. Entered into a binding contractual obligation under this paragraph.~~

"New User" A "new user" is not a "new source" and is defined as a user that applies to the city for a new building permit, or any person who occupies an existing building and plans to discharge wastewater to the city's collection system after the effective date of the ordinance ~~codified in this chapter~~. Any person that buys an existing facility that is discharging nondomestic wastewater will be considered an "existing user" if no significant changes are made in the manufacturing operation.

"NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the ~~U.S.~~ EPA or State.

"O and M" means operation and maintenance.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

"Pass through" means the discharge of pollutants through the POTW into navigable waters in quantities or concentrations which are a cause, in whole or in part, of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation), or which causes other environmental damage.

"Permittee" means a person or user issued a pretreatment discharge permit.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, or local governmental entities.
"pH" means a measure of the acidity or alkalinity of a substance, expressed in standard units.
"Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor), or any other substance which causes an impairment (reduction) of water quality to a degree that has an adverse affect on the POTW.
"**POTW Director**" means either the Public Works Director, the Wastewater Division Head or their designees
"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, but not by diluting the concentration of the pollutants, unless such dilution is allowed by an applicable pretreatment standard.
"Pretreatment requirements" means any federal, state or local city substantive or procedural requirement related to pretreatment imposed on a user, other than a categorical pretreatment standard.
"Pretreatment standards" or "standards" means prohibited discharge standards, categorical pretreatment standards as adopted by the ~~U.S.~~ EPA, and local limits established by the city.
"Pretreatment discharge permit" means an authorization or equivalent control document issued by the city to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter. It may also be called an "industrial pretreatment discharge permit."
"Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances. These prohibitions appear in Sections 13.05.040 (A) and(B) of this ordinance.
"Publicly owned treatment works (POTW)" means a " treatment works," as defined by Section 212 of the Federal Clean Water Act, 33 U.S.C. 1292, which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
"Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.
"Sewage" means water-carried human wastes or combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.
"Sewer" means any pipe, conduit, ditch or other device used to collect and transport sewage or storm water from the generating source.

"Significant industrial user" means an industrial user of the city's POTW who:

1. Is subject to federal categorical pretreatment standards; or
2. ~~A~~Is a user that ~~a.~~ discharges an average of twenty-five thousand gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow-down wastewater), or

~~b.~~ 3. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or

~~c.~~ 4. Is ~~determined~~ designated by the wastewater division head to have a significant impact, or potential for significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, air emissions generated by the system, or any substance listed in Section 13.05.040 (B) of this Ordinance.

"Suspended solids (SS)" means a well-mixed sample that is filtered through a weighed standard glass fiber filter and the residue retained on the filter and dried at one hundred three degrees to one hundred five degrees C. The increase in weight of the filter represents the total suspended solids.

"Standard Industrial Classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

"Total suspended solids (TSS)" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

"Toxic pollutants" means those substances listed in the federal priority pollutant list and any other pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under Section 307 of the ~~federal Clean Water~~ Act.~~, 33 U.S.C. 1251, et seq. (33 U.S.C. 1317)~~

"Treatment plant effluent" means water, wastewater or other liquid, raw (untreated), partially or completely treated discharged from the POTW into waters of the United States.

"Upset" means an exceptional incident in which a user unintentionally and temporarily is in a state of noncompliance with applicable pretreatment standards adopted by the city, due to the factors beyond the reasonable control of the user.~~, and excluding~~ 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 thereof.

"User" or "industrial user" means a source of indirect discharge. Any user, including a significant industrial user (SIU), which discharges an effluent into ~~a~~ the POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto. The source shall not include "domestic user" as defined herein.

"Wastewater" means industrial waste, or sewage, or any other waste including that which may be combined with any ground water, surface water or storm water that may be discharged to the POTW, whether treated or untreated.

"Wastewater treatment plant" means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

"Wastewater division head" means the person assigned to be in charge of the operation of the wastewater treatment plant at the time of this reading, or his authorized representative.

13.05.040 Regulations; Prohibited Discharge Standards.

A. General Discharge Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to federal categorical pretreatment standards or requirements.

B. Specific Prohibitions: No user shall introduce, or cause to be introduced into the POTW the following pollutants, substances, or wastewaters:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flash point of less than 140°F (60°C) using the test methods specified in 40 CFR '261.21;

2. Wastewater having a pH less than 5.0 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;

3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference including but not limited to the following:
Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred mg/l, for nonbiodegradable (mineral) fats; and oil and grease in excess of two hundred mg/l for biodegradable (nonmineral) fats, oils and greases, or ~~b.~~ containing substances which may solidify or become viscous at temperatures between thirty-two degrees F and one hundred fifty degrees F (or zero degrees C and sixty-five degrees C), but in no case solids greater than 1 inch (1") in any dimension;

4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

5. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C) unless the Approval Authority, upon the request of the Wastewater Division Head, approves alternate temperature limits;

6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through as set forth in Section 13.05.040 (D)(3)(b) of this Ordinance;

7. 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;

8. Trucked or hauled pollutants, except at discharge points designated by the City;

9. 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 a hazard to life or health, or to prevent entry into the sewers for maintenance or repair;

10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;

11. Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Wastewater Division Head in compliance with applicable State or Federal regulations;

12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Wastewater Division Head;

13. Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;

14. Medical wastes, except as specifically authorized by the Wastewater Division Head;

15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

16.Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW

17. Any liquid, solids, or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) per cent nor any single reading over ten (10%) per cent of the lower explosive limit (LEL) of the meter.

18. Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts,

metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

19. Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.

20. Any wastewater, which in the opinion of the Wastewater Division Head can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the Wastewater Division Head (except that no special waiver shall be given from categorical pretreatment standards).

21. The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septic tank waste, or other wastewater unless ~~said~~ the person has first obtained testing and approval as may be generally required by the City and paid all fees assessed for the privilege of said discharge

22. Any hazardous waste as defined in rules published by the State of Idaho or in 40 CFR Part 261;

23. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA)

24. Septic Tank Waste;

25. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW or cause other environmental damage.

~~1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction, to cause fire or explosion or be injurious in any other way to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five percent, nor any single reading over ten percent of the lower explosive limit of the meter. No waste stream having a closed-cup flashpoint of less than one hundred forty degrees F (sixty degrees C), using the test methods specified in 40 CFR 261.21, is allowed to be discharged to the POTW; or~~

~~2. Solid or viscous substances which will, or may, cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system, including but not limited to the following:~~

~~a. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred mg/l, for nonbiodegradable (mineral) fats;~~

~~and oil and grease in excess of two hundred mg/l for biodegradable (nonmineral) fats, oils and greases, or containing substances which may solidify or become viscous at temperatures between thirty-two degrees F and one hundred fifty degrees F (or zero degrees C and sixty-five degrees C), or~~

~~b. Any garbage that has not be properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-quarter horsepower (0.76 h.p metric) or greater, shall be subject to the review and approval of the wastewater department head. All discharges from grinding equipment shall pass through a grease interceptor,~~

~~c. Any pretreatment sludges and spent chemicals generated shall be disposed of in accordance with Section 405 of the federal Clean Water Act and Subtitles C and D of the federal Resource Conservation and Recovery Act, or~~

~~d. Any wastewater having a pH less than 5.5, or higher than 10.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system, such as, but not limited to, battery or plating acids and wastes, copper sulfate, chromium salts and compounds, or salt brine; or~~

~~3. Any wastewater containing toxic pollutants in sufficient quantity, either alone or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in the federal categorical pretreatment standards, as promulgated by the U.S. EPA, which is hereby adopted by reference; or~~

~~4. Any noxious or malodorous liquids, gases, or solids which, either singly or by interaction, are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair; or~~

~~5. Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (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 Clean Water Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the federal Solid Waste Disposal Ac, the federal Clean Air Act, the federal Toxic Substances Control Act, and/or state or local standards applicable to the sludge management method being used.); or~~

~~6. Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits; or~~

~~7. Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photo synthetic activity by more than ten percent from the seasonably established norm for aquatic life; or~~

~~8. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, any liquid or vapor having a temperature higher than one hundred fifty degrees F (sixty-six degrees C), or having temperatures sufficient to cause the influent to the treatment plant to exceed one hundred four degrees F (forty degrees C) unless the wastewater department head, upon the request of the user, approves the alternate limits; or~~

~~9. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as to exceed limits established by the city, in compliance with applicable state or federal regulations; or~~

~~10. Wastewater containing substances not amenable to treatment or reduction to the sewage treatment processes employed, or are amenable to treatment only to such a degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharges to the receiving waters; or~~

~~11. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or~~

~~12. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test; or~~

~~13. Solids or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch; or~~

~~14. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW; or~~

~~15. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through, or where applicable, as set forth in subsection (B) (6) of this section; or~~

~~16. Any waters or wastes containing heavy metals and similar objectionable or toxic substances to such a degree that any such material received in the composite sewage at the point of discharge exceeds the limits as follows (all concentration for metallic substances are for "total" metal unless indicated otherwise. The wastewater department head may impose mass limitations in addition to, or in place of, the concentration-based limitations below. Where a user is subject to a categorical pretreatment standard, as well as a local limit for a given pollutant, the more stringent limit shall apply):~~

~~Daily maximum allowable discharge limits:~~

~~Arsenic~~	~~0.20 mg/l~~
~~Cadmium~~	~~0.11 mg/l~~
~~Chromium~~	~~2.77 mg/l~~
~~Copper~~	~~1.50 mg/l~~
~~Cyanide~~	~~0.10 mg/l~~
~~Lead~~	~~0.69 mg/l~~
~~Mercury~~	~~0.01 mg/l~~
~~Nickel~~	~~0.50 mg/l~~
~~Oil and greases (animal or vegetable)~~	~~200 mg/l~~
~~Oil and greases (petroleum base)~~	~~100 mg/l~~
~~pH~~	~~5.5 - 10.0~~
~~Phosphorus~~	~~10.0 mg/l~~
~~Silver~~	~~0.43 mg/l~~
~~Zinc~~	~~2.61 mg/l~~

~~17. Trucked or hauled pollutants, except at discharge points designated by the wastewater department head and in accordance with this chapter;~~

~~18. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, including, but not limited to, non-contact cooling water unless specifically authorized by the wastewater department head;~~

~~19. Medical wastes, except as specifically authorized by the wastewater department head, in a pretreatment discharge permit;~~

~~20. Grease, animal entrails or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;~~

~~21. Any wastewater, which in the opinion of the wastewater department head can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the wastewater department head (except that no special waiver shall be given from categorical pretreatment standards);~~

~~22. The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage or other wastewater, unless said person has first obtained testing and approval as may be generally required by the city and applicable state and federal regulations and has paid all fees assessed for the privilege of said discharge;~~

~~23. Persistent pesticides and/or pesticides regulated by the federal Insecticide Fungicide Rodenticide Act (FIFRA);~~

~~24. 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;~~

~~25. Sludges, screenings, or other residues from the pretreatment of industrial wastes.~~

C. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW or cause other environmental damage.

D. Standards

1. Federal Categorical Pretreatment Standards. Categorical pretreatment standards as promulgated by the EPA ~~Environmental Protection Agency~~ pursuant to the ~~federal Clean Water~~ Act shall be met by all users of the regulated industrial categories. The categorical pretreatment standards found at 40 CFR Ordinance I, Sub-ordinance N, Parts 405-471, are incorporated. An application for modification of the categorical pretreatment standards may be considered for submittal to the EPA Region 10 Administrator, or by the city when the city's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR Section 403.7.

2. State Requirements. State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance

which are more stringent than federal requirements and limitation, or those in this chapter or other applicable ordinances.

3. Local Limits.

a. The city reserves the right to adopt local pollutant limits as set forth in ~~subsection (B) (16)~~ paragraph b. below of this section which may be more stringent than federal and state requirements.

b. The following pollutants limits are established to protect against pass through and interference. No person shall discharge wastewater containing pollutant levels in excess of the following daily maximum allowable discharge limits.

Daily maximum allowable discharge limits:

Arsenic	0.20 mg/l
Cadmium	0.11 mg/l
Chromium	2.77 mg/l
Copper	1.50 mg/l
Cyanide	0.10 mg/l
Lead	0.69 mg/l
Mercury	0.01 mg/l
Nickel	0.50 mg/l
Oil and greases (animal or vegetable)	200 mg/l
Oil and greases (petroleum base)	100 mg/l
pH	5.5 -10.0
Phosphorus	10.0 mg/l
Silver	0.43 mg/l
Zinc	2.61 mg/l

4. City Right of Revision. The city reserves the right to amend this chapter or an industrial wastewater permit to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Section 13.05.010 of this chapter.

5. Dilution. No user shall, without written approval from the wastewater division head, increase the use of potable or process water in any way, nor mix separate waste streams, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment in order to achieve compliance with the standards set forth in this chapter.

6. Mass Limitations. The wastewater division head may impose mass limitations on users which are using dilution to meet the pretreatment standards or requirements of this chapter or, in other cases, where the imposition of mass limitations is deemed appropriate by the wastewater division head.

7. Special Agreement. The city reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a federal categorical

pretreatment standard or pretreatment requirements. However, the user may request a net gross adjustment to a federal categorical pretreatment standard in accordance with 40 CFR 403.15. The user may also request a variance from the federal categorical pretreatment standard from the wastewater division head. Such request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing the applicable federal categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions set forth in 40 CFR 403.13.

8. Pretreatment Facilities. Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards and requirements set out in this chapter within the time limitations specified by the EPA, the state, or the city, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this chapter.

9. Additional Pretreatment Measures.

a. Fat, oil, and grease and grit interceptors/traps shall be provided ~~by all restaurants, cafeterias, and food service kitchens~~ when in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of fat, oil, grease and/or grit. All such interceptors/traps shall be of a dual chamber design and ~~have a minimum capacity of forty pounds~~ shall be a type and capacity approved by the POTW Director. ~~The introduction of chemicals, bacterial, enzyme and/or any other additive into fat, oil, and grease is prohibited unless approved in writing by the wastewater department head.~~ More capacity shall be required when, in the opinion of the ~~wastewater department head~~ POTW Director, it is necessary for adequate treatment of effluent. ~~All automotive washes and automotive repair shops, commercial or otherwise, shall have grit interceptors. All interceptors shall be of a dual chamber design and shall have a minimum capacity of one thousand gallons. More capacity shall be required when, in the opinion of the wastewater department head, it is necessary for adequate treatment of effluent.~~ Any other users shall also provide ~~said~~ interceptors when, in the opinion of the ~~wastewater department head~~ POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of fats, oils, greases, and/or grit. ~~Interceptors shall not be required for domestic use. Interceptors shall be located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired as per manufacturers' recommendations and/or at the discretion of the wastewater department head or his designee, by the user at his expense. Users with the potential to discharge flammable substances may be required to install and maintain an approved, combustible gas detection meter.~~ Interceptors/traps shall be located as to be easily accessible for cleaning and inspection. Such interceptors/traps shall be inspected, cleaned and repaired as per manufacturers' recommendations and/or at the discretion of the POTW Director or his designee in accordance with City of Hailey

BMPs, established by resolution, and maintained in proper operating condition, by the user at his expense.

b. Users with the potential to discharge flammable substances may be required to install and maintain an approved, combustible gas detection meter.

c. The introduction of chemicals, bacterial, enzyme and/or any other additive into fat, oil, and grease, directly or indirectly, that causes interference with the normal operation of the unit or causes pass through of prohibited substances is prohibited.

d. Interceptor/trap maintenance and cleaning records shall be maintained by the user and made available to ~~Pretreatment~~ the City inspectors for review upon request.

e. Interceptors/traps shall not be required for domestic user.

E. Deadline for Compliance with Applicable Pretreatment Requirements.

1. Existing users (categorical users) covered by the federal categorical pretreatment standards shall be in compliance within three years of the date the standards become effective, unless a shorter compliance time is specified in the appropriate standard. If necessary the city shall establish a final compliance deadline date for any existing significant industrial user (SIU) not covered by categorical pretreatment standards, or for any user when the local limits for said user are more restrictive than federal categorical pretreatment standards.

2. New sources and new users (that fit the definition of SIU) are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed ninety days from the beginning of discharge). "New sources" and "new users" shall install and have in operating condition and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

3. Any pretreatment discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established by federal categorical pretreatment standards. Any other existing SIU, which is in noncompliance with any local limits, shall be provided a compliance schedule placed in an order, or other similar enforcement document, as outlined in the "City of Hailey Enforcement and Response Guide" or elsewhere in this chapter.

F. Accidental Discharge/Slug Control Plans.

1. The city may require any user to develop and implement an accidental spill prevention control plan (ASPP). Where deemed necessary by the wastewater division head, facilities to prevent accidental discharges or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An ~~accidental spill prevention plan/slug control plan~~ (ASPP) showing facilities and operating procedures to provide this protection shall be submitted to the city for review and approval before implementation. The wastewater division head shall determine which user is required to develop a plan and shall require ~~said~~ this plan to be submitted within ninety days after notification by the city. Each user shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the city. Review and approval of such plans and operating procedures by the city shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this chapter and other federal, state or local regulations

2. Any user required to develop and implement an ASPP ~~accidental spill prevention/control slug plan~~ shall submit a plan which addresses, at a minimum, the following:

a. Description of discharge practices, including non-routine batch discharges;

b. Description of stored chemicals;

c. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards set forth in Sections 15.05.040 (A), (B) and (C); and

d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

3. Users shall notify the wastewater division head and/or city immediately upon the occurrence of a "slug" or "accidental discharge" of substances prohibited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the city on account thereof under state or federal law.

4. Within five days following an accidental discharge, the user shall submit to the wastewater division head, 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 may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable federal or state law.

5. Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

13.05.050 Fees.

A. Purpose. It is the purpose of this section to provide for the payment of fees from users to the city's wastewater disposal system, to compensate the city for the cost of administration of the pretreatment programs established in this chapter.

B. Charges and Fees. The city council shall adopt charges and fees by resolution as it deems necessary. Such fees may include:

1. Reimbursement of costs of setting up and operating the city's pretreatment program;

2. Fees for monitoring, inspections and surveillance procedures.

3. Fees for consistent removal (by the city) of pollutants otherwise subject to federal pretreatment standards;

4. Fees for filing appeals; and/or

5. Fees for reviewing accidental discharge procedures and construction.
6. Fees for issuance of a pretreatment discharge permit

13.05.060 Administration.

A. Wastewater Users. It is unlawful to discharge sewage, industrial wastes or other wastes to any sewer within the jurisdiction of the city, and/or to the POTW without having first complied with the terms of this chapter. All existing users who discharge ~~sewage~~ industrial wastes or other wastes to the POTW shall comply with all terms of this chapter within ninety days of being notified by the city. All users proposing to discharge waste to the POTW shall comply with all terms of this chapter prior to discharging waste to the POTW.

B. Pretreatment Discharge Permit. No user shall discharge wastewater into the POTW without first obtaining a pretreatment discharge permit from the city. Any violation of the terms and conditions of a pretreatment discharge permit shall be deemed a violation of this chapter and shall subject the pretreatment discharge permittee to the sanctions set out in this chapter. Obtaining a pretreatment discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards, or requirements or with any other requirements of federal, state, and local law. The wastewater division head may require other users, including liquid waste haulers, to obtain pretreatment discharge permit (as necessary) to carry out the purposes of this chapter. The city reserves the right not to issue a pretreatment discharge permit if the applicant cannot meet the pre-treatment discharge requirements. Any pretreatment discharge permit shall expressly state that a violation of this Chapter, of a pretreatment discharge permit, or order issued under this Chapter or any other pretreatment standard or requirement will make the permitee liable for any expense, loss or damage to the City Wastewater system or POTW.

C. Pretreatment Discharge Permit Requirements.

1. Industrial Waste Acceptance Permit. All existing users and users proposing to connect to, or to discharge sewage, industrial wastes and other wastes to the POTW shall obtain a pretreatment discharge permit. The pretreatment discharge permit shall be issued for a specified time period, not to exceed five years. A pretreatment discharge permit may be issued for a period less than five years at the discretion of the city. Each permit will indicate a specific date upon which it will expire.

2. Disclosure Forms. Prior to the city granting a pretreatment discharge permit, the user shall complete and file with the city a disclosure declaration in the form prescribed by the city. Existing users shall file disclosure forms within thirty days of being notified by the city. Proposed new users shall file their disclosure forms at least ninety days prior to connecting to the POTW. ~~Categorical users submitting the following information shall have complied with 40 CFR 403.12 (b).~~ The disclosure to be made by the user shall be on written forms provided by the city and shall require the following information:

a. Disclosure of the name of the facility, the address and the location of the facility, and the owner's and operator's name.

b. Description of activities, facilities and plant processes on the premises, including all materials which are or may be discharged to the sewers or works of the city, including a list of any environmental control permits held by or for the facility. The user

shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such user, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW, number and type of employees, and hours of operation.

c. Disclosure of wastewater sampling and analysis identifying the nature and concentration (or mass where required by the city) of regulated pollutants contained in Section 13.05.040 (B). Both daily maximum and average concentration (or mass, where required) shall be reported. A minimum of one representative sample is necessary to comply with this paragraph. Sampling and analysis shall be performed in accordance with procedures established by the EPA and contained in 40 CFR, Part 136, as amended.

d. The user shall identify the applicable pretreatment standards for each regulated or manufacturing process, ~~as outlined in this section and in Section 13.05.040 et seq.~~

e. Disclosure of Time and Duration of Discharges.

1~~i~~. Categorical users shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated, manufacturing process streams, or other streams, as necessary to allow use of the combined waste stream formula of 40 CFR 403.6 (e).

2~~ii~~. Noncategorical users shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from the total process flow, wastewater treatment plant flow, total plant flow, or individual manufacturing process flow as required by the wastewater division head. The city may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

f. Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the city due to cost or nonfeasibility.

g. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

h. Disclosure of the nature and concentration of any pollutants or materials prohibited by this chapter in the discharge, together with a statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and, if not, whether additional pretreatment is required for the user to comply with this chapter.

i. Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the user shall provide a declaration of the shortest schedule by which the user will provide such additional pretreatment and/or implementation of additional operational and maintenance activities, which shall address the following:

1~~i~~. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to comply with the requirements of this chapter including, but not limited to dates relating to hiring an engineer, hiring other appropriate

personnel, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter.

2~~ii~~. Only upon recommendation and approval of the city council shall the city permit a time increment for a single step directed toward compliance to exceed nine months.

3~~iii~~. Not later than fourteen days following each milestone date in the schedule and the final date for compliance, the user shall submit a progress report to the city, including, at a minimum, a statement as to whether or not it has complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the city.

j. Disclosure of each product produced or stored by type, amount, process or processes; rate of production as it relates to wastewater flow generation; and a schematic process diagram indicating points of discharge from regulated or manufacturing processes.

k. Disclosure of the type and amount of raw materials, including chemicals utilized or stored (average and maximum per day).

l. The wastewater division head may require inspection and sampling manholes and/or flow recording with sampling equipment if deemed necessary by the wastewater division head to assure compliance with this chapter.

m. Any other information as may be deemed necessary by the wastewater division head, or his designee, to evaluate the pretreatment discharge permit application.

3. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

4. Signatory and Certification Requirement. All pretreatment discharge permit applications and user reports must be signed by an authorized representative of the user.

D. Pretreatment Discharge Permit Decisions. The wastewater division head, or his designee, will evaluate the complete disclosure form and data furnished by the user and may require additional information, including an inspection of the premises. Within thirty days of receipt of a complete wastewater discharge permit application, and after full evaluation of the information provided, and if necessary, a complete inspection of the premises, the wastewater division head, or his designee, will determine whether or not to issue a wastewater discharge permit, and type of permit to be issued. After acceptance of the data furnished, the city shall notify the user of the city's acceptance or denial thereof. Where determined necessary by the wastewater division head, or his designee, a pretreatment discharge permit may be issued setting forth limitations of various waste strengths as addressed under this chapter. ~~The wastewater division head, or his designee, may deny any application for a pretreatment discharge permit.~~

E. Pretreatment Discharge Permit Conditions.

1. Revocation of Pretreatment Discharge Permit. The pretreatment discharge permit issued to a user by the city may be revoked for, but not limited to, the following reasons:

a. Failure to notify the city of significant changes to the wastewater prior to the changed discharged;

b. Failure to provide notification to the city of changed conditions;

c. Misrepresentation or failure to fully disclose all relevant facts in the pretreatment discharge permit application;

d. Falsifying self-monitoring reports;

e. Tampering with monitoring equipment;

~~f. Refusing to allow the city timely access to the facility premises and records;~~

f. Failure to meet discharge limitations;

g. Failure to pay fines;

h. Failure to pay sewer charges;

i. Failure to meet compliance schedules;

j. Failure to complete a wastewater survey or the wastewater discharge permit application;

k. Failure to provide advance notice of the transfer of a permitted facility;

l. Violation of any pretreatment standard or requirement, or any terms of the pretreatment discharge permit or this chapter; or

m. If the city has to invoke its emergency provision as stated in Section 13.05.070 (A) of this chapter.

2. Transfer of Pretreatment Discharge Permit:

a. A pretreatment discharge permit may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty days advance notice to the wastewater division head, and the wastewater division head approves the pretreatment discharge permit transfer. The notice to the wastewater division head must include a written certification by the new owner and/or operator which:

i. States that the new owner and/or operator (user) has no immediate intent to change the facility's operations and processes;

ii. Identifies the specific date on which the transfer is to occur; and

iii. Acknowledges full responsibility for complying with the existing pretreatment discharge permit.

b. Provided that the requirements set forth in subsection (E) (2) (a) of this section are met, and that there are no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an "existing user" and be covered by the existing limits and requirements in the previous owner's permit.

c. Failure to provide advance notice of a transfer, as set forth above, renders the pretreatment discharge permit void as of the date of facility transfer.

3. Pretreatment Discharge Permit Modification. The wastewater division head may modify the pretreatment discharge permit for good cause including, but not limited to, the following:

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, wastewater volume or character since the time of pretreatment 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 city's POTW, city 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 pretreatment discharge permit application or in any required reporting or inspection;

g. Revision of, or grant of, a variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

h. To correct typographical or other errors in the wastewater discharge permit; or

i. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

4. Duty to Reapply for Pretreatment Discharge Permit. ~~The city shall notify the user ninety days prior to the expiration of the user's pretreatment discharge permit.~~ Within thirty days of the permit expiration ~~notification~~, the user shall reapply for reissuance of the pretreatment discharge permit on a form provided by the city. A user, whose existing pretreatment discharge permit has expired and who has submitted its reapplication in the time period specified herein, shall be deemed to have an effective pretreatment discharge permit until the city issues or denies the new pretreatment discharge permit. A user, whose existing pretreatment discharge permit has expired, and who has failed to submit its reapplication in the time period specified herein, shall be deemed to be discharging without a pretreatment discharge permit.

5. Severability. The provisions of a pretreatment discharge permit are severable, and if any provision of the pretreatment discharge permit, or the application of any provision of the permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of the permit shall not be affected thereby.

6. Property Rights. The issuance of a pretreatment discharge permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any infringement of federal, state or local regulations, nor any action, at law or in equity, for invasion of personal rights for violation of any federal, state or constitutional protections.

7. Permit Holders Outside City Limits. All users outside the city limits who discharge sewage, industrial wastes or other wastes to any sewer within the jurisdiction of the city, and/or to the POTW shall be subject to ~~all~~ the ~~same~~ wastewater pretreatment use regulations as users inside the city limits and at a minimum any other use regulation set forth in an agreement between the City and the permit holder.

F. Pretreatment Discharge Permit Appeals.

1. Any user may appeal to ~~petition~~ the city council ~~to reconsider the terms of a pretreatment discharge permit, or the denial of such permit~~ a decision conditionally issuing or denying a pretreatment discharge permit, within thirty ~~ninety~~ days of its issuance or denial, subject to the following conditions:

a. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

b. In its appeal petition, the appellant ~~aling party~~ must indicate which pretreatment discharge permit provisions are objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place on the pretreatment discharge permit.

c. The ~~effectiveness~~ issuance or denial of the pretreatment discharge permit shall not be stayed pending the appeal.

2. ~~Decisions by the city council not to reconsider~~ The City Council may affirm, modify or reverse a decision issuing or denying a pretreatment discharge permit.~~,~~ ~~not to issue a pretreatment discharge permit, or not to modify a pretreatment discharge permit,~~ The City Council decision shall be considered a final administrative actions for purposes of judicial review. After a final administrative appeal has been brought before the city, an aggrieved party seeking judicial review of such final administrative pretreatment discharge permit decision must do so by filing a petition for review with the district court for Blaine County within the state of Idaho.

G. Reporting Requirements for Users.

1. Compliance Date Report.

a. Within ~~ninety days following the date for final compliance by a significant industrial user with applicable pretreatment standards and requirements set forth in this chapter, in a pretreatment discharge permit, or within~~ thirty days following commencement of the introduction of wastewater into the POTW by a new source or new user, ~~any~~ this new user ~~subject to this chapter~~ shall, upon request of the wastewater division head, submit to the city a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons.

b. In the case of categorical users, the flows and pollutant concentrations (or mass) of the waste streams from processes regulated under categorical pretreatment standards must be reported separately. This report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with applicable pretreatment standards or requirements.

c. For users subject to equivalent mass or concentration limits established by the city in accordance with procedures established in 40 CFR 403.6 (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 production), this report shall include the user's actual production during the appropriate sampling period.

d. All compliance reports shall be signed by an authorized representative of the user.

2. Periodic Compliance Reports.

a. Any user that is required to have a pretreatment discharge permit and/or who is otherwise subject to any applicable pretreatment standard set forth in this chapter, after the compliance date of such pretreatment standard, or in the case of a new user, after commencement of discharge to the city, shall submit to the city during the months of June and December, unless required more frequently by the wastewater division head, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the pretreatment standards hereof and/or

as prescribed within the pretreatment discharge permit. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period as set forth in ~~subs~~Section 13.05.060(G) (1) of this section.

b. Reports of users shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration of regulated pollutants, or production and mass where required by the city. The frequency of monitoring by the user shall be as prescribed by wastewater division head, shall occur not less than twice a year, unless the city agrees to sample instead. All analyses shall be performed in accordance with procedures established by the city pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, and ~~subs~~ Section 13.05.060 (K) and (L) of this chapter, ~~and any amendments thereto,~~ or with any other test procedures approved by the wastewater division head. The record of all flow measurements (average and maximum) taken at the designated sampling locations shall include any additional information required by this chapter and/or the pretreatment discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported.

c. Sampling shall be performed in accordance with the techniques approved by the wastewater division head and this chapter and shall be representative of wastewater discharges during the reporting period. Where 40 CFR, Part 136, does not include sampling or analytical techniques for the pollutants in question, or where the wastewater division head determines that the Part 136, sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods, or any other sampling and analytical procedures, including procedures suggested by the wastewater division head.

d. Flows shall be reported on the basis of actual measurement; provided however, that the city may accept reports of average and maximum flows estimated by verifiable techniques if the wastewater division head determines that an actual measurement is not feasible.

e. The wastewater division head, for good cause shown, and considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission of ~~said~~ such reports on months other than those specified above.

f. The city may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the city agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the city for sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The city is under no obligation to perform periodic compliance monitoring for a user.

g. A certification statement signed by an authorized representative of the user is required as a part of the periodic compliance reports.

3. Notification of Significant Production Changes. Any user operating under a pretreatment discharge permit incorporating equivalent mass or concentration limits shall notify the city within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month.

Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its pretreatment discharge permit.

4. Notice of Potential Problems Including Accidental Spills and/or Slug Loadings. Any user shall notify the city immediately of all discharges that could cause problems to the POTW including any slug loadings as defined in Sections 13.05.010 through 13.05.040 of this Ordinance ~~et seq~~. The notification shall include the concentration and volume of the discharge. Corrective action, including steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a "slug" (or slugs) of prohibited materials shall be liable to the city for any expense, loss or damage to the POTW in addition to the amount of any fines imposed under state or federal law.

5. Noncompliance Reporting. If sampling performed by a user indicates a violation, the user shall notify the city within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling within five days and shall submit the results of the repeat analysis to the city within thirty days after becoming aware of the violation, except the user is not required to resample if the city performs sampling at the user facility between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

6. Notification of Changed Discharge. All users shall promptly notify the city in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p).

7. Notification of Hazardous Waste.

a. Existing users that are discharging fifteen kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month, or any facility which generates any amount of acutely hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e) are required to provide a one time notification in writing to the city and the EPA regional waste management division director. Any existing user exempt from this notification, shall comply with the requirements contained herein within thirty days of becoming aware of a discharge of fifteen kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the city sewer system. Such notification shall include:

i. The name of the hazardous waste as set forth in 40 CFR Part 261;

ii. The EPA hazardous waste number; and

iii. The type of discharge (continuous, batch, or other).

b. If a user generates more than one hundred kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it is knows or readily available to the user:

i. An identification of the hazardous constituents contained in the wastes;

ii. An estimation of the mass and concentration of such constituents in the waste streams discharged during that calendar month; and

iii. An estimation of the mass of constituents in the waste streams expected to be discharged during the following twelve months.

c. These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

d. Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the city of the discharge of such a substance within ninety days of the effective date of such regulations.

e. In the case of any notification made under this subsection, a user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

H. Reports From Unpermitted Users. All others not required to obtain a pretreatment discharge permit pursuant to this chapter shall provide appropriate access for sampling, flow measurements, and analysis to the city as the wastewater division head, or his or her designee, may require. 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, and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; and the name of the person who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the wastewater division head.

I. Compliance Schedules for Meeting Applicable Pretreatment Standards. The compliance schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment referred to above shall exceed nine months.

J. Monitoring Facilities. The city may require the user to install monitoring equipment as necessary.

1. Each user shall provide and operate, at the user's own expense, a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge to the sewer.

2. Each monitoring facility shall be situated on the user's premises, except where such location would be impractical or cause undue hardship on the user. The city may permit the monitoring facility to be constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles.

3. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. All devices used to measure wastewater flow and quality shall be calibrated at a frequency determined by the city to ensure their accuracy.

4. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications as well as local construction standards and specifications as well as local zoning and land use ordinances. Construction shall be completed within one hundred twenty days of receipt of the permit by the user, unless a compliance schedule has been approved by the wastewater division head.

K. Compliance Monitoring.

1. Inspection and Sampling.

a. The city shall have the right to obtain consent to enter the facilities of any user to ascertain whether the purpose of this chapter, and any pretreatment discharge permit, or order issued hereunder, is being met and whether the user is complying with all requirements thereof. Users shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

~~b. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city will be permitted to enter, without delay, for the purposes of performing specific responsibilities.~~

~~c. The city shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.~~

~~d. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the city and shall not be replaced. The costs of clearing such access shall be borne by the user.~~

~~e. Unreasonable delays in allowing the city's pretreatment staff access to the user's premises shall be a violation of this chapter.~~

2. Search Warrants. If the wastewater division head, or his or her designee, has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable ~~y~~ cause to believe that there may be a violation of this chapter, or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this chapter or any pretreatment discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the wastewater division head, or his or her designee, shall seek issuance of search and/or seizure warrant from the district court in and for the county of Blaine. Such warrant shall be served by the wastewater division head, and his or her designee, in the company of a uniformed police officer of the city or local county.

3. Vandalism. No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this chapter.

L. Sampling and Analytical Requirements.

1. Sampling Requirements for Users.

a. A minimum of four grab samples must be used for pH, cyanide, total phenols, fats, oils and greases, sulfide and volatile organics. The wastewater division

head will determine on a case-by-case basis whether the user may be able to composite the individual grab samples. For all other pollutants, twenty-four hour composite must be obtained through flow-proportional composite sampling techniques where feasible. The wastewater division head may waive flow-proportional composite sampling for any 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 eight grab samples, where the user demonstrates that this will provide a representative sample of the effluent being discharged.

b. Samples should be taken immediately downstream from pretreatment facilities if such exist, or immediately downstream from the regulated or manufacturing process if no pretreatment exists, or as determined by the wastewater division head and contained in the user's pretreatment discharge permit.

i. For categorical users, 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 wastes formula of 40 CFR 403.6 (e) in order to evaluate compliance with the applicable pretreatment standards.

ii. For other SIUs, for which the city has adjusted its local limits to factor out dilution flows, the user should measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

c. All sample results 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 from the user. If a user samples more frequently than what was required in its pretreatment discharge permit, it must submit all results of sampling and analysis of the discharge as part of a self-monitoring report during the reporting period.

2. Analytical Requirements. All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR, Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR, Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

M. Pretreatment Facilities.

1. Detailed plans showing the pretreatment facilities shall be submitted to the city for review, and must be acceptable to the city before construction of the facility. The review of such plans shall in no way relieve the user from the responsibility of modifying its facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

2. Within a reasonable time after the completion of the wastewater pretreatment facility, the user shall furnish its operation and maintenance procedures for the wastewater division head to review.

3. Any subsequent, significant changes ~~in~~ to the pretreatment facility or its method of operation shall be reported to and accepted by the wastewater division head prior to the user's initiation of the changes.

N. TTO Reporting. Categorical users which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTOs) discharged into the sewer system must

follow the categorical pretreatment standards for that industry. Those users must also meet the following requirements:

1. Categorical users must sample, as part of the application requirements, for all the organics listed under the TTO limit (no exceptions); and

2. ~~Where no TTOs are used at the facility, or t~~The user elects to develop a solvent management plan in lieu of continuously monitoring for TTO, the user must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of concentrated toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the city.

13.05.070 Enforcement.

A. Emergency Suspension of Service and Pretreatment Discharge Permit. The city may, without advance notice, order the suspension of the wastewater treatment service to a user when it appears to the city that an actual or threatened discharge:

1. Presents or threatens an imminent or substantial danger to the health or welfare of persons, or substantial danger to the environment. Any user notified by the city's suspension order shall immediately cease all discharges. In the event of failure of the users to comply with the suspension order, the city is authorized to physically prevent the discharge from entering the public-owned sewerage collection system, and assess all ~~costs~~ associated costs ~~therewith~~ to the user.

2. Threatens to interfere with the operation of the POTW, or to violate any pretreatment limits imposed by this chapter. Any user notified of the city's suspension order shall immediately cease all discharges. In the event of failure of the user to comply with the suspension order, the city may commence judicial proceedings immediately thereafter to compel the user's specific compliance with such order and/or to recover civil penalties. The city shall reinstate the wastewater treatment service upon proof by the user of the elimination of the noncomplying discharge or conditions creating the threat as set forth above. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

B. Termination of Treatment Services–Nonemergency Procedures.

1. The city may terminate wastewater treatment services to any user who ~~violates any of the following prohibitions. A user shall not:~~

a. Fails to factually report accurately the wastewater constituents and characteristics of its discharge;

b. Fails to report significant changes in wastewater constituents or characteristics;

~~c. Refuse responsible access to the user's premises by representatives of the city for the purpose of inspection or monitoring; or~~

c~~d~~. Violates the provisions of this chapter, or any order of the city with respect thereto.

2. Cease and Desist Orders. When the wastewater division head finds that a user has violated (or continues to violate) any provision of this chapter, a pretreatment discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the wastewater division

head may issue an order to the user directing it to cease and desist all such violations and directing the user to:

a. Immediately comply with all requirements; and

b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

C. Administrative Enforcement Remedies.

1. Notices of Violation (NOV). When the city finds that a user has violated (or continues to violate) any provision of this chapter, a pretreatment discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may serve that user a written notice of violation (NOV). If required, within five working days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the city. Submission of this 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 city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

2. Consent Orders. The city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document and as determined by the wastewater division head. Use of a consent order shall not be a bar against, or a prerequisite for, taking any other action against the user.

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

4. Show Cause Hearing. Where the violation of this chapter is not corrected in adherence to compliance orders or any other enforcement action in a timely manner, the city may order any user which suffers or permits a violation of this chapter to show cause before the city, or its duly authorized representative, why the proposed service termination action should not be taken. A written notice shall be served on the user by personal service, or certified or registered mail, return receipt requested,

a.) specifying the time and place of a hearing to be held by the city or its designee regarding the violation;

b.) the reasons why the enforcement action is to be taken;

c.) the proposed enforcement action.

The notice shall further direct the user to show cause before the city or its designee why the enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a user. The proceedings at the hearing shall be considered by the city, which shall then enter appropriate orders with respect to the alleged violations of the user. ~~Appeal of such orders may be taken by the user in accordance with applicable local or state law.~~

D. Judicial Proceedings. Following the entry of any order by the city with respect to the violation by a user of this chapter, the city may commence in an action for appropriate legal and/or equitable relief in the appropriate local court, including the following:

1. Injunctive Relief. When the wastewater department head or his designee determines that a user has violated (or continues to violate) any provision of this chapter, a pretreatment discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the wastewater department head or his designee may petition the district court of the fifth judicial in and for the county of Blaine for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the pretreatment discharge permit, order or other requirement imposed by this chapter on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or prerequisite for, taking any other action against a user.

2. Criminal Prosecution.

a) It shall be unlawful for any user to:

i) violate any provision of this chapter, a pretreatment discharge permit, or order issued hereunder, or any other pretreatment standard or requirement;

ii) introduce any substance into the POTW which causes personal injury or property damage;

iii) knowingly make any false statements, representations or certifications in any application, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, pretreatment discharge permit, or order issued hereunder; or

iv) falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this chapter.

b) Any person, firm or other legal entity violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars ($1000.00) or imprisonment in the county jail for a period not to exceed six (6) months, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Any penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

3. Restitution. Any user violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the city's wastewater system shall be liable to the city for any expense, loss, or damage caused by such violation of discharge. The city may bill the user for the actual and/or estimated cost incurred by the city for any cleaning, sampling and monitoring expenses, repair, or replacement work caused by the violation or discharge, including reasonable attorney's fees, court costs, and other expenses associated with the violation.

E. Civil Penalty.

1. Any user who violates an order of the city, or who fails to comply with any provision of this chapter, or any regulations, rules or permits of the city, issued pursuant to this chapter, shall be liable to the city for a civil penalty not to exceed one thousand dollars ($1,000.00) per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. In the case of a monthly or other long-term average discharge limit, the penalties shall accrue for each day during the period of the violation. Such penalties may be recovered by judicial actions and/or, to the extent permissible by state law, by administrative procedures.

2. A users desiring to dispute such penalty must file a written request for the city to reconsider the fine, along with full payment of the fine, within fifteen (15) days of the imposition of the penalty. Upon receipt of the request to reconsider the penalty, the city council shall convene a hearing within thirty (30) days of receiving the request. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user.

3. In determining the amount of civil liability, the city 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.

4F. Remedies Nonexclusive. The provisions in this section are not exclusive remedies. The rights and remedies provided by this ordinance are cumulative and the use of any one right or remedy shall not preclude the city from pursuing any or all other remedies the city may have by law, statute, ordinance or otherwise.

~~F. Enforcement Actions–Annual Publication. A list of all users which were in significant noncompliance (SNC) (or have had a pattern of noncompliance over that twelve-month period, or which involve failure to accurately report noncompliance) shall be annually published by the city in the official city newspaper summarizing the enforcement actions taken against the users during the same twelve months. The term "significant noncompliance" means:~~

~~1. Chronic violations of wastewater discharge limits, defined herein as those in which sixty-six percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;~~

~~2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);~~

~~3. Any other discharge violation that the city believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);~~

~~4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such discharge;~~

~~5. Failure to meet, within ninety days of the scheduled date, a compliance schedule milestone contained in a pretreatment discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;~~

~~6. Failure to provide within thirty days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;~~

~~7. Failure to accurately report noncompliance; or~~

~~8. Any other violation(s) which the city determines will adversely affect the operation or implementation of the local pretreatment program.~~

~~G. Right of Appeal.~~

~~1. Any user or any interested party shall have the right to request, in writing, an interpretation or ruling by the city on any matter covered by this chapter and shall be entitled to a prompt written reply.~~

~~2. In the event that such inquiry is by a user and deals with matters of performance or compliance with this chapter for which enforcement activity relating to an alleged violation is the subject, receipt of a user's request shall not stay enforcement proceedings pending.~~

~~3. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with the local and state law.~~

~~G~~H. Affirmative Defenses to Discharge Violation.

~~1. Operating Upsets. For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error,~~

~~improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.~~

1~~2~~. An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of ~~subs~~Section 13.05.070 (E)(2) ~~(H) (3) of this section~~ are met.

2~~3~~. A user who wishes to establish an affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that;

a. An upset occurred and that the user can identify the cause(s) of the upset;

b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

c. The user has submitted the following information to the city within twenty-four hours of becoming aware of the upset (if this information is submitted orally, a written submission must be provided within five 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 reoccurrence of the noncompliance.

3~~4~~. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

4~~5~~. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with applicable pretreatment standards.

5~~6~~. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss or failure of its treatment facility until the treatment facility is restored or an alternative method of treatment is provided. This requirement applies to the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

~~13.05.080 Penalties. A. Any user who violates an order of the city, or who fails to comply with any provision of this chapter, or any regulations, rules, or permits of the city, issued pursuant to this chapter, shall be liable to the city for a civil penalty. The amount of such civil penalty shall be not less than three hundred dollars per violation, nor more than ten thousand dollars per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. In the case of a monthly or other long-term average discharge limit, the penalties shall accrue for each day during the period of the violation. Such penalties may be recovered by judicial actions and/or, to the extent permissible by state law, by administrative procedures.~~

~~B. Users desiring to dispute such penalty must file a written request for the city to reconsider the fine, along with full payment of the fine within fifteen days of being notified of the fine. Where a dispute has occurred request as merit, the city shall convene a hearing with the city council on the matter within thirty days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any~~

~~interest accruing thereto, shall be returned to the user. The city may add the cost of preparing administrative enforcement actions such as notices and orders to the fine.~~

~~C. Recovery of Costs Incurred by the City. Any user violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the city's wastewater system shall be liable to the city for any expense, loss, or damage caused by such violation of discharge. The city shall, by order, bill the user for the cost incurred by the city for any cleaning, sampling and monitoring expenses, repair, or replacement work caused by the violation or discharge, including reasonable attorney's fees, court costs, and other expenses associated with the violation. Refusal to pay the assessed costs shall constitute a violation enforceable under the provisions of this chapter.~~

~~D. In determining the amount of civil liability, the city and/or 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, 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.~~

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

~~F. General Criminal Penalties. Any user who knowingly violates any provision of this chapter shall be guilty of a criminal offense and shall be punished by fines and/imprisonment.~~

13.05.0~~8~~90 Records retention. All users subject to this chapter shall retain and preserve, for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of a user in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement of litigation activities brought by the city pursuant hereto shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

13.05.~~11~~90 Nonliability. A. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public. It is not the intent of this chapter to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

B. It is the specific intent of this chapter to place the obligation of complying with these regulations upon the applicant or user and no provision nor any term used in this chapter is intended to impose any other duty whatsoever upon the city or any of its officers, employees or agents except at provided under the ~~federal Clean Water~~ Act or other related statutes of the United States or the state of Idaho.

C. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any tort liability on the part of the city or its officers, employees or agents, for any injury or damage resulting from failure of an applicant or user to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done

in connection with the implementation or enforcement of this chapter or inaction on the part of the city related in any manner to the implementation or the enforcement of this chapter by its officers, employees or agents.

Section 2. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 3. All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 4. This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS 11th DAY OF October, 2010.

Richard L. Davis, Mayor

Attest:

Mary Cone, City Clerk

~~will~~ publish summary Nov. 3, 2010

Publish: ~~Idaho Mountain Express~~ _____, ~~2010~~

CITY OF HAILEY BLAINE COUNTY, IDAHO Seal