

TITLE XVI

Water and Sewer

- Chapter 1 Water; General Provisions**
- Sec. 16-1-1 Laying mains; location; authority
 - Sec. 16-1-2 Reserved area; using otherwise
 - Sec. 16-1-3 Tapping mains; locations
 - Sec. 16-1-4 After shut off
 - Sec. 16-1-5 Designated areas; permit
 - Sec. 16-1-6 Sprinkling lawn; penalty; fee for turning on
 - Sec. 16-1-7 Drawing water without permission
- Chapter 2 Water; Extraterritorial Service**
- Sec. 16-2-1 Declaration of purpose
 - Sec. 16-2-2 Establishment of permit areas
 - Sec. 16-2-3 Eligibility; Permit Area A
 - Sec. 16-2-4 Eligibility; Permit Area B
 - Sec. 16-2-5 Applications
 - Sec. 16-2-6 Procedure
 - Sec. 16-2-7 Charges
 - Sec. 16-2-8 Nonpayment; remedies
 - Sec. 16-2-9 Discontinuance of use
 - Sec. 16-2-10 Metropolitan sewer and water districts
- Chapter 3 Sewer; General Provisions**
- Sec. 16-3-1 Connection with system, when required
 - Sec. 16-3-2 Extension of system; necessity
 - Sec. 16-3-3 City property; assessment
 - Sec. 16-3-4 Construction procedure
 - Sec. 16-3-5 Costs; apportioned; installments; waiver; cumulative provision
 - Sec. 16-3-6 Sewer and water fee in lieu of assessment charge
- Chapter 4 Sewer; Extraterritorial Service**
- Sec. 16-4-1 Declaration of purpose
 - Sec. 16-4-2 Eligibility
 - Sec. 16-4-3 Applications
 - Sec. 16-4-4 Procedure
 - Sec. 16-4-5 Construction permit
 - Sec. 16-4-6 Sewer user charge
 - Sec. 16-4-7 Nonpayment; remedies
 - Sec. 16-4-8 Discontinuance of use
 - Sec. 16-4-9 Metropolitan sewer and water districts
 - Sec. 16-4-10 Unlawful acts
 - Sec. 16-4-11 Sanitary sewer plant investment fee
- Chapter 5 Cost Recovery for Oversized and Off-Site Sewers**
- Sec. 16-5-1 Policy statement
 - Sec. 16-5-2 Definitions
 - Sec. 16-5-3 Design criteria and specifications
 - Sec. 16-5-4 System improvements and extensions
 - Sec. 16-5-5 Cost recovery
- Chapter 6 Sewer User Charge**
- Sec. 16-6-1 Wastewater charges
 - Sec. 16-6-2 Rates and charges

Sec. 16-6-3	Billing and collection; liens
Sec. 16-6-4	Restricted use of wastewater charges
Sec. 16-6-5	Refunds and adjustments
Sec. 16-6-6	Procedure for refunds or adjustments
Sec. 16-6-7	Time limitation on refunds
Sec. 16-6-9	Inspection rights
Sec. 16-6-10	Annual review
Sec. 16-6-11	Enforcement

Chapter 7 Sewer Use Regulation and Wastewater Surcharges

Sec. 16-7-1	Excessive strength wastewater surcharge
Sec. 16-7-2	Surcharge classification and rates
Sec. 16-7-3	Surcharge billings
Sec. 16-7-4	Payment, delinquency and liens
Sec. 16-7-5	Appeals
Sec. 16-7-6	Decision on appeal
Sec. 16-7-7	Sampling
Sec. 16-7-8	Laboratory testing
Sec. 16-7-9	Biennial review
Sec. 16-7-10	Effluent meter
Sec. 16-7-11	Inspection
Sec. 16-7-12	On-site treatment
Sec. 16-7-13	Prohibited waste
Sec. 16-7-14	Other prohibited discharges
Sec. 16-7-15	Clear water
Sec. 16-7-16	Grease interceptors
Sec. 16-7-17	Pretreatment
Sec. 16-7-18	Building permits
Sec. 16-7-19	Violation notices and penalty
Sec. 16-7-20	Damages
Sec. 16-7-21	Enforcement
Sec. 16-7-22	Director
Sec. 16-7-23	Use of public sewers required
Sec. 16-7-24	Notification
Sec. 16-7-25	Severability
Sec. 16-7-26	Enforcement by City

Chapter 8 (Industrial Cost Recovery System--Repealed by Ord. 6418)

Chapter 9 Pretreatment Program

Sec. 16-9-1	Purpose and policy
Sec. 16-9-2	Definitions
Sec. 16-9-3	National Pretreatment Discharge Standards
Sec. 16-9-4	Modification of National Categorical Pretreatment Standards (removal credits and fundamentally different factors)
Sec. 16-9-5	State or local requirements
Sec. 16-9-6	Compliance schedule for Categorical Pretreatment Standards
Sec. 16-9-7	Reporting requirements
Sec. 16-9-8	Excessive discharge
Sec. 16-9-9	Accidental discharge
Sec. 16-9-10	Pretreatment
Sec. 16-9-11	Charges and costs
Sec. 16-9-12	Monitoring and inspection
Sec. 16-9-13	Industrial user permits
Sec. 16-9-14	Administrative and civil remedies

	Sec. 16-9-15	Unlawful conduct and criminal penalties
	Sec. 16-9-16	Confidential information
	Sec. 16-9-17	Conflict; severability
	Sec. 16-9-18	Spills or slug discharges
Chapter 10	Septic Waste Businesses	
	Sec. 16-10-1	Definitions
	Sec. 16-10-2	Permits
	Sec. 16-10-3	Operating requirements
	Sec. 16-10-4	Revocation procedures
	Sec. 16-10-5	Unlawful conduct
Chapter 11	Sanitary Sewer Connection Fees	
	Sec. 16-11-1	Definitions
	Sec. 16-11-2	General requirements
	Sec. 16-11-3	Schedule of sanitary sewer connection fees
	Sec. 16-11-4	Sanitary Sewer Collection System Improvement Fund
	Sec. 16-11-5	Refunds
	Sec. 16-11-6	Enforcement
	Sec. 16-11-7	Plant Reclamation Facility Investment Fund
Chapter 11.5	Sanitary Sewer Planning Criteria	
	Sec. 16-11.5-1	Purpose and policy
	Sec. 16-11.5-2	Definitions
	Sec. 16-11.5-3	Development policy
	Sec. 16-11.5-4	Main extension policy
	Sec. 16-11.5-5	Relief sewer policy
	Sec. 16-11.5-6	Conflict
Chapter 12	Stormwater Utility	
	<i>Article I</i>	<i>General Provisions</i>
	Sec. 16-12-1	Title
	Sec. 16-12-2	Legislative intent and purpose
	Sec. 16-12-3	Definitions
	Sec. 16-12-4	Stormwater utility enterprise
	Sec. 16-12-5	Imposition of a stormwater utility service charge
	Sec. 16-12-6	Determination of stormwater utility service charges
	Sec. 16-12-7	Stormwater utility fund
	Sec. 16-12-8	Stormwater utility enterprise debt issuance
	Sec. 16-12-9	Master and stormwater basin drainage plans
	Sec. 16-12-10	Developer's obligation
	Sec. 16-12-11	Billing, collection and liens
	Sec. 16-12-12	Administration and review
	Sec. 16-12-13	Nonliability of City
	Sec. 16-12-14	Violations and penalties
	Sec. 16-12-15	Cooperation with the County
	Sec. 16-12-16	Amendments
	<i>Article II</i>	<i>Illicit Connections</i>
	Sec. 16-12-21	Unlawful acts; enforcement
	Sec. 16-12-22	Inspection; access to property

CHAPTER 1

Water; General Provisions

Sec. 16-1-1. Laying mains; location; authority.

The Pueblo Water Works shall have the exclusive right to lay main pipes within twenty-four (24) feet of the building line on the north sides of streets running easterly and westerly, and on the west side of streets running northerly and southerly in that portion of the present City which, prior to April 19, 1886, constituted the former City of Pueblo, provided that this Section shall not be construed to apply to those streets or portions of streets where main pipes other than water mains are now laid under authority of the City, heretofore given, on the north or west sides of such streets or portions of streets. (1957 Code, §29-1)

Sec. 16-1-2. Reserved area; using otherwise.

It shall be unlawful for any person to lay or attempt to lay, or cause or procure to be laid mains or pipes other than water mains, within that part of the street or streets reserved in the preceding Section hereof for laying water mains. (1957 Code, §29-2)

Sec. 16-1-3. Tapping mains; locations.

Main water pipes of the Water Works must be tapped on the side and not on the top and in the body of the pipe not within two (2) feet of the spigot end. Taps must be at least one (1) foot apart and not opposite any former tap, and no tap shall be made between the water main and a fire hydrant. (1957 Code, §29-3)

Sec. 16-1-4. After shut off.

If any person, from whose premises the water supplied from the Water Works shall have been shut off by reason of nonpayment of water rates or for violation of the regulations of the Board of Water Works, shall let on or cause to be let on the water without authority of the General Manager of the Water Works, he or she shall be punished as provided in Section 1-2-1 of this Code. (1957 Code, §29-4)

Sec. 16-1-5. Designated areas; permit.

Any plumber, journeyman, laborer or other person who shall tap or make any opening in any street main or water pipe, or who shall make a connection with any service pipe leading from any street main or water pipe to any premises, or any consumer for the purpose of supplying water to any premises or consumer other than or additional to the premises or consumer previously supplied from such service pipe; or who shall make any excavation or trench in any street, alley or public place for the purpose of laying down water pipe, without in each case having first procured a permit therefor from the Board of Water Works, shall be punished as provided in Section 1-2-1 of this Code. (1957 Code, §29-5)

Sec. 16-1-6. Sprinkling lawn; penalty; fee for turning on.

(a) In using water from the Water Works for sprinkling lawn or gardens, no consumer shall cause or permit any unnecessary waste thereof, or permit the water to flow from his or her premises upon or over adjacent premises or sidewalks or streets.

(b) Upon any violation of this Section, the General Manager of the Water Works is empowered to shut off the water to the premises of any person who violates any of the provisions of this Section, and the water shall only be turned on again upon the payment by the person guilty of such violation, of the fee of five dollars (\$5.00) for turning on the water in such cases. (1957 Code, §29-6)

Sec. 16-1-7. Drawing water without permission.

It shall be unlawful for any person to take water from any hydrant, faucet or otherwise draw water through or from the Water Works without first having obtained permission of the Board of Water Works. (1957 Code, §17-91)

CHAPTER 2

Water; Extraterritorial Service

Sec. 16-2-1. Declaration of purpose.

It is the purpose of this Chapter to establish policies and procedures for the extension of municipal water service to areas outside of the City limits as permitted by the City Charter. (1957 Code, §11A; Ord. No. 3707, 5-14-73)

Sec. 16-2-2. Establishment of permit areas.

There are hereby established two (2) permit areas to be known as Permit Area A and Permit Area B. Permit Area A is that area immediately surrounding the City limits, as same now exists or may be subsequently changed by future annexations, and extending outward to a demarcation line as shown on a map entitled "Extraterritorial Water Service Permit Areas." Permit Area B shall consist of the rest of the County and any adjacent counties thereto. The reproducible original of the map of Extraterritorial Water Service Permit Areas shall be kept on file by the City Clerk and available for public inspection. Amendments and revisions thereto shall be made only by ordinance passed by the City with the prior consent of the Board of Water Works, except that all changes in the City limits through annexation shall be duly recorded on the map by the City Clerk, and such modification shall not be governed by this Section and shall not be considered an amendment or revision of said map. (1957 Code, §11A; Ord. No. 3707, 5-14-73)

Sec. 16-2-3. Eligibility; Permit Area A.

Any land located within Permit Area A as defined in Section 16-2-2 shall be eligible to receive extraterritorial water service under the following conditions:

(1) The owners of said land shall agree in writing and place said agreement on record, to apply for or consent to the annexation of the land to the City when such land, or any portion thereof, becomes eligible for annexation pursuant to the provisions of Part 1, Article 12 of Title

31, C.R.S. The term *to apply for or consent to the annexation* as used herein includes, without limitation, a) the signing of a petition to annex the land to the City without an election within ten (10) days after request by the City, b) voting for annexation if the land or any part thereof is included in an area proposed to be annexed to the City in a proceedings requiring an annexation election, and c) not signing or initiating a petition for an annexation election. Said agreement shall run with the land and be binding upon the owners, their heirs, successors and assigns.

(2) All improvements commenced after May 14, 1973, to land and buildings receiving water service under this Chapter and located in Permit Area A shall be constructed in accordance with all City codes and ordinances governing buildings and improvements in the City, including but not limited to, the building code, plumbing code, fire prevention code, electrical code, housing code, subdivision ordinance and all other codes establishing minimum standards of land use, design and construction. In any matter where County legislative action is required, such as the acceptance of a dedication for public use in a subdivision, the owner or developer shall first have submitted such matter to and gained the approval of the City Council before submission of the matter to the County for approval. The provisions hereof shall be deemed to be and shall constitute additional requirements placed upon said land and buildings and its owners, with their agreement and concurrence, in return for municipal water service. (1957 Code, §11A; Ord. No. 3707, 5-14-73; Ord. No. 5301, 4-14-86)

Sec. 16-2-4. Eligibility; Permit Area B.

Any land located in Permit Area B as defined in Section 16-2-2 shall be eligible to receive extraterritorial water service after the owners shall agree in writing, and place said agreement on record, to apply for or consent to the annexation of the land to the City when such land, or any portion thereof, becomes eligible for annexation pursuant to the provisions of Part 1, Article 12 of Title 31, C.R.S. The term *to apply for or consent to the annexation* as used herein includes, without limitation, (1) the signing of a petition to annex the land to the City without an election within ten (10) days after request by the City, (2) voting for annexation if the land or any part thereof is included in an area proposed to be annexed to the City in a proceedings requiring an annexation election, and (3) not signing or initiating a petition for an annexation election. Said agreement shall run with the land and be binding upon the owners, their heirs, successors and assigns. (1957 Code, §11A; Ord. No. 3707, 5-14-73; Ord. No. 5301, 4-14-86)

Sec. 16-2-5. Applications.

Application for extraterritorial water shall be made upon forms supplied by the Board of Water Works. Said application forms shall include such data as is necessary to determine eligibility for extraterritorial water service and any supporting documentation deemed desirable by the Board of Water Works. (1957 Code, §11A; Ord. No. 3707, 5-14-73)

Sec. 16-2-6. Procedure.

(a) Upon receipt of a completed application and any supportive documentation thereto, the Board of Water Works shall transmit a copy thereof to the City Manager and County Manager for review and comment. The City and County shall expeditiously make such review and comment and forthwith, but in no event more than thirty-five (35) days after receipt of said application, make their comments or suggestions known to the Water Board. Failure of the City and County to review and comment within said thirty-five (35) days shall constitute their approval of the application.

Comments or suggestions made by the County shall not be binding upon the Water Board but may be used by the Water Board to establish any special conditions deemed desirable by the Water Board for the extension of municipal water service.

(b) The comments and decisions of the City shall be binding upon the Water Board and no extraterritorial water service may be extended to lands lying wholly or partly within Permit Area A unless and until all requirements imposed by the City have been fully complied with.

(c) Upon compliance with the provisions of this Chapter, notwithstanding the review and comments of the County or the approval of the City, the Water Board, at its sole discretion, may issue or refuse to issue a permit granting the extension of water service to the land in question. Said permit shall be subject to all requirements imposed by the City and shall contain and reflect all conditions upon which the permit has been issued. (1957 Code, §11A; Ord. No. 3707, 5-14-73; Ord. No. 5689, 6-24-91)

Sec. 16-2-7. Charges.

The Board of Water Works shall have the sole power to establish fees and charges to be made for water service outside the City limits and shall have the power to change such fees and charges at its discretion without notice or hearing, but such fees and charges shall always be greater than the established fees and charges for water service furnished inside the City for like types of customer service. (1957 Code, §11A; Ord. No. 3707, 5-14-73)

Sec. 16-2-8. Nonpayment; remedies.

The Board of Water Works may treat all charges and fees imposed by any schedule of charges or fees adopted by the Board of Water Works, when due and unpaid, as a debt due the Board from the user. In case of failure to pay such charges or any portion thereof when due, the Board may recover at law the amount of such charges and interest in any court having jurisdiction of the person of the debtor and the subject matter of the action. All remedies set forth herein are cumulative and the exercise of one (1) shall not bar the exercise of any other. It shall be the duty of the Board Attorney, when directed by the Executive Director, to commence action for the discontinuance of service and disconnection of service lines and mains from the water mains of the City, and to commence action for the recovery of all charges owing and payable under the terms of any schedule of charges or fees adopted by the Board of Water Works. (1957 Code, §11A; Ord. No. 3707, 5-14-73)

Sec. 16-2-9. Discontinuance of use.

Nothing contained in this Chapter shall be construed as denying any property owner affected by this Chapter the right of voluntary discontinuance from the municipal water service. Such discontinuance of service shall be evidenced by disconnection of said property from the municipal water mains and not otherwise. In the event of such discontinuance, all rates or charges accruing thereafter shall be abated and thereafter no charge shall be made. (1957 Code, §11A; Ord. No. 3707, 5-14-73)

Sec. 16-2-10. Metropolitan sewer and water districts.

(a) In the event the applicant shall be a duly organized metropolitan water district or other district organized under the Statutes of the State with the power to provide water services, such district shall agree as a condition to the issuance of a permit that no person in the district shall be permitted to

connect with any facility of the district which, in turn, is connected to a municipal utility until such person shall agree in writing to be bound by and subject to all restrictions set forth in this Chapter and that no connection shall be made until such person has executed and recorded such written agreement.

(b) Said district shall further agree that in the event such district shall become completely annexed to the City, it shall exercise no further management or operational jurisdiction over its water system, but shall cede such jurisdiction to supply water and transfer the management of its water system to the Board of Water Works and shall retain its corporate existence only for the purpose of levying a tax to pay any bonds and debt service of the district; and when such debt is paid in full, the district shall thereupon be dissolved as by statute made and provided.

(c) No district attached to any municipal utility as provided in this Chapter shall thereafter increase or decrease the area of its district without the written consent of the Board of Water Works. (1957 Code, §11A; Ord. No. 3707, 5-14-73)

CHAPTER 3

Sewer; General Provisions

Sec. 16-3-1. Definitions.

As used in this Chapter, the following words and terms shall have the meaning set forth below:

- (a) *Building Sewer* or *Service Line* means that part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sewer, private sewer, individual sewage disposal system, or other point of disposal.
- (b) *Sanitary Sewer* means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of storm, surface, and groundwaters that are not admitted intentionally.
- (c) *Public Sewer* means a common sewer main directly controlled by the City of Pueblo.
- (d) *Tap* means the physical connection point where a building sewer or service line connects to a public sewer.

Sec. 16-3-2. Connection with system, when required.

All vaults, water closets and privies, together with all drainage from bathtubs, sinks and basins, situated on premises located on the line of any street, alley or avenue in the City, through which there is a public or district sewer, shall be connected by the owner of the property, or his or her agent, with such public or district sewer, when required so to do by order of the Director of Public Health. (1957 Code, §29-7)

Sec. 16-3-3. Extension of system; necessity.

Whenever in the opinion of the City Council declared by resolution an immediate necessity exists for the preservation of public health by extension of existing sewer lines as part of the sewerage system owned by the City, the City Council may order the construction of such extension. (1957 Code, §29-8)

Sec. 16-3-4. City property; assessment.

The extension provided for in the preceding Section hereof when completed shall be the property of the City and the cost of the same when incurred pursuant to the terms of this Chapter shall be paid by the City from the general fund; and the City shall be reimbursed, in whole or in part, by the proceeds and returns of special assessments upon the property, if any, especially benefited; and the returns and proceeds of such assessments made pursuant to this Chapter shall be paid into the general fund. (1957 Code, §29-9)

Sec. 16-3-5. Construction procedure.

When cost of such project is to be in whole or in part charged against property benefited, the proceedings for the construction of sewer projects authorized herein shall be in accordance with Title XII of this Code. (1957 Code, §29-30)

Sec. 16-3-6. Costs; apportioned; installments; waiver; cumulative provision.

(a) The cost of sanitary sewers shall be paid for by the lot or lots or owners thereof abutting upon the alleys or streets where laid, in proportion to the benefited frontage of such lot or lots on same. Where benefits are derived by property not abutting on the line of such sewer, the City Council shall cause such cost to be zoned in such manner as to include all benefited property according to the benefits derived. The cost to be charged to the City, if any, shall be determined by the City Council according to the extent and use of such extension as a part of the principal sewer lines of the City sewerage system, its capacity and availability to serve such purpose and the location thereof in the streets of the City.

(b) Installments of assessments under this Chapter shall not exceed the term of three (3) annual installments for the whole amount assessed.

(c) Owners of property to be benefited, or any of them, may in writing waive all proceedings preliminary to assessment and consent that such assessment be made by resolution of the City Council.

(d) The provisions of this Chapter shall be cumulative with all other powers of the City Council, or procedures for the exercise thereof with respect to sewers. (1957 Code, §29-31)

Sec. 16-3-7. Sewer and water fee in lieu of assessment charge.

Within ten (10) years after the complete installation of any water or sewer system financed in whole or in part by special improvement district bonds, an owner of property which was not included within the District shall, if at the time the ordinance creating the District was enacted the property was not within the City or if the property was in the City and within two hundred (200) feet from the boundary of the District, be required to pay the City a fee prior to connecting onto said system. The

fee, to be computed by the Director of Public Works, shall be equivalent to the amount and based upon the method of assessment for property within said District plus interest thereon at six percent (6%) per annum from the date of complete installation.

Sec. 16-3-8. Ownership and Responsibility.

Owners of properties served by sanitary sewers shall own all of the service lines or building sewers that connect structures on the property to the Public Sewer, including the tap itself. Property owners shall be responsible for maintaining, repairing, or replacing service lines and building sewers at their sole expense. (Ord. No. 4085, 9-22-75; Ord. No. 813707, 5-14-73)

CHAPTER 4

Sewer; Extraterritorial Service

Sec. 16-4-1. Declaration of purpose.

It is the purpose of this Chapter to establish policies and procedures for the extension of municipal sewer service to areas outside of the City limits. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

Sec. 16-4-2. Eligibility.

Any land located outside the City may be eligible to receive extraterritorial sewer service upon compliance with the following conditions:

(1) The owner of said land shall agree in writing and record said agreement in the office of the County Clerk and Recorder, to comply with and be bound by the provisions of this Chapter and to petition for annexation of said land to the City when said land becomes legally eligible for annexation. Said agreement shall run with the land and be binding upon the owners, their heirs, successors and assigns.

(2) All improvements commenced after June 25, 1973, to land and buildings receiving sewer service under this Chapter shall be constructed in accordance with all City codes and ordinances governing buildings and improvements in the City, including but not limited to the building code, plumbing code, fire prevention code, electrical code, housing code, subdivision ordinance and all other codes and ordinances establishing minimum standards of land use, design and construction. In any matter where County legislative action is required, such as the acceptance of a dedication for public use in a subdivision, the owner or developer shall first submit such matter to and obtain the approval of the City Council before submission of the matter to the County for approval. The provisions hereof shall be deemed to be and shall constitute additional requirements placed upon said land and buildings and its owners, with their agreement and concurrence, in return for municipal sewer service.

(3) The land and buildings proposed for extraterritorial sewer service shall have been approved for extraterritorial water service prior to the issuance of a construction permit hereunder.

(4) Notwithstanding any other provision of this Chapter to the contrary, no land located outside the City or outside the Pueblo Memorial Airport not presently being served by the City's sewer system shall be eligible to receive extraterritorial sewer service or be permitted to discharge wastewaters into the City's wastewater sewage treatment facilities, and no application for such

service may be filed with or approved by the City. (1957 Code, §11A; Ord. No. 3716, 7-9-73; Ord. No. 5467, 4-11-88; Ord. No. 5554, 8-14-89; Ord. No. 5609, 6-25-90; Ord. No. 5690, 7-8-91)

Sec. 16-4-3. Applications.

Application for extraterritorial sewer service shall be made upon forms supplied by the City Manager's office. Said application forms shall include such data as is necessary to determine eligibility for extraterritorial sewer service and any supporting documentation deemed desirable by the City Manager. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

Sec. 16-4-4. Procedure.

(a) Upon receipt of a completed application and any supportive documentation thereto, the City Manager shall transmit a copy thereof to the Pueblo Area Council of Governments (P.A.C.O.G.) for its review and comment. The P.A.C.O.G. shall expeditiously make such review and comment and shall forthwith, but in no event more than thirty-five (35) days after receipt of said application, make its comments or suggestions known to the City Manager. Failure of the P.A.C.O.G. to review and comment within said thirty-five (35) days shall constitute their approval of the application. Such comments or suggestions shall not be binding upon the City but may be used by the City to establish any special conditions deemed desirable by the City for the extension of municipal sewer service.

(b) Upon compliance with the provisions of this Chapter, notwithstanding the review and comments of the P.A.C.O.G., the City Manager may authorize or refuse to authorize the extension of sewer service to the land or buildings sought to be serviced. Such authorization shall be subject to all conditions and requirements imposed by the City and shall be conditioned upon full compliance with all of said requirements and conditions. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

Sec. 16-4-5. Construction permit.

(a) After authorization of the extension of sewer service by the City Manager and prior to the construction of any extraterritorial sewer extension, the applicant must submit satisfactory engineering plans to the Director of Public Works for approval. Upon approval of said engineering plans, a construction permit may be issued. The Director of Public Works shall have the power to require the construction of special facilities in any case where the land use proposed would in the opinion of the Director of Public Works overtax the municipal sewer system in terms of volume and/or strength of effluent anticipated to be produced by the proposed land use.

(b) The permittee shall pay the costs of all extensions and improvements, including any oversized pipe and lift stations, that may be required to meet City specifications on the basis of the projected future growth of the area to be served. All costs of acquiring rights-of-way and easements shall be paid by the permittee. The permittee shall comply with all provisions of this Title relating to "privately constructed sewers."

(c) Title to all mains, pipes, equipment, rights-of-way and easements shall be conveyed to the City before any connection thereto shall be permitted and shall remain the property of the City without recourse unless it is determined by the City that the public interest would be best served by having the owner retain title to all or any part of the mains, pipes, equipment, rights-of-way and easements. The permittee shall indemnify and defend the City against any loss, claim, action or suit which may be made or brought against the City as a result of the installation and maintenance of such

utility until such time the area served shall be annexed to the City. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

Sec. 16-4-6. Sewer user charge.

A user charge shall be assessed and charged to all extraterritorial users of the City's sewage collection and waste treatment system in accordance with the provisions of Chapter 6 of this Title. (1957 Code, §11A; Ord. No. 3696, 4-23-73; Ord. No. 3716, 7-9-73; Ord. No. 4427, 1-23-78)

Sec. 16-4-7. Nonpayment; remedies.

The City may treat all unpaid charges and fees imposed by this Chapter or by any schedule of charges or fees adopted by the City Council as a debt due the City from the user. In case of failure to pay such charges or any portion thereof when due, the City may recover at law the amount of such charges and interest in any court having jurisdiction of the person of the debtor and the subject matter of the action. All remedies set forth herein are cumulative and the exercise of one (1) shall not bar the exercise of any other. It shall be the duty of the City Attorney, when directed by the City Manager, to commence action for the discontinuance of service and the disconnection of service lines and mains from the sewer system of the City, and to commence action for the recovery of all charges owing and payable under the terms of this Chapter or any schedule of charges or fees adopted by the City Council. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

Sec. 16-4-8. Discontinuance of use.

(a) Nothing contained in this Chapter shall be construed as denying any property owner affected by this Chapter the right of voluntary discontinuance from the municipal sewer service. Such discontinuance of service shall be evidenced by disconnection of said property from the municipal sewer mains and not otherwise. In the event of such discontinuance, all rates or charges accruing thereafter shall be abated and thereafter no charge shall be made.

(b) In the event the sewage system or the sewage disposal system of the City shall become overloaded as a result of such extraterritorial use, shall become inadequate to serve the residents of the City, or shall be contaminated by reason of connection to such extraterritorial use, the same shall be immediately disconnected upon the order of the City Manager. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

Sec. 16-4-9. Metropolitan sewer and water districts.

(a) In the event the applicant shall be a duly organized metropolitan sewer district or other district organized under the Statutes of the State with the power to provide sewer services, such district shall agree as a condition to the issuance of a permit that no person in the district shall be permitted to connect with any facility of the district which, in turn, is connected to a municipal sewer system until such person shall agree in writing to be bound by all provisions and restrictions set forth in this Chapter and that no connection shall be made until such person has executed and recorded such written agreement.

(b) Said district shall further agree that in the event the territory or district shall become completely annexed to the City, it shall exercise no further management or operational jurisdiction over its sewer system, but shall cede such jurisdiction to supply sewer service and transfer the management and ownership of its sewer system to the City, and shall further agree to retain its

corporate existence only for the purpose of levying a tax to pay any bonds and debt service of the district; and when such debt is paid in full, the district shall thereupon be dissolved as provided by statute. No district attached to the sewer system of the City provided in this Chapter shall thereafter increase or decrease the area of its district without the written consent of the City. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

Sec. 16-4-10. Unlawful acts.

(a) It shall be unlawful for any person to make a connection to the City sewer system to serve property in any unincorporated territory lying outside the City limits, directly or indirectly, without first applying for and obtaining a construction permit as set forth in this Chapter.

(b) It shall be unlawful for any person to do any act, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Chapter. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

Sec. 16-4-11. Sanitary sewer plant investment fee.

(a) In addition to any other fee or charge imposed or authorized by this Chapter, each extraterritorial sewer service connection shall be charged a sanitary sewer plant investment fee. The fee for each connection of a single-family dwelling unit to the sanitary sewer system shall be two hundred eighty-five dollars (\$285.00).

(b) In determining the sanitary sewer plant investment fee for all other land uses connecting onto the sanitary sewer system the two hundred eighty-five dollars (\$285.00) per single-family connection shall be multiplied by the single-family equivalent factor for each land use as set forth in the equivalency table contained in the Sellards & Grigg report on file in the Department of Public Works, and the product thereof shall be the sanitary sewer plant investment fee for that land use. The Director of Public Works is hereby granted the authority to interpret said single-family equivalency table in cases of land uses not covered by said table. His or her interpretation shall be based upon the sewage produced by the land use not covered by the table as compared with that shown for all land uses covered by the table. All interpretations shall be in writing to the City officials charged with administering this Chapter with a copy to the City Clerk to be filed in the permanent records of the City.

(c) On July 1, 1974, and on July 1st of each year thereafter, the basic single-family plant investment fee of two hundred eighty-five dollars (\$285.00) shall be increased or decreased by the percentage decrease or increase of the June Construction Cost Index of the Engineering News Record for that year over or below the Construction Cost Index of the Engineering News Record for June 1973. The Director of Public Works shall make such calculations and the same shall become the new single-family plant investment fee and shall be utilized in the Single-Family Equivalency Table included in said Sellards & Grigg sewer report. The Director of Public Works shall notify in writing City officials responsible for the calculation and collection of the plant investment fee of all such changes, with a copy filed in the permanent records of the City Clerk.

(d) The sanitary sewer plant investment fee shall be paid prior to the issuance of any construction permit and shall apply to all extraterritorial connections to the sanitary sewer system of the City made on or after July 1, 1973. (1957 Code, §11A; Ord. No. 3716, 7-9-73)

CHAPTER 5

Cost Recovery for Oversized and Off-Site Sewers

Sec. 16-5-1. Policy statement.

It is the policy of the City that the extension of the sanitary sewer collection system within the City should be undertaken in a planned and organized fashion designed to: provide for human health and environmental protection through extension of well-designed, appropriately sized and properly constructed facilities; contain the costs of future system construction, operation, maintenance and replacement; maximize the utilization of gravity flow systems to improve overall system reliability; provide for installation of adequately sized facilities to provide service to reasonably anticipated future development of the City; minimize construction costs and disruption of roadways and developed areas during construction of additional collection facilities; and provide a reasonable mechanism for owners, developers and subdividers who construct sanitary sewer facilities to recover an equitable share of the cost of constructing oversized or off-site sewer collection system improvements. (Ord. No. 6424, 4-26-99)

Sec. 16-5-2. Definitions.

As used in this Chapter, the following words and terms shall have the meanings set forth below:

(1) *Developer* means an owner or owners of one (1) or more parcels of property intending to undertake a development of same.

(2) *Development* means any one (1) or more of the following activities:

a. Subdivision or resubdivision of one (1) or more parcels of property into distinct or revised lots or parcels, or any other activity defined as a subdivision in Section 12-4-3 of this Code;

b. Procurement of any building or plumbing permit to construct improvements upon property which are intended for a use or occupancy likely to generate an increased volume of wastewater or produce wastewater with an increase in concentration of suspended solids, biological oxygen demand, metals or other pollutants; or

c. A rezoning of property which would permit a higher density use or other new use which would foreseeably generate an increased volume of wastewater over the use or uses of the property permitted by the existing zoning classification.

(3) *Director* means the City's Director of Wastewater.

(4) *Excess capacity costs* means the pro rata share of the actual cost of constructing off-site or oversized sewer collection system improvements, including related engineering costs, allocated in accordance with this Chapter, which are attributable to creating service capacity for future growth and expansion upon land other than property which is the subject of the development. The term does not include any such costs paid from the Sanitary Sewer Collection System Improvement Fund established by Chapter 11 of this Title.

(5) *Off-site sewer collection system improvements* means sewer collection system improvements required to be constructed outside the boundaries of the property which is the subject of the development, and which, in addition to serving all foreseeable needs of the property which is the subject of the development, is also specifically intended and designed to be capable of providing sewer service to property other than the subject of the development.

(6) *Oversized sewer collection system improvements* means those sewer collection system improvements located upon the property which is the subject of the development which are greater than twelve (12) inches in diameter and are designed and sized so as to serve all foreseeable needs of the property which is the subject of the development and, in addition thereto, to provide excess service capacity for future growth and expansion not involving the property which is the subject of the development. The phrase shall not be taken to mean any improvements deemed necessary for the present and future use of the property which is the subject of the development in accordance with the City's design criteria and specifications.

(7) *Perimeter sewer collection system improvements* means those sewer collection system improvements located along the perimeter of the property which is the subject of the development within a dedicated street, right-of-way or easement and which, in addition to serving all foreseeable needs of the development, is also specifically designed and intended to be capable of providing sewer service to property other than the subject of the development.

(8) *Sewer collection system improvements* means all pipe, fittings, connections, pipe bedding, pump stations, manholes and other materials which become part of the City's wastewater collection system upon dedication or conveyance to the City and the City's acceptance of same for maintenance. (Ord. 6424, 4-26-99)

Sec. 16-5-3. Design criteria and specifications.

The Director is authorized and directed to promulgate design criteria and specifications for the design and construction of extensions of and improvements to the sanitary sewer collection system. Such design criteria and specifications shall be based upon good engineering practices, shall be protective of public health and the environment and shall implement the City's policies as set forth in Section 16-5-1 of this Chapter. The design criteria and specifications shall be effective upon adoption by resolution of the City Council. (Ord. 6424, 4-26-99)

Sec. 16-5-4. System improvements and extensions.

Upon and after the effective date of the ordinance adopting this Chapter, all development within the City shall require connection to the City's wastewater collection system and compliance with this Chapter. Should extension, addition or improvement to the collection system be required in order to connect or properly serve any development, as determined by the Director, it shall be the developer's responsibility to construct such extension, addition or improvement, including any off-site, oversized or perimeter sewer collection system improvements, in accordance with the City's design criteria and specifications and at the developer's expense, subject to cost recovery as provided in this Chapter. (Ord. 6424, 4-26-99)

Sec. 16-5-5. Cost recovery.

(a) In order to obtain cost recovery for excess capacity costs, a developer shall comply with the procedural requirements specified in this Section. Failure of a developer to comply with this Section shall be deemed a waiver of any right to cost recovery.

(b) During the subdivision, zoning or building approval process for the development at which the developer is required to construct any off-site, oversized or perimeter sewer collection improvements, the developer shall provide the Director with written notice of intent to obtain cost recovery. Thereafter, and prior to recording of the subdivision, adoption of a rezoning ordinance by the City Council or issuance of the building permit, the developer and the City shall enter into a cost recovery agreement in a form approved by the City Attorney, which shall contain the following provisions:

(1) Identification of the developer and the property which is the subject of development;

(2) A description of the off-site, oversized or perimeter sewer collection system improvements which are involved, together with a detailed plan drawing, materials list or other information sufficient to fully describe the improvements;

(3) A preliminary calculation of the excess capacity included in the off-site, oversized or perimeter sewer collection system improvements as a percentage of such improvements' total capacity;

(4) A description and scale drawing of the subbasin area or adjacent lands which are capable of being provided with wastewater service by virtue of the excess capacity;

(5) An acknowledgment by the developer that the developer's entitlement, if any, to cost recovery is conditioned upon the developer's full compliance with the provisions of this Chapter and that reimbursement will be determined in accordance with the provisions of this Chapter; and

(6) A reasonable formula or methodology for apportionment of excess capacity costs among the lands which are capable of being provided with wastewater service by virtue of the excess capacity.

(c) Within sixty (60) days after written acceptance of off-site, oversized or perimeter sewer collection system improvements by the City, a developer who has entered into a cost recovery agreement shall submit the following information to the Director:

(1) Completed bid forms from qualified contractors who bid the construction of the off-site, oversized or perimeter sewer collection system improvements for the developer;

(2) A copy of the contract, and any changes thereto, between the developer and contractor who constructed the improvements;

(3) Detailed cost and payment information, including paid invoices, evidencing the amount paid by the developer for said improvements; and

(4) Evidence of any amounts paid by the developer for engineering or surveying work for said improvements.

If the developer fails to timely comply with both Subsections (b) and (c) above, the developer will be ineligible for cost recovery.

(d) After receipt of the information described in Subsection (c) above, the Director shall review the information submitted, may conduct such additional investigation as he or she deems appropriate, may require the developer to furnish additional cost information, and on the basis thereof, shall determine the total amount of the allowed excess capacity costs and the actual amount of excess capacity made available for future expansion. The Director shall notify the developer of his or her determinations in writing. In the event the developer disputes or disagrees with the Director's determination, or any portion thereof, the developer may seek administrative review thereof by filing a written appeal specifying the determination being appealed and the basis therefor with the City Manager within thirty (30) days of the date of the Director's decision. Thereafter, the City Manager shall designate a hearing officer to hear and decide the appeal in accordance with the procedures set forth in Chapter 7 of Title I of this Code for quasi-judicial hearings. The decision of the hearing officer shall be final and conclusive, subject only to judicial review in accordance with Rule 106 of the Colorado Rules of Civil Procedure. On or before the first day of January next following the Director's determinations under this Subsection (d), and on or before the same day in each subsequent year for a period not exceeding ten (10) years from the Director's determinations, the amount of the allowed excess capacity costs covered by a cost recovery agreement shall be adjusted by the annual percentage change, if any, during the preceding calendar year, in the construction cost index as reported in the Engineering News Record (ENR) published by The McGraw Hill Companies.

(e) For a period of fifteen (15) years from the date of the determination of the Director or of the hearing officer under Subsection (d) above, whichever is later, any person desiring to develop land or obtain a new sewer connection for premises located within the subbasin area or adjacent lands served by excess capacity installed pursuant to a cost recovery agreement as provided in this Section, shall be required to pay to the City a special sewer collection system cost recovery fee calculated by the Director in accordance with this paragraph.

The Director shall calculate the cost recovery fee for any such development or sewer connection in accordance with a reasonable formula or methodology for apportionment set forth in the cost recovery agreement. Where such development is a subdivision, the cost recovery fee shall be due and payable prior to connection of such development to the sewer collection system; in all other cases, the fee shall be due and payable prior to issuance of a building permit for the development or for any facility located within the development. The fee required by this paragraph shall be in addition to the sanitary sewer connection fees required by Chapter 11 of this Title.

(f) All sewer collection system cost recovery fees shall be paid to the City to be held in trust and, not less frequently than quarterly, shall be remitted by the City to the appropriate developer or his or her assignee.

(g) A developer required to construct additions or improvements to the collection system pursuant to the terms of a subdivision improvements agreement entered into on or before the effective date of the ordinance adopting this Chapter shall not be eligible for cost recovery with respect to any improvements required by said subdivision improvements agreement. (Ord. 6424, 4-26-99)

CHAPTER 6

Sewer User Charge

Sec. 16-6-1. Wastewater charges.

(a) Collection systems.

(1) The City operates two (2) sanitary sewer collection systems, one (1) of which services the City, certain sanitation districts and extraterritorial users (hereinafter referred to as *the main system*). The other system which connects the Pueblo Memorial Airport and Airport Industrial Park to the main system, serves the airport and contiguous commercial and industrial land (hereinafter referred to as the *Airport Collection System*). Both sanitary sewer collection systems discharge to the City's main wastewater treatment plant and are hereby included as the City sewer collection and wastewater treatment system. It is the expressed intention of the City Council that all of the provisions of Chapters 6, 7, 8, 9, 10 and 11 of this Title apply to both such collection systems and the users of each, except such provisions as are herein made specifically applicable only to the Airport Collection System users. The rates for wastewater charges and excessive strength surcharges set forth in this Title are based on cost of service and capital costs uniformly allocated to both the main system and the Airport Collection System.

(2) All property connected to the City sewer collection and wastewater treatment system and all users of such facilities, whether connected or not, shall be charged wastewater charges and other fees as set forth in this Chapter and Chapter 7 of this Title and shall be subject to all requirements of these Chapters. All industrial users of such system or systems shall also be subject to the industrial cost recovery and pretreatment requirements as set forth in Chapters 8 and 9 of this Title or as same may be amended. All property first connected to the sewer collection and wastewater treatment system on or after September 1, 1994, shall also be subject to payment of connection fees in accordance with Chapter 11 of this Title.

(b) Wastewater charges shall be assessed on the basis of the following classification of all users:

(1) Nonindustrial customers,

(2) Industrial customers,

(3) Blende Sanitation District, and

(4) Septic dischargers, septic haulers, sludge pumpers and all others who discharge liquid or semi-liquid waste into the system.

(c) Whenever the term *Pueblo Board of Water Works* or *Board of Water Works* is used in this Chapter or in Chapters 7, 8 and 9 of this Title, it shall mean the Board of Water Works of the City.

(d) The terms *industrial customer* or *industrial user* in this Chapter shall include those classifications of users identified in Section 16-7-2(c) of Chapter 7 of this Title, as well as any other nonresidential users that discharge, or contribute to the system, wastewater containing greater than two hundred twenty-five (225) mg/l of five-day biochemical oxygen demand or containing greater than two hundred (200) mg/l of suspended solids.

(e) When the requirements or provisions of Chapters 6, 7, 8, 9 and 11 of this Title are at variance with or conflict with the requirements and provisions of any other ordinance, code, resolution, rule or regulations of the City, including building codes, the requirements and provisions of Chapters 6, 7, 8, 9 and 11 of this Title shall apply and, to the extent of such variance or conflict, the requirements and provisions of Chapters 6, 7, 8, 9 and 11 of this Title shall supersede all conflicting provisions and requirements of all other ordinances, codes, resolutions, rules and regulations of the City.

(f) The City Council may by resolution adopt such rules, regulations, policies and procedures as the City Council may determine reasonable or necessary for the interpretation or implementation of Chapters 6, 7, 8, 9 and 11 of this Title. (Ord. No. 4426, 1-23-78; Ord. No. 4544, 12-11-78; Ord. No. 4799, 10-14-80; Ord. No. 5171, 9-10-84; Ord. No. 5755, 6-8-92; Ord. No. 5872, 5-23-94)

Sec. 16-6-2. Rates and charges.

(a) Nonindustrial users. The wastewater charge for nonindustrial users shall be the sum of the monthly service charge and monthly sewer volume charge, computed as follows:

(1) Commencing on January 1, 2007, and for each month in each year thereafter for and in accordance with the calendar months and years indicated in the following table, the monthly service charge portion of the wastewater charge shall be assessed and charged based upon the water meter size of the water line or lines servicing the property in accordance with the following table:

Table 16-6-2(a)(1)

<i>Year:</i>	<i>Jan 1 2007 to Feb 28 2007</i>	<i>March 2007 to Feb 2008</i>	<i>March 2008 to Feb 2009</i>	<i>March 2009 to Feb 2010</i>	<i>March 2010 to Feb 2011</i>	<i>March 2011 to Feb 2012</i>	<i>March 2012 to Feb 2013</i>	<i>March 2013 to Feb 2014</i>	<i>March 2014 to Feb 2015</i>	<i>March 2015 to Feb 2016</i>	<i>March 2016 & subsequent months and years</i>
<i>Meter Line Size in Inches</i>	<i>Monthly Service Charge (in U.S. Dollars)</i>										
<i>½ & ¾</i>	4.35	6.85	8.40	9.50	10.80	11.45	12.10	12.50	12.85	13.25	13.65
<i>1</i>	4.49	7.95	9.95	11.35	12.85	13.70	14.55	15.05	15.55	16.05	16.55
<i>1½</i>	4.65	11.40	14.95	17.20	19.35	20.80	22.30	23.15	24.00	24.90	25.80
<i>2</i>	5.05	16.50	22.35	25.75	28.90	31.25	33.70	35.10	36.55	38.00	39.50
<i>3</i>	6.00	28.45	39.65	45.95	51.45	55.95	60.65	63.30	66.05	68.85	71.75
<i>4</i>	10.80	41.25	58.15	67.45	75.45	82.80	89.35	93.35	97.50	101.80	106.15
<i>6</i>	18.00	66.75	95.15	110.50	123.55	134.85	146.75	153.50	160.45	167.60	174.95
<i>8</i>	25.20	88.15	126.05	146.55	163.80	178.90	194.85	203.85	213.15	222.70	232.55

(2) Commencing on January 1, 2007, and for each month in each year thereafter, for and in accordance with the calendar months and years indicated in the following table, the monthly sewer volume charge portion of the wastewater charge for each property with metered water service

furnished and provided by the Board of Water Works shall be the amount shown in the following table for each one thousand (1,000) gallons of water furnished and supplied to the property:

Table 16-6-2(a)(2)

<i>Year:</i>	<i>Jan 2007 to Feb 2007</i>	<i>March 2007 to Feb 2008</i>	<i>March 2008 to Feb 2009</i>	<i>March 2009 to Feb 2010</i>	<i>March 2010 to Feb 2011</i>	<i>March 2011 to Feb 2012</i>	<i>March 2012 to Feb 2013</i>	<i>March 2013 to Feb 2014</i>	<i>March 2014 to Feb 2015</i>	<i>March 2015 to Feb 2016</i>	<i>March 2016 & subsequent months and years</i>
<i>Monthly Sewer Volume Charge (in U.S. Dollars per 1,000 gallons)</i>											
<i>Nonindustrial Use</i>	1.48	1.56	1.96	2.22	2.52	2.70	2.80	2.90	3.00	3.05	3.12

(3) The monthly sewer volume charge shall be based upon the monthly water meter measurements and readings (or estimates thereof) of the Board of Water Works and shall be computed and billed as follows:

a. For the months of January and February 2007, and for the months of January and February of each year thereafter, the monthly sewer volume charge shall be the amount specified in Table 16-6-2(a)(2) for the applicable month and year for each one thousand (1,000) gallons of water charged and billed to the property by the Board of Water Works during its January and February monthly billing periods for said year. The term *monthly billing period*, as used herein, commences when a water meter is read in the prior month and ends when the water meter is read in the subsequent month of billing.

b. The monthly sewer volume charge for each month from and including March 2007 through and including December 2007, and for the months of March through December each year thereafter, shall be calculated as the amount specified in Table 16-6-2(a)(2) for the applicable month and year in dollars per one thousand (1,000) gallons multiplied by the average of the thousands of gallons of water charged and billed to the property by the Board of Water Works during the immediately preceding January and February monthly billing periods.

c. If for any reason water meter readings are not made or are delayed, the sewer volume charge shall be computed upon an estimate of water services and the actual charge therefor shall be made and apportioned upon the actual meter measurement and readings made thereafter.

d. In the event a property is connected to the Board of Water Works system after February of any year or if for some other reason there is not available an average monthly sewer volume charge based upon the January-to-February billing periods or such periods in prior years, the monthly sewer volume charge shall be an amount equal to the applicable calendar year monthly rate specified in Table 16-6-2(a)(2) per one thousand (1,000) gallons of water used multiplied by five (5) per month for each residential unit served at each property.

e. The sewer volume charge for each property using water not metered by the Board of Water Works shall be an amount equal to the applicable calendar year monthly rate specified in Table 16-6-2(a)(2) per one thousand (1,000) gallons of water used multiplied by five (5) per

month for each residential unit served at each property or the applicable calendar year monthly rate specified in Table 16-6-2(a)(2) per one thousand (1,000) gallons of water used per month based upon the January or February monthly estimated water used or actual monthly water used, whichever would be most proportionate to all classes of users, as determined by the Director of Public Works.

(b) Industrial users.

(1) The wastewater charge for industrial users shall be the sum of the monthly service charge based upon the meter size and determined in accordance with Paragraph (a)(1) of this Section, and a monthly sewer volume charge. Commencing on January 1, 2007, and for each month in each year thereafter, for and in accordance with the calendar months and years indicated in the following table, the monthly sewer volume charge for industrial users shall be an amount shown in the following table for each one thousand (1,000) gallons of discharge per month based upon either actual measured discharge or upon water used after adjustment for any permitted use allowance, as determined by the Director of Public Works, plus one hundred percent (100%) of any costs incurred by the City in determining the amount of such discharge.

Table 16-6-2(b)(1)

<i>Year:</i>	<i>Jan 2007 to Feb 2007</i>	<i>March 2007 to Feb 2008</i>	<i>March 2008 to Feb 2009</i>	<i>March 2009 to Feb 2010</i>	<i>March 2010 to Feb 2011</i>	<i>March 2011 to Feb 2012</i>	<i>March 2012 to Feb 2013</i>	<i>March 2013 to Feb 2014</i>	<i>March 2014 to Feb 2015</i>	<i>March 2015 to Feb 2016</i>	<i>March 2016 & subsequent months and years</i>
<i>Monthly Sewer Volume Charge (in U.S. Dollars per 1,000 gallons)</i>											
<i>Industrial Use</i>	1.48	1.56	1.96	2.22	2.52	2.70	2.80	2.90	3.00	3.05	3.12

(2) Industrial users are also subject to excessive strength surcharges as provided in Chapter 7 of this Title and all other fees and charges required of industrial users by this Title.

(c) Blende Sanitation District.

(1) Commencing on January 1, 2007, and as adjusted on March 1, 2007, and March 1 of each year thereafter, for wastewater delivered to the City's treatment plant from Blende Sanitation District and derived exclusively from nonindustrial customers, the monthly sewer volume charge shall be the specified monthly nonindustrial use rate for the applicable calendar month and year as set forth in Table 16-6-2(c) below per one thousand (1,000) gallons, together with such monthly service charges as may be provided by agreement or resolution of the City Council.

(2) Commencing on January 1, 2007, and as adjusted on March 1, 2007, and March 1 of each year thereafter, for wastewater delivered to the City's treatment plant from Blende Sanitation District and derived from industrial customers, the volume charge shall be the specified monthly industrial use rate for the applicable calendar month and year as set forth in Table 16-6-2(c) below per one thousand (1,000) gallons, together with such monthly service charges as may be provided

by agreement or resolution of the City Council, and together with excessive strength surcharges as provided by Chapter 7 of this Title.

Table 16-6-2(c)

<i>Year:</i>	<i>Jan 2007 to Feb 2007</i>	<i>March 2007 to Feb 2008</i>	<i>March 2008 to Feb 2009</i>	<i>March 2009 to Feb 2010</i>	<i>March 2010 to Feb 2011</i>	<i>March 2011 to Feb 2012</i>	<i>March 2012 to Feb 2013</i>	<i>March 2013 to Feb 2014</i>	<i>March 2014 to Feb 2015</i>	<i>March 2015 to Feb 2016</i>	<i>March 2016 & subsequent months and years</i>
<i>Monthly Sewer Volume Charge (in U.S. Dollars per 1,000 gallons)</i>											
<i>Blende Sanitation District Nonindustrial Use</i>	1.10	1.34	1.61	1.79	2.00	2.10	2.20	2.26	2.32	2.38	2.44
<i>Blende Sanitation District Industrial Use</i>	1.12	1.34	1.61	1.79	2.00	2.10	2.20	2.26	2.32	2.38	2.44

(d) Sewer users and septic haulers depositing or discharging liquid waste into the system shall be assessed wastewater charges consisting of the sum of the following components:

(1) A monthly monitoring charge of one hundred seventy-eight dollars and five cents (\$178.05); provided, however, that commencing on January 1, 2007, and as adjusted on March 1 of 2007 and March 1 of each year thereafter, the amount of the monitoring charge shall be the amount shown in the row for "MC," in Table 16-7-2(b) of Chapter 7 of this Title for the applicable calendar month and year; and

(2) A combined monthly sewer volume charge and excessive strength surcharge at the specified monthly rate for the applicable calendar year as set forth in Table 16-6-2(d)(2) below per one hundred (100) gallons of liquid waste deposited or discharged into the system.

Table 16-6-2(d)(2)

<i>Year:</i>	<i>Jan 2007 to Feb 2007</i>	<i>March 2007 to Feb 2008</i>	<i>March 2008 to Feb 2009</i>	<i>March 2009 to Feb 2010</i>	<i>March 2010 to Feb 2011</i>	<i>March 2011 to Feb 2012</i>	<i>March 2012 to Feb 2013</i>	<i>March 2013 to Feb 2014</i>	<i>March 2014 to Feb 2015</i>	<i>March 2015 to Feb 2016</i>	<i>March 2016 & subsequent months and years</i>
<i>Septic Haulers' Combined Monthly Sewer Volume Charge and Excessive Strength Surcharge (in U.S. Dollars per 1,000 gallons)</i>											
	24.60	28.20	32.60	35.60	39.00	40.60	42.30	43.25	44.25	45.25	46.26

(e) Airport Collection System.

(1) The wastewater charges for all users connected to the Airport Collection System shall be as provided in Subsections (a) and (b) of this Section, subject to the provisions of this Subsection (e).

(2) (Reserved)

(3) (Reserved)

(4) The wastewater charges set forth herein for users connected to the Airport Collection System shall be in addition to, and not in lieu of, any and all other charges or fees associated with or assessed to property owners or occupants of facilities located at the Pueblo Memorial Airport or the Airport Industrial Park. (Ord. No. 4426, 1-23-78; Ord. No. 4544, 12-11-78; Ord. No. 4799, 10-14-80; Ord. No. 5171, 9-10-84; Ord. No. 5439, 11-23-87; Ord. No. 5673, 4-22-91; Ord. No. 5755, 6-8-92; Ord. No. 6639, 1-8-01; Ord. No. 6639, 1-8-01; Ord. No. 6903 §1, 11-11-02; Ord. 7544 §1, 11-27-06)

Sec. 16-6-3. Billing and collection; liens.

The sewer user charge shall be billed and collected monthly by the Board of Water Works with the monthly water bill; provided, however, that in cases when water is supplied by sources other than the Board of Water Works, the sewer user charge shall be billed and collected by the City's Department of Finance. All sewer users shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(1) Combined Payment to Board of Water Works. Sewer use charges billed and collected by the Board of Water Works shall be upon the same statement as the monthly water billings. Penalties for nonpayment of the sewer user charge and collection of same shall be administered in accordance with the applicable procedures and the Rules and Regulations of the Board of Water Works.

(2) Payment to City. Upon the tenth calendar day of each month, the Board of Water Works shall remit and make payment to the City for all sewer user charges received and collected prior to the first working day of said month.

(3) Lien for Nonpayment. All fees and charges imposed by Chapters 6, 7, 8 or 9 of this Title shall be due and payable within thirty (30) days after billing therefor. All due and unpaid fees and charges plus interest thereon at the rate of one and one-half percent (1.5%) per month shall constitute a perpetual lien on and against the property served having priority over all other liens except general tax liens. The Director of Finance shall cause a notice of the lien stating the amount of the due and unpaid fees and charges and describing the property served to be recorded in the office of the County Clerk and Recorder. The Director of Finance may certify the due and unpaid fees and charges to the County Treasurer and the amounts due shall be collected in the same manner as though they were part of the City's taxes.

(4) Disconnection for Nonpayment. If any fee or charge imposed by Chapters 6, 7, 8 or 9 of this Title shall be due and unpaid for a period of ninety (90) days or more after billing therefor, the

Director of Public Works may cause to be served upon the owner or occupant of the property served a notice of disconnection stating the amount of the due and unpaid fees and charges, describing the property served and advising the owner or occupant thereof that if the due and unpaid fees or charges remain unpaid for a period of thirty (30) days after service of such notice, the City may disconnect the property served from the City's sewer system. Such notice may be served by personal service or by first class mail or, if the property is vacant, by posting such notice in a conspicuous place on the property or improvements located thereon. If service is by mail, service shall be complete five (5) days from the date of mailing. If service is by posting, service shall be complete ten (10) days from the date of posting. In the event the owner or occupant of the property served fails, neglects or refuses to pay in full all due and unpaid fees and charges described in the notice within thirty (30) days after service of the notice, the Director of Public Works may cause sewer service to the property to be disconnected. Prior to reconnection of the sewer service, the City shall be paid all costs incurred by such disconnection plus a collection fee of twenty percent (20%) thereof. (Ord. No. 4426, 1-23-78; Ord. No. 5171, 9-10-84; Ord. No. 5439, 11-23-87)

Sec. 16-6-4. Restricted use of wastewater charges.

All revenues received by the City from the sewer charges shall be used exclusively for the operation, maintenance, construction, replacement and expansion of the wastewater treatment works and appurtenances, including sanitary sewers and administrative and engineering costs related thereto; provided, however, that revenues in excess of those necessary for operation and maintenance (including replacement) may be pledged by formal action of the City Council as all or part of the City's share of grants available from other governmental agencies or for the payment of principal and interest upon bonds issued for the construction and expansion of wastewater treatment works, collection and related facilities. (Ord. No. 4426, 1-23-78; Ord. No. 4799, 10-14-80; Ord. No. 5171, 9-10-84; Ord. No. 5439, 11-23-87; Ord. No. 6639, 1-8-01)

Sec. 16-6-5. Refunds and adjustments.

The Director of Public Works or the Board of Water Works, with the approval of the City Manager, may authorize refunds and adjustments to individual sewer user charges. Adjustments to sewer user charges may result in increases or decreases to the monthly sewer user charge. Grounds for changes and adjustments in charges which may be considered shall include:

- (1) Changes resulting from the use of water that normally has its ultimate disposal to points other than the City's sanitary or storm sewerage system.
- (2) Changes due to seasonal business and educational activities including but not limited to the Colorado State Fair and businesses and restaurants which do not operate on a twelve-month basis.
- (3) Charges made to nonresidential sewer users may be based upon actual monthly sewer discharge if required to make the charges proportionate to all classes of users.
- (4) Errors in calculation of the sewer user charge. (Ord. No. 4426, 1-23-78)

Sec. 16-6-6. Procedure for refunds or adjustments.

Refunds and adjustments will be considered only in the following manner:

(1) Upon written request by a sewer user to the Director of Public Works or the Board of Water Works.

(2) Upon determination by the Director of Public Works or the Board of Water Works that grounds for change or adjustment exist pursuant to Section 16-6-5 of this Chapter. (Ord. No. 4426, 1-23-78)

Sec. 16-6-7. Time limitation on refunds.

Unless specifically authorized by formal action of the City Council, no refund based upon any change or adjustment shall be authorized or granted for sewer user charges appearing on billings issued more than ninety (90) days prior to receipt of a written request for adjustment and refund by the Director of Public Works or the Board of Water Works. If a refund is approved, no more than two (2) years of previously paid sewer user charges will be granted, and paid only to the person who actually paid the sewer user charges upon proof of payment. (Ord. No. 4426, 1-23-78; Ord. No. 5681, 5-28-91)

Editor's Note: Section 16-6-8 was repealed in its entirety by Ord. No. 5171, passed and approved 9-10-84.

Sec. 16-6-9. Inspection rights.

Any duly authorized employee or agent of the City bearing proper credentials and identification shall be permitted at any time to enter upon all properties that are connected to the City's sewer collection and wastewater treatment system for the purpose of inspecting, measuring, sampling and testing, as may be required in pursuance of implementation and enforcement of the terms and provisions of this Chapter. (Ord. No. 4426, 1-23-78)

Sec. 16-6-10. Annual review.

The City Manager shall at least biennially review the rates, procedures and provisions of this Chapter and report any recommended revisions to the City Council. (Ord. No. 4309, 4-11-77; Ord. No. 4426, 1-23-78; Ord. No. 4799, 10-14-80; Ord. No. 4817, 11-24-80)

Editor's Note: This Ordinance was passed and approved by the City Council 4-11-77 and becomes effective 1-1-78.

Sec. 16-6-11. Enforcement.

It shall be unlawful for any person to violate, disobey, neglect, refuse or fail to comply with or resist the enforcement of any provision of this Chapter and upon conviction therefor shall be punished as provided in Section 1-2-1 of this Code. (Ord. No. 4426, 1-23-78)

CHAPTER 7

Sewer Use Regulation and Wastewater Surcharges

Sec. 16-7-1. Excessive strength wastewater surcharge.

(a) All users of the City wastewater collection and treatment facilities discharging wastewater containing greater than two hundred twenty-five (225) mg/l of five-day biochemical oxygen demand

(BOD) or containing greater than two hundred (200) mg/l of suspended solids (SS) shall be assessed an excessive strength wastewater surcharge in accordance with the provisions of this Chapter.

(b) Users discharging wastewater containing less than two hundred twenty-five (225) milligrams per liter of five-day biochemical oxygen demand and less than two hundred (200) milligrams per liter of suspended solids shall not be assessed an excessive strength wastewater surcharge for that particular category, nor shall there be a credit given to that total surcharge.

(c) Users discharging toxic pollutants or prohibited wastes which cause an increase in the cost of operating and maintaining the treatment works or managing the effluent or the sewage sludge shall be assessed and pay a surcharge equal to such increased costs in addition to other fees or penalties which may by law be assessed. (Ord. No. 4600, 5-14-79; Ord. No. 5171, 9-10-84)

Sec. 16-7-2. Surcharge classification and rates.

(a) Users subject to the excessive strength surcharge shall be assessed the surcharge based upon the following formula:

$$S = V_s \times 8.34 [\$BOD \times (BOD - 225) + \$SS \times (SS - 200)] + MC$$

(b) The following definitions or meanings apply to the formula in Subsection (a) above:

- (1) "S" means the monthly excessive strength surcharge expressed in U.S. dollars.
- (2) "Vs" means the monthly sewage volume expressed in millions of gallons.
- (3) "8.34" is a constant representing the weight in pounds per gallon of water.
- (4) "\$BOD" is the charge for BOD expressed in U.S. dollars per pound, determined in accordance with specified rate for the applicable calendar year as set forth in Table 16-7-2(b) below.
- (5) "BOD" means the five-day biochemical oxygen demand strength index of the user's discharge to the system in milligrams per liter by weight as determined by the Director of Public Works.
- (6) "225" is a constant representing the maximum allowed BOD strength in milligrams per liter before an excessive strength surcharge for BOD will be assessed.
- (7) "\$SS" is the charge for total suspended solids expressed in U.S. dollars per pound, determined in accordance with the specified rate for the applicable calendar year as set forth in Table 16-7-2(b) below.
- (8) "SS" means the total suspended solids strength index in milligrams per liter by weight as determined by the Director of Public Works.
- (9) "200" is a constant representing the maximum allowed suspended solids strength in mg/l before an excessive strength surcharge for SS will be assessed.

(10) "MC" means monitoring charge and is the average monthly user charge portion of costs associated with monitoring of excessive strength discharges to the system, determined in accordance with the specified rate for the applicable calendar year as set forth in Table 16-7-2(b) below.

Table 16-7-2(b)

<i>Year:</i>	<i>Jan 2007 to Feb 2007</i>	<i>March 2007 to Feb 2008</i>	<i>March 2008 to Feb 2009</i>	<i>March 2009 to Feb 2010</i>	<i>March 2010 to Feb 2011</i>	<i>March 2011 to Feb 2012</i>	<i>March 2012 to Feb 2013</i>	<i>March 2013 to Feb 2014</i>	<i>March 2014 to Feb 2015</i>	<i>March 2015 to Feb 2016</i>	<i>March 2016 & subsequent months and years</i>
<i>\$BOD (Dollars per pound for excess BOD)</i>	0.194	0.240	0.300	0.335	0.380	0.400	0.420	0.435	0.445	0.460	0.470
<i>\$SS (Dollars per pound for excess SS)</i>	0.134	0.150	0.165	0.180	0.190	0.195	0.205	0.205	0.210	0.215	0.216
<i>MC (Dollars per month)</i>	170.00	176.30	184.20	189.50	195.50	198.30	201.30	203.00	204.75	206.55	208.35

(c) All users subject to excessive strength surcharges shall have samples of their discharge collected and a test report prepared in a manner approved by the Director of Public Works at least twice annually or more frequently if so directed by the Director of Public Works. By way of illustration, and not by way of limitation, the following classes of industrial and commercial enterprises may be subject to excessive strength surcharges: malt producers, macaroni and spaghetti producers, fabricated plate works, manufacturing industries, linen suppliers, fruit and vegetable canning, ink manufacturing, printers, sugar processing, commercial or industrial laundries, hotels, restaurants, tallow rendering, corrugated box producers, steel manufacturing, meat packing, bakeries, dairy products processing, drum cleaning, pharmaceutical manufacturers, miscellaneous food manufacturers, grain mills, leather tanning, inorganic chemical manufacturers, animal fats and oil processing, and slaughterhouses. (Ord. No. 4600, 5-19-79; Ord. No. 5171, 9-10-84; Ord. No. 5439, 11-23-87; Ord. No. 6903 §1, 11-11-02; Ord. No. 7544 §2, 11-27-06)

Sec. 16-7-3. Surcharge billings.

(a) The excessive strength wastewater surcharge shall be billed by the Department of Finance at the following billing interval:

- (1) Quarterly for all users discharging an average of less than fifty thousand (50,000) gallons per month as determined through the sewer user charge monthly billings.
- (2) Monthly for all other users.

(b) Any individual user may request that the billing interval be more frequent than specified in the foregoing Subsection; provided, however, that no billing interval shall be for less than one (1) month, and further provided that no billing interval shall be increased in frequency unless determined to be appropriate by the Director of Finance. (Ord. No. 4600, 5-14-79; Ord. No. 5171, 9-10-84)

Sec. 16-7-4. Payment, delinquency and liens.

(a) Payment of the excessive strength wastewater surcharge shall be due and payable to the Department of Finance within thirty (30) days after the billing date.

(b) Excessive strength wastewater surcharge billings which have not been paid within sixty (60) days of the billing date shall be delinquent and shall be assessed an interest charge of one and one-half percent (1.5%) per month upon the total outstanding balance due.

(c) Failure to make payment within sixty (60) days of the billing date shall constitute a violation of this Chapter.

(d) A lien may be filed against any property served by the City system for delinquent excessive strength wastewater surcharges in the manner provided in Section 16-6-3(3) of this Title. (Ord. No. 4600, 5-14-79; Ord. No. 5171, 9-10-84)

Sec. 16-7-5. Appeals.

Individual users may appeal to the Director of Public Works for a reduction of any individual billing or a change in the class assigned to the user. Appeals must be submitted on a form specified by the Director of Public Works prior to the date upon which the bill becomes delinquent. Appeals may be requested for any of the following reasons:

(1) Any individual user performs pretreatment of wastewater or utilizes procedures which lower the quantities of biochemical oxygen demand and suspended solids to such a level to merit being assigned to another class. In the event that an appeal requested under this Subsection is approved and the user is placed in a lower class, no cost of testing shall be charged to the affected user. If testing results in no change in class, the user shall be assessed the full cost of testing including laboratory charges, plus a fee of twenty dollars (\$20.00).

(2) Refunds and corrections made pursuant to Section 16-6-5 of this Title, if such a refund or correction related to the gallonage of wastewater discharged. In the event a refund or correction is requested to the user charge gallonage, such a correction shall also be made in the high strength surcharge.

(3) Error in calculation of the high strength wastewater surcharge.

(4) Error in the determination of the class of an individual user. (Ord. No. 4600, 5-14-79)

Sec. 16-7-6. Decision on appeal.

The Director of Public Works, with the approval of the City Manager, may approve or reject individual appeals within ninety (90) days of receipt of the appeal. During the time an administrative appeal is pending, the delinquency provisions of this Chapter shall not apply to the billing or billings of the individual user who properly filed such appeal, provided that such appeal was not frivolous or

brought merely for purposes of delay. The decision of the Director of Public Works shall be final and binding on the party filing the appeal and the City. (Ord. No. 4600, 5-14-79; Ord. No. 5171, 9-10-84)

Sec. 16-7-7. Sampling.

(a) The manner in which samples are collected shall be designated by the Director of Public Works. Various sampling procedures may be utilized as the Director of Public Works deems appropriate.

(b) If, in the judgment of the Director of Public Works, the accuracy of the samples is questionable, a written order shall be issued to the owners or operators of the establishment discharging into the system requiring that they construct a control manhole on their premises for the purposes of monitoring and sampling the effluent discharged into the public system. The location and specifications of the control manhole shall be determined by the Director of Public Works.

(c) Samples collected to satisfy reporting requirements shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report and which is representative of conditions occurring during the reporting period. The Director shall require that the frequency of monitoring be sufficient to assess and assure compliance by the user with applicable industrial user permit requirements. (Ord. No. 4600, 5-14-79; Ord. No. 8035 §6, 7-27-09)

Sec. 16-7-8. Laboratory testing.

All laboratory tests to measure five-day biochemical oxygen demand and suspended solids shall be in accordance with the procedures established by the approval authority pursuant to Section 304(g) of the Clean Water Act, 33 U.S.C. §1314(g) and contained in 40 C.F.R. Part 136 and amendments thereto, or with any other test procedures approved by the approval authority. (Ord. No. 4600, 5-14-79; Ord. No. 6416, §1, 4-12-99)

Sec. 16-7-9. Biennial review.

The Director of Public Works shall review the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment works and the user charge system no less often than every two (2) years. The next such biennial review shall be completed on or before July 1, 1987. The charges for users or user classes shall be revised by the City Council based upon such biennial reviews to accomplish the following:

(1) Generate sufficient revenue to pay the total operation and maintenance costs necessary to properly operate and maintain the treatment works.

(2) Maintain the proportionate distribution of operation and maintenance costs among users and user classes.

(3) Apply any excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. (Ord. No. 4600, 5-14-79; Ord. No. 5171, 9-10-84)

Sec. 16-7-10. Effluent meter.

If, in the judgment of the Director of Public Works, the water consumption of the discharging industry leads to a distorted discharge, due to the industrial process or use of well water, an effluent meter shall be required to be installed by the owner or operator of the premises. Notification of this requirement shall be made in writing and the type of metering device to be installed shall receive prior approval of the Director of Public Works. (Ord. No. 4600, 5-14-79)

Sec. 16-7-11. Inspection.

The Director of Public Works shall have access to the premises of any producer of sewage being discharged into the City's sewer system to take samples at a control manhole, to inspect the sewage producing processes, and to inspect any on-site treatment measures being utilized. (Ord. No. 4600, 5-14-79)

Sec. 16-7-12. On-site treatment.

Nothing contained within this Chapter shall prohibit the construction of on-site, private sewage treatment facilities to avoid the imposition of the surcharge or to eliminate waste materials prohibited by this Chapter, provided that any such treatment facilities constructed shall receive the prior approval of the Director of Public Works and comply with the applicable regulations of the City and the Colorado Health Department. (Ord. No. 4600, 5-14-79)

Sec. 16-7-13. Prohibited waste.

It shall be unlawful for any person to discharge any of the following substances into the City's sewer system:

(1) Any liquids, solids or gases which by reason of their nature or quantity are sufficient either alone or by interaction with other substances to cause fire or explosion. Any flammable substance with a flash point lower than 187°F. Prohibited materials shall include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the user is a fire or explosion hazard.

(2) Solid or viscous substances which may cause obstruction to the flow in the POTW or other interference with the operation of the POTW such as, but not limited to: grease, garbage with particles greater than one-half ($1/2$) inch in any dimension, animal waste, guts or tissue, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, 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.

(3) Acidity with a pH of less than 6.4 acidity or exceeding a maximum temporary variation of pH to not less than 5.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW. The duration of any temporary variation shall not exceed thirty (30) minutes in any eight-hour work shift. At no time shall the pH be less than 5.0.

(4) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(5) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(6) Any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye waste and vegetable tanning solutions.

(7) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference. In no case shall the temperature of the discharge entering the POTW collection system leading to the treatment plant exceed 65°C (150°F), nor shall heat be contributed in such quantities that the temperature at the POTW treatment plant exceeds 40°C (104°F).

(8) Any pollutants, including oxygen demanding pollutants (Biochemical Oxygen Demand [BOD]), released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(9) For discharges into the system, the daily maximum concentrations for the following parameters which exceed the values listed below for each parameter:

<i>Parameter</i>	<i>mg/l</i>
Arsenic	1.9
Benzene	0.05
BETX*	0.750
Cadmium (total)	3.0
Chromium (total)	73.9
Chromium CR ⁺⁶	104.9
Copper (total)	66.0
Cyanide (total)	3.6
Lead (total)	8.3
Mercury (total)	0.0027
Nickel (total)	15.1
Selenium (total)	1.076
Silver (total)	126.4
Zinc (total)	129.9

As used in paragraph (9) above, *daily maximum concentration* means the maximum allowable concentration for each parameter during any calendar day.

*BETX shall be measured as the sum of benzene, ethylbenzene, toluene and xylenes.

(10) Phenols in excess of five (5) milligrams per liter.

(11) Any wastewater containing any radioactive waste or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable state or federal regulations.

(12) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(13) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, which injure or interfere with any wastewater treatment process; or which constitute a hazard to humans or animals; or which creates a toxic effect in the receiving waters of the POTW; or which exceed the limits set forth in this Section, or Categorical Pretreatment Standards. For purpose of this Subparagraph (13), toxic pollutant shall include, but shall not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.

(14) Any grease or oily substance in excess of one hundred (100) milligrams per liter; provided, however, that animal or vegetable based oil or grease from approved restaurant oil or grease traps and interceptors, if transported in accordance with Chapter 10 of this Title, may be received at the designated receiving point of the sewer system, in accordance with regulations to be adopted by the Director. Under no circumstances may bulk oil and grease be discharged into the sewer system.

(15) Any petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

(16) Any antiseptic solution greater than one hundred (100) milligrams per liter.

(17) Hydrogen sulfide, sulphur dioxide, nitrous oxide or any halogens in concentrations greater than ten (10) milligrams per liter.

(18) Soluble substances with a specific gravity greater than 2.65 or in concentration which increases the specific viscosity above 1.1.

(19) The adopted Best Management Practices (BMP) are enforceable Pretreatment Standards established to implement the general/specific prohibitions and to protect the POTW against pass through and interference. (Ord. No. 4600, 5-14-79; Ord. No. 5741, 2-24-92; Ord. No. 5758, 7-13-92; Ord. No. 6007, 9-11-95; Ord. No. 6180, 3-24-97; Ord. No. 6416, §2, 4-12-99; Ord. No. 8035 §7, 7-27-09)

Sec. 16-7-14. Other prohibited discharges.

It shall be unlawful for any person to discharge any substance into the City's sewer system which causes:

(1) Chemical reaction, either directly or indirectly, with the materials of construction to impair the strength or durability of sewer structures.

(2) Mechanical action that will destroy or damage any part of the sewage system.

- (3) Restriction of the hydraulic capacity of any part of the sewage system.
- (4) Restriction of the normal inspection or maintenance of the sewer structures.
- (5) Unusual demands on the wastewater treatment plant equipment or process.
- (6) Limitation of the effectiveness of the wastewater treatment process.
- (7) Wastes that contaminate the sewage sludge or create any hazard or have an adverse effect on the water receiving any discharge from the treatment works.
- (8) Concentrations of substances in excess of pretreatment limitations promulgated by the United States Environmental Protection Agency.

Discharge of substances from all effluent sources into the City's sewer system shall conform to the provisions of 33 U.S.C. §1317 and regulations promulgated thereunder. In any case where the provisions set forth in said 33 U.S.C. §1317 or regulations promulgated thereunder are more stringent than the provisions of this Chapter, the more stringent provisions shall control the discharge of substances into the City's sewer system. Discharge of any trucked or hauled pollutants is prohibited, except at discharge points designated by the POTW and shall be governed by the provisions of Chapter 10 of this Title. (Ord. No. 4600, 5-14-79; Ord. No. 5683, 5-28-91)

Sec. 16-7-15. Clear water.

(a) It shall be unlawful for any person to discharge storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or other such clear water into the City's sanitary sewer system, unless such discharge is approved by the Director of Public Works for purposes of disposal of polluted waters or to abate a public nuisance or a safety hazard. Such clear water shall be discharged into such sewers that are specifically designated as storm sewers or to a natural outlet approved by the Director of Public Works.

(b) It shall be unlawful to make new connections of roof downspouts, foundation drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Ord. No. 4600, 5-14-79; Ord. No. 6790 §1, 3-25-02)

Sec. 16-7-16. Grease interceptors.

(a) Grease, oil or sand interceptors shall be provided when they are necessary in the opinion of the Director of Public Works or are required by adopted codes of the City for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director of Public Works or as required by the codes adopted by the City. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

(b) Where installed, all grease, oil or sand interceptors shall be maintained by the owner, at his or her expense, and maintained in continuously efficient operation at all times and shall be located so as to be readily and easily accessible for cleaning and inspecting. (Ord. No. 4600, 5-14-79)

Sec. 16-7-17. Pretreatment.

All of the standards, regulations and requirements of this Chapter shall apply at the point where industrial, commercial or other wastes are discharged into the City's sewer system and all corrective pretreatment must be accomplished to practical completion before such point of discharge. (Ord. No. 4600, 5-14-79)

Sec. 16-7-18. Building permits.

Prior to issuance of a building permit for the construction of any industry or establishment which utilizes a wastewater-producing industrial process, the Director of Public Works shall inspect the proposed processes and ascertain that no wastewater prohibited under this Chapter shall be discharged into the public sanitary sewer. (Ord. No. 4600, 5-14-79)

Sec. 16-7-19. Violation notices and penalty.

(a) Any person found to be violating any provision of this Chapter shall be served with written notice stating the nature of the violation and providing a reasonable time limit, not to exceed ninety (90) days, for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations and shall certify in writing to the Director of Public Works that the corrections have been made.

(b) Notwithstanding the foregoing or any other provision hereof, the Director of Public Works, upon receipt of evidence that any person is violating any provision of this Chapter, may, and he or she is authorized and empowered to in the name of and on behalf of the City, file an action in the District Court to enjoin and restrain any person causing or contributing to the prohibited act or violation to immediately cease and stop such prohibited act or violation or to take such other action as may be necessary to become and remain in compliance with the provisions hereof. Any person found to be in violation of any provision hereof and so enjoined and restrained shall forfeit and pay to the City the sum of three hundred dollars (\$300.00) per day for each day such violation has occurred, together with all costs of such action including a reasonable attorney's fee. (Ord. No. 4600, 5-14-79)

Sec. 16-7-20. Damages.

Any person violating any of the provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation. (Ord. No. 4600, 5-14-79)

Sec. 16-7-21. Enforcement.

It shall be unlawful for any person to violate, disobey, omit, neglect, refuse or fail to comply with or resist the enforcement of any provision of this Chapter and, upon conviction therefor, shall be punished as provided in Section 1-2-1 of this Code. Each day such violation shall continue shall be deemed a separate offense. (Ord. No. 4600, 5-14-79)

Sec. 16-7-22. Director.

Whenever the words *Director of Public Works* are used herein, they shall include the Director of Public Works of the City and his or her authorized representative or agent. (Ord. No. 4600, 5-14-79)

Sec. 16-7-23. Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City, is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the City's sewer system in accordance with the provisions of this Chapter, within ninety (90) days after the date of official notice to do so, provided that said public sewer is within four hundred (400) feet of the property line; provided, however, that if it is demonstrated to the satisfaction of the Director of Public Works that connection to the City's sewer system is infeasible due to the existence of a substantial physical barrier between the premises to be served and the City's sewer system, such as a river, limited access highway, rail yard or similar obstruction, this requirement may be temporarily waived by the City Manager until such time as connection becomes feasible. Inability to finance the expense of connection shall not constitute grounds for waiver of the requirement to connect. (Ord. No. 4600, 5-14-79; Ord. No. 5672, 4-22-91; Ord. No. 7140, 4-26-04)

Sec. 16-7-24. Notification.

In conjunction with a regular billing, each user shall be notified at least annually of the rate and that portion of user charges and high strength wastewater surcharges which are attributable to wastewater treatment services. (Ord. No. 4600, 5-14-79)

Sec. 16-7-25. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion held to be invalid shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. (Ord. No. 4600, 5-14-79)

Sec. 16-7-26. Enforcement by City.

The provisions of this Chapter and Chapter 9 of this Title concerning prohibited discharges, pretreatment, inspection, monitoring, reporting and enforcement are enforceable by the City or the Director of Public Works directly against any user or contributor to the City system, notwithstanding

that such user may be served by or through Blende Sanitation District or through other sanitation districts. (Ord. No. 5171, 9-10-84)

CHAPTER 8

Industrial Cost Recovery System

Editor's Note: Ordinance 6418, April, 1999, repealed prior Chapter 8, Industrial Cost Recovery System, in its entirety.

CHAPTER 9

Pretreatment Program

Sec. 16-9-1. Purpose and policy.

(a) This Chapter sets forth uniform requirements for direct and indirect discharges into the wastewater collection and treatment system for the City and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1971 33 U.S.C. §1251, et seq., as amended and the General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR, Part 403).

(b) The objectives of this Chapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge.

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system.

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.

(c) This Chapter shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of the City's Publicly Owned Treatment Works (POTW). Except as otherwise provided herein, the Director of Utilities shall administer, implement and enforce the provisions of this Chapter

(d) All industrial users are required to comply with all applicable Pretreatment Standards and Requirements. (Ord. No. 4846, 2-23-81; Ord. No. 5655, 1-14-91; Ord. No. 8035 §1, 7-27-09)

Sec. 16-9-2. Definitions.

As used in this Chapter, the following words and terms shall have the meaning set forth below:

(1) *Act or the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act of 1971, 33 U.S.C. §1251, et seq., as amended.

(2) *Approval Authority* means the Regional Administrator of the U.S. Environmental Protection Agency (EPA).

(2.5) *Best Management Practices* or *BMPs* means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in 40 C.F.R. § 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw materials storage. Best Management Practices may be used as local limits and Pretreatment Standards.

(3) An authorized representative of industrial user may be:

a. A principal executive officer of at least the level of vice president, if the industrial user is a corporation;

b. A general partner or proprietor if the Industrial User is a partnership or proprietorship, respectively;

c. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) *C.F.R.* means the Code of Federal Regulations as amended or as the same may be subsequently amended.

(5) *Consistent POTW removal or pollutant removal or removal or consistent removal* means the reduction in the amount of a pollutant or alteration of the nature of a pollutant in the influent to a POTW to a less toxic or harmless state in the effluent. *Consistent removal* shall be the average of the lowest fifty percent (50%) of the removals measured in accordance with 40 C.F.R. § 403.7(b)(2), as amended.

(6) *Control authority* shall mean the City.

(7) *Direct discharge* means the discharge of treated or untreated wastewater directly to the waters of the State.

(8) *Director* means the Director of Wastewater of the City or his or her designee.

(9) *Enforcement Authority* means the control authority and/or Approval Authority as herein defined.

(10) *EPA* or *Environmental Protection Agency* means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(10.5) *Grab sample* means a single sample taken of a waste stream, water body or other liquid flow which is not proportioned on the basis of time, flow quantity or location.

(11) *Indirect discharge* means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act (33 U.S.C. 1317).

(12) *Industrial user* means a source of indirect discharge.

(13) *Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both: (a) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes use or disposal; and (b) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II thereof, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in the state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substance Control Act and the Marine Protection, Research and Sanctuaries Act.

(14) *National Categorical Pretreatment Standard* or *Categorical Standard* or *Pretreatment Standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(15) *National Prohibitive Discharge Standard* or *Prohibitive Standard* means any regulation developed under the authority of Section 307(b) of the Act and 40 C.F.R. § 403.5.

(16) *National Pollution Discharge Elimination System (NPDES) Permit* means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(17) *New source* means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

b. 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 should be considered.

(18) *Pass through* means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

(19) *Person* means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

(20) *Pollutant* means any dredged spoil, solid waste, incinerated residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste, and any other materials discharged into water that are determined by the EPA or Director to be harmful to the public health, safety or welfare.

(21) *Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changed by other means, except as prohibited by 40 C.F.R. § 403.6(d).

(22) *Pretreatment Standards* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. § 403.5.

(23) *Pretreatment requirements* means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an industrial user.

(24) *Publicly owned treatment works (POTW)* means a treatment work as defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned in this instance by the City. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment.

(25) *POTW treatment plant* means that portion of the POTW designed to provide treatment to the wastewater

(26) *U.S.C.* means the United States Code.

(27) *Shall* and *will* are mandatory: *May* is permissive.

(28) *Toxic pollutant* means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of Section 307(a) of the Act or other federal, state or local regulations.

(29) *User* means any person using or connected to the City's POTW.

(30) *Wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(31) *Waters of the State* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.

(32) *Industrial user permit or IUP* means the permits required to be held by all industrial users issued in accordance with the provisions of this Chapter and which serve as one (1) of the City's control mechanisms to ensure that industrial users meet all applicable Pretreatment Standards and requirements.

(33) *Significant industrial user* means any industrial user which: (a) is subject to any Categorical Pretreatment Standard under 40 C.F.R. § 403.6 or 40 C.F.R. Chapter I, subchapter N; (b) discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW, excluding sanitary noncontact cooling and boiler blow-down wastewater; (c) is designated as such by the Director, using his or her best professional judgment, on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement; or (d) contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant.

(34) *Significant noncompliance (SNC)* means:

a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 C.F.R. § 403.3(1);

b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 C.F.R. § 403.3(1) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);

c. Any other violation of a Pretreatment Standard or Requirement as defined by 40 C.F.R. § 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

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

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

f. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

g. Failure to accurately report noncompliance;

h. Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or

implementation of the local pretreatment program. (Ord. No. 4846, 2-23-81; Ord. No. 5655, 1-14-91; Ord. No. 5683, 5-28-91; Ord. No. 6179, 3-24-97; Ord. No. 6417, §1, 4-12-99; Ord. No. 8035 §2, 7-27-09)

Sec. 16-9-3. National Pretreatment Discharge Standards.

(a) Prohibited Pretreatment Discharge Standards. No user of the City's POTW shall discharge any of the following substances into the POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are sufficient either alone or by interaction with other substances to cause fire or explosion. Prohibited materials shall include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the user is a fire or explosion hazard.

(2) Solid or viscous substances which may cause obstruction to the flow in the POTW or other interference with the operation of the POTW treatment plant such as, but not limited to: grease, garbage with particles greater than one-half inch ($1/2$) in any dimension, animal waste, guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, 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.

(3) Acidity with a pH of less than 6.4 acidity or exceeding a maximum temporary variation of pH to not less than 5.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW. The duration of any temporary variation shall not exceed thirty (30) minutes in any eight-hour work shift. At no time shall the pH be less than 5.0

(4) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(5) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(6) Any wastewater with objectionable color not removed in the treatment process such as, but not limited to dye wastes and vegetable tanning solutions.

(7) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference. In no case shall the temperature of the discharge entering the POTW system leading to the treatment plant exceed 65° C (150° F), nor shall heat be contributed in such quantities that the temperature at the POTW treatment plant exceeds 40° C (104° F).

(8) Any pollutants, including oxygen demanding pollutants (Biochemical Oxygen Demand [BOD], etc.), released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(9) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable state or federal regulations.

(10) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(11) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, which injure or interfere with any wastewater treatment process; or which constitute a hazard to humans or animals; or which creates a toxic effect in the receiving waters of the POTW; or which exceed the limitations set forth in Section 16-9-3(b), Categorical Pretreatment Discharge Standards. A toxic pollutant shall include but shall not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(12) Any wastewater that will cause interference or pass through to the POTW.

When the Director determines that a user is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, or is contributing a substance to the POTW which is not specifically mentioned in this Chapter and such substance is presently interfering and is likely to interfere in the future with the operation of the POTW or contribute to a violation of the POTW's NPDES permit, the Director shall:

- a. Advise the user of the impact of the contribution on the POTW;
- b. Develop discharge limitations for such user to correct the interference with the POTW;
and
- c. Undertake appropriate enforcement against such user.

(b) Categorical Pretreatment Discharge Standards

(1) National Pretreatment Standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into a POTW by existing or new industrial users in specific industrial subcategories will be established under the appropriate subpart of 40 C.F.R. Chapter I, Subchapter N. These standards shall be in addition to the general prohibitions established in 40 C.F.R. § 403.5.

(2) Upon promulgation of the National Categorical Pretreatment Standards for a particular industrial subcategory, the National Standard, if more stringent than limitations imposed under this Chapter for sources in that subcategory, shall immediately supersede the latter limitations.

(3) The Director shall notify all affected users of any applicable Categorical Pretreatment Standards, the applicable reporting requirements as stated in Section 16-9-7, and the schedule for compliance.

(4) Within thirty (30) days after the effective date of a Categorical Pretreatment Standard for a subcategory under which an industrial user has been notified that it is included, the industrial user or POTW may request that the Enforcement Authority provide written certification to the effect that the industrial user does not fall within that particular subcategory. Each such request shall contain a statement:

a. Describing which subcategories might be applicable; and

b. Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Each such statement shall contain an oath stating that the facts contained therein are true on the basis of the applicant's personal knowledge or to the best of his or her information and belief. The oath shall be attested to by a notary public.

(5) When the Enforcement Authority receives a submittal from a requester, he or she will consider the submission and any additional evidence or information that may have been requested or available which is relevant to the request. The Enforcement Authority will then make a written determination of the applicable subcategory and state the reason for his or her determination.

(6) Within thirty (30) days following the date of receipt of notice of the Enforcement Authority's decision as to the requester's subcategory, the requester may submit a petition to reconsider or contest the decision to the Approval Authority who will act on such petition and state the reasons for his or her determination in writing. (Ord. No. 4846, 2-23-81; Ord. No. 6179, 3-24-97; Ord. No. 6417, §2, 4-12-99; Ord. No. 8035 §3, 7-27-09)

Sec. 16-9-4. Modification of National Categorical Pretreatment Standards (removal credits and fundamentally different factors).

(a) Removal Credits.

(1) Where the POTW achieves consistent removal of pollutants limited by National Categorical Pretreatment Standards, the user may apply to the Approval Authority through the City for modification of specific limits in the standards. Upon approval by the Approval Authority, the City may then modify pollutant discharge limits in the standards under the provisions of 40 CFR §403.7. The proposed revised discharge limit for a specified pollutant shall be derived by use of the following formula:

$$Y = \frac{x}{1 - r}$$

Where:

x = pollutant discharge limit specified in the applicable Categorical Pretreatment Standard.

r = removal credit for that pollutant as established under §403.7(b) (percentage removal expressed as a proportion, i.e., a number between 0 and 1).

Y = revised discharge limit for the specified pollutant (expressed in same units as x).

(2) A revised discharge limit resulting from consistent removal will only be considered if the conditions of 40 CFR, Section 403.7(3) are satisfied.

(3) If sufficient cause exists, the Approval Authority may revoke any removal credits granted the POTW. If such removal credits are revoked, the City shall revoke any credits granted users and require such users to comply with the appropriate Categorical Pretreatment Standards.

(b) Fundamentally Different Factors.

(1) Any industrial user who believes that factors fundamentally different from the factors considered by the EPA during development of a Categorical Pretreatment Standard applicable to that user and that the existence of such factors justifies a different discharge limit from that specified in the applicable Categorical Standard, may request from the EPA a fundamentally different factors variance under 40 CFR, §403.13.

(2) Requests for a variance and supporting evidence shall be submitted in writing to the EPA. In order to be considered, requests for variances must be submitted in accordance with 40 CFR, §403.13.

(3) Written submissions for variance requests shall include:

a. The name and address of the person making the request.

b. Identification of the interest of the requester which is affected by the Categorical Pretreatment Standard for which the variance is requested.

c. Identification of the POTW currently receiving the waste from the industrial user for which alternative discharge limits are requested.

d. Identification of the Categorical Pretreatment Standards which are applicable to the industrial user.

e. A list of each pollutant or pollutant parameter for which an alternative discharge limit is sought.

f. The alternative discharge limits proposed by the requester for each pollutant or pollutant parameter identified in item "e."

g. A description of the industrial user's existing water pollution control facilities.

h. A schematic flow representation of the industrial user's water system including water supply, process wastewater systems and points of discharge.

i. A statement of facts clearly establishing why the variance request should be approved, including detailed support data, documentation and evidence necessary to fully evaluate the merits of the request, e.g., technical and economic data collected by the EPA and used in developing each pollutant discharge limit in the Pretreatment Standard.

(4) Within thirty (30) days following the date of receipt of notice of the EPA's decision approving in part a variance request or denying such a request, the requester may submit a petition to the EPA for a hearing or legal opinion to reconsider or contest the decision. (Ord. No. 4846, 2-23-81; Ord. No. 5655, 1-14-91; Ord. No. 6179, 3-24-97)

Sec. 16-9-5. State or local requirements.

State or national requirements and limitations on discharges shall apply in any case where they are more stringent than the pretreatment requirements and limitations contained in this Chapter. (Ord. No. 4846, 2-23-81)

Sec. 16-9-6. Compliance schedule for Categorical Pretreatment Standards.

(a) Compliance by existing sources with Categorical Pretreatment Standards shall be within three (3) years of the effective date of each applicable Standard which is promulgated unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N.

(b) Existing sources which become industrial users subsequent to the promulgation of an applicable Categorical Pretreatment Standard shall be considered existing industrial users except where such source meets the definition of a new source.

(c) Compliance with Categorical Pretreatment Standards for new sources will be required upon discharge from the new source.

(d) The Director shall notify any affected industrial users of their schedule for compliance at the same time of notification mentioned in Section 16-9-3(b)(3) of this Chapter. (Ord. No. 4846, 2-23-81; Ord. No. 6179, 3-24-97)

Sec. 16-9-7. Reporting requirements.

(a) Initial Compliance Report. Within one hundred eighty (180) days after the promulgation of a National Categorical Pretreatment Standard, existing industrial users subject to such National Pretreatment Standards and currently discharging in or scheduled to discharge into a POTW will be required to submit to the control authority a report which contains the information listed in Subparagraphs (1) through (7) of this Subsection. At least ninety (90) days prior to commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the control authority a report which contains the information listed in Subparagraphs (1) through (5) of this Subsection.

(1) The name and address of the industrial user;

(2) The location of such industrial user;

(3) The nature, average rate of production and standard industrial classification of the operations carried out by such industrial user;

(4) The average and maximum flow of the discharge from such industrial user to the POTW in gallons per day, or where approved by the control authority due to cost or feasibility considerations, the average and maximum flow of the discharge as estimated by verifiable techniques;

(5) The nature and concentration of pollutants in the discharge from each regulated process from such industrial user and identification of the applicable National Pretreatment Standards. The concentration shall be reported as a maximum or average level as provided for in the applicable National Pretreatment Standard. If an equivalent concentration limit has been calculated in accordance with Section 16-9-8 of this Chapter, this adjusted concentration limit shall also be submitted to the control authority for approval.

(6) A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether National Pretreatment Standards are being met

on a consistent basis and, if not, whether additional operation and maintenance (O. & M.) or additional pretreatment is required for the industrial user to meet the Pretreatment Standards;

(7) If additional pretreatment or O. & M. will be required to meet the Pretreatment Standards; the shortest schedule by which the industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. This schedule shall comply with the conditions set forth in 40 C.F.R. § 403.12(c).

(b) Compliance Date Report. Within ninety (90) days following the date for final compliance with applicable Pretreatment Standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, and user subject to Pretreatment Standards shall submit to the control authority a compliance date report. Such report shall include the following:

(1) The nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards;

(2) The average and maximum daily flows for those process units in the user facility which are limited by Pretreatment Standards; and

(3) Whether the applicable Pretreatment Standards are being met on a consistent basis and, if not, what additional pretreatment is necessary to bring the user into compliance with the standards. This statement shall be signed by an authorized representative of the industrial user and certified to by a qualified professional.

(c) Periodic Compliance Report. Any industrial user subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a new source, after commencement of the discharge into the POTW, or any significant noncategorical industrial user (unless otherwise sampled by POTW), shall submit a periodic compliance report to the control authority during the months of June and December unless required more frequently in the Pretreatment Standard or by the control authority or the Approval Authority. This report shall include:

(1) The nature and concentration of pollutants in the effluent which are limited by the Pretreatment Standards; and

(2) A record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Subparagraph (a)(4) of this Section, except that, the control authority may require more detailed reporting of flows.

At his or her discretion, the control authority may agree to alter the months for reporting but in no event shall reporting be less than once every six (6) months. The control authority may also impose mass limitations on industrial users which are using dilution to meet applicable Pretreatment Standards, or in other cases where the imposition of mass limitations are appropriate. In such cases, the periodic compliance report shall indicate the mass of pollutants regulated by the Pretreatment Standard in the effluent of the industrial user.

(d) Sampling and Analysis. The reports required in this Section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the control authority, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be

prescribed in the applicable Pretreatment Standard. All analysis shall be performed in accordance with procedures established by the Approval Authority pursuant to Section 304(g) of the Act and contained in 40 C.F.R. Part 136 and amendments thereto, or with any other test procedures approved by the Approval Authority. Sampling shall be performed in accordance with techniques approved by the control authority. If the results of the compliance analysis indicate that a violation has occurred, the industry or discharger must notify the City within twenty-four (24) hours of becoming aware of the violation and repeat the sampling and pollutant analysis and submit, in writing, the results of this analysis within thirty (30) days after becoming aware of the violation. (Ord. No. 4846, 2-23-81; Ord. No. 5683, 5-28-91; Ord. No. 6417, §3, 4-12-99)

Sec. 16-9-8. Excessive discharge.

(a) No user shall increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other specific standard developed by the City or State.

(b) Where process effluent is mixed, prior to treatment, with wastewaters other than those generated by the regulated process, an equivalent concentration limit will be derived by the discharger with the written concurrence of the control authority and applied to the mixed effluent so as to account for the presence of flows not contributed by the regulated process. In no event may an equivalent pretreatment limit be used if the regulated pollutants would no longer be detectable by the equipment monitoring the combined wastewaters. The equivalent concentration limit for a specified pollutant would be derived by use of the formula contained in 40 C.F.R. § 403.6(e) or as said Section and formula may be hereafter amended. (Ord. No. 4846, 2-23-81)

Sec. 16-9-9. Accidental discharge.

(a) Notification. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. In the case of accidental discharge by a user, such user shall immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) Written Notice. Within five (5) days following an accidental discharge, the user shall submit to the Director 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 fines, civil penalties or other liability which may be imposed by this article or other applicable law.

(c) Notice to Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. The user shall advise its employees, who may cause or suffer such an accidental discharge to occur, of the emergency notification procedure. (Ord. No. 4846, 2-23-81)

Sec. 16-9-10. Pretreatment.

(a) Users shall provide necessary wastewater treatment as required to comply with this Chapter prior to the point where the industrial user discharges into the POTW. Any facilities required to pretreat wastewater to an acceptable level shall be provided, operated, used and maintained by the user at the user's expense.

(b) Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges that might interfere with or otherwise be incompatible with the POTW. Where there is reason to believe that the use of equalization tanks or other facilities which have potential for dilution or are resulting in dilution, the control authority shall impose mass limitations on an industrial user employing such tanks or other facilities in accordance with Section 16-9-8 of this Chapter. (Ord. No. 4846, 2-23-81)

Sec. 16-9-11. Charges and costs.

Each industrial user subject to National Categorical or Prohibitive Pretreatment Standards shall pay all costs incurred by the POTW in the operation and maintenance of the pretreatment program, which costs relate to the user's pretreatment facility. Such costs shall include, but are not limited to:

- (1) Costs for monitoring, inspections and surveillance procedures, including laboratory analysis;
- (2) Costs for reviewing accidental discharge procedures and construction;
- (3) Costs, if any, for consistent removal of the user's pollutants otherwise subject to National Pretreatment Standards.

The above costs relate solely to the matters covered by this Chapter and are separate from all other fees or costs chargeable by the City. (Ord. No. 4846, 2-23-81)

Sec. 16-9-12. Monitoring and inspection.

(a) The Director may require monitoring facilities to allow inspection, sampling and flow measurement of wastewater flows from industrial users. Such facilities may include a monitoring and sampling manhole in the user's sanitary service line. All monitoring facilities shall be provided, operated, used and maintained by the user at the user's expense.

(b) The Director shall have the right to enter upon the premises of any industrial user for the purposes of inspection, sampling, records examination, records copying or in the performance of any of the duties required to implement and enforce the provisions of this Chapter.

(c) The Director may, in his or her discretion, require an industrial user to collect wastewater samples using twenty-four-hour flow-proportioned composite sampling techniques or time-proportioned composite sampling, or, in appropriate circumstances, grab sampling or composited grab sampling. Composited grab sampling of multiple grab samples, if authorized by the Director, shall conform to the protocols (including preservation) specified in 40 C.F.R. Part 136 and applicable EPA guidance and comply with the following:

(1) For cyanide, total phenols and sulfides, the samples may be composited in the laboratory or in the field.

(2) For volatile organics and oil and grease, the samples shall be composited in an approved laboratory.

(3) For all other parameters, in such manner as authorized by standard methods and EPA's approved methodologies.

(d) For sampling required in support of baseline monitoring and ninety-day compliance reports required by Subsections 16-9-7(a) and (b) of this Chapter, a minimum of four (4) grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for all facilities for which historic sampling data does not exist. For facilities for which representative historic sampling data is available, the Director may authorize a lesser number of samples. For sampling and reports required by Subsections 16-9-7(c) and (d) of this Chapter, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with all applicable industrial user permit limits. (Ord. No. 4846, 2-23-81; Ord. No. 8035 §4, 7-27-09)

Sec. 16-9-13. Industrial user permits.

(a) Permit Required.

(1) All significant industrial users, all industrial users located in extraterritorial areas and districts, and all other industrial users as determined by EPA or the Director, which discharge into City's wastewater collection and treatment system, shall, prior to commencing any discharge, apply for and obtain an Industrial User Permit (IUP) from the City. Such industrial users which discharge to the City's system at the time of adoption of the ordinance enacting this Section shall make application for an IUP within ninety (90) days of the date of adoption of said ordinance, and shall obtain the IUP not later than one hundred eighty (180) days after adoption of said ordinance.

(2) It shall be unlawful and a Class 1 municipal offense for any industrial user who is required to obtain an IUP to discharge to the City's system unless the industrial user holds a valid and unexpired IUP.

(b) Application. Industrial users shall submit the application for an IUP on forms provided by the Department of Utilities and containing the following information:

(1) Name, address and location of the facility to be permitted;

(2) Standard industrial Classification (SIC) of both the industry as a whole and any processes for which federal categorical standards have been promulgated;

(3) A detailed identification of the user's wastewater constituents and characteristics including any pollutants in the discharge which are limited by any federal, state or local standards.

(4) The time and duration of the discharge.

(5) The daily maximum, daily average and monthly average wastewater flow rates including identification of any daily, monthly and seasonal variations.

(6) Description of all activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used at the facility.

(7) Drawings of the site plan, floor plan, mechanical and plumbing plans and detail drawings showing all sewers, floor drains and appurtenances by size, location and elevation.

(8) A statement indicating each product produced by type, quantity, process and rate of production.

(9) A description of the type and amounts of raw materials processed.

(10) A statement of the number and classification of employees, hours of operation and proposed or actual hours of operation of the pretreatment system.

(11) A statement as to whether additional operation and maintenance or additional pretreatment is or may be necessary for the user to meet all applicable federal, state and local standards. If additional pretreatment or operation and maintenance will be required to meet any standards, then the industrial user shall indicate the shortest reasonable time schedule necessary to accomplish installation or adoption of such additional pretreatment or operation and maintenance.

(12) Any other information which the Director of Utilities may reasonably request.

Any portion of the application which the industrial user considers to contain confidential proprietary information or pertaining to any secret process or which is otherwise confidential shall be clearly identified as such with a request to the City that such information be exempt from public disclosure except to the extent public disclosure is necessary or advisable in the operation of the City's pretreatment program. The application shall be signed by an authorized representative of the industrial user who shall execute the following certification:

"I, _____ (name) _____, hereby certify under penalty of law that this application with all attachments was prepared under my direction and supervision and that I have read and understand the contents thereof and, to the best of my knowledge, information and belief, the contents thereof are true, accurate and complete. I understand that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

(c) Permit Contents. The Director of Utilities shall review the application and may make such other investigation as he or she deems appropriate. The Director of Utilities may request that additional information be submitted by the industrial user. Upon completion of such review, the Director of Utilities shall issue the IUP, which shall contain, but need not be limited to, the following:

(1) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization.

(2) Limits on the average and/or maximum concentration, mass or other measure of identified wastewater constituents or properties.

(3) Requirements for the installation of pretreatment technology or construction of appropriate containment devices designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works.

(4) Development and implementation of spill control plans or other special conditions, including additional management practices necessary to adequately prevent accidental, unanticipated or routine discharges.

(5) The schedule of user charges and fees for the management of the wastewater discharged to the POTW.

(6) Requirements for installation and maintenance of inspection and sampling facilities.

(7) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(8) Compliance schedules for pretreatment facilities to be constructed or for operation and maintenance modifications to be implemented.

(9) Requirements for submission of technical reports and discharge reports.

(10) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Director and affording the Director access thereto.

(11) Requirements for notification of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW.

(12) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.

(13) Requirements for notification of excessive, accidental or slug discharges.

(14) A statement of authorization for the City to enter the facility to inspect and obtain samples.

(15) Other conditions as deemed appropriate by the Director to ensure compliance with this Chapter, and state and federal laws, rules and regulations.

(16) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal Pretreatment Standards, including those which become effective during the term of the permit.

(17) A statement of the duration or term of the permit, which shall not exceed five (5) years.

(18) A statement of the City's available enforcement remedies.

(d) Permit Appeals.

(1) Administrative Review. Any industrial user or other interested party aggrieved or adversely affected by the issuance, denial or modification of a permit, or by any one (1) or more of the terms of any permit, may seek review by filing a request for review of permit decisions with the Director of the City's Bureau of Public Works, and serving a copy thereof upon the Director of Utilities, within fifteen (15) days of the date of the issuance, denial or modification of the permit

sought to be reviewed. The request for review of permit decision shall identify the party appealing, shall state the decision or matter being appealed, shall contain a detailed statement of the reasons why the permit decision should be reversed or modified, and shall state what relief, alternate term or decision the appealing party seeks. Upon timely receipt of such request, the Director of Public Works shall schedule a hearing on the issues raised, at which the burden shall be upon the appealing party to show that the permit decision should be reversed or modified. The hearing shall be conducted as a quasi-judicial matter and a record kept of the proceedings. The Director of Public Works shall then issue a final decision on the appeal.

(2) Judicial Review. Judicial review of any final decision of the Director of the Bureau of Public Works may be taken pursuant to C.R.C.P. 106(a)(4). Review in such case shall be limited to whether the final permit decision was in excess of the City's jurisdiction or authority. Review shall not be available to review any matter within the discretion of the Director of Utilities or of the Director of the Bureau of Public Works.

(e) Permit Modifications. Any permit may be modified during its term for good cause. Modification may be requested by the industrial user or initiated by the City. *Good cause* shall include, but is not limited to, the following:

(1) To incorporate any new or revised federal, state or local Pretreatment Standards or requirements.

(2) Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit.

(3) A change in any condition in either the industrial user or the City's system that requires either a temporary or permanent reduction or elimination of the authorized discharge.

(4) Information indicating that the permitted discharge poses a threat to the City's collection and treatment system, City personnel or the Arkansas River.

(5) Violation of any terms or conditions of the permit.

(6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

(7) Revision of or a grant of variance from such Categorical Standards pursuant to 40 CFR 403.13; or

(8) To correct typographical or other errors in the permit.

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

(10) At the request of the Environmental Protection Agency (EPA) to make changes deemed appropriate by EPA.

(f) Permit Suspension or Termination. IUPs may be terminated or suspended by the City for the following reasons:

(1) Submission of false or misleading self-monitoring reports.

- (2) Tampering with monitoring equipment.
- (3) Refusing to allow timely access to the facility premises and records.
- (4) Failure to meet effluent limitations.
- (5) Failure to pay fines.
- (6) Failure to pay sewer user charges provided for by this Title.
- (7) Failure to meet permit compliance schedules.

Termination or suspension shall not be effective, except in cases where necessary for immediate protection of public health, safety or welfare or to avoid violation of the City's NPDES permit, until the industrial user shall have been afforded notice of the grounds therefor and an opportunity for hearing. Hearings shall be held before the Director of Public Works as provided for permit decision appeals, and his or her decision shall be final subject only to judicial review pursuant to C.R.C.P. 106(a)(4).

(g) Permit Renewal. Industrial users shall apply for permit renewal by submitting a complete permit application not later than ninety (90) days prior to the expiration of the user's existing IUP.

(h) Enforcement. In the event any industrial user violates any provision of this Title, any term of an IUP or any federal, state or local Pretreatment Standard or requirements, the City may exercise any one (1) or more of the following remedies, which remedies are hereby expressly declared to be cumulative, the exercise of any one (1) or more not constituting any bar or limitation to the exercise of any other:

- (1) Issuance of an administrative notice of violation with or without an accompanying cease and desist order.
- (2) Initiation of an action for injunctive relief to any court of competent jurisdiction to compel compliance with the terms of the IUP or any Pretreatment Standard or requirement.
- (3) Imposition of civil penalties as provided in Subsection 16-9-14(e) of this Chapter.
- (4) Criminal prosecution for any violation of the City Charter or ordinances which has been declared to be unlawful or a municipal offense. (Ord. No. 4846, 2-23-81; Ord. No. 5655, 1-14-91)

Sec. 16-9-14. Administrative and civil remedies.

(a) Harmful Discharge. The City may suspend the wastewater treatment service when such suspension is necessary, in the opinion of the Director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the public health, safety or welfare. Any person notified of a suspension of the wastewater treatment service shall immediately stop or eliminate such discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the City may take such steps as deemed necessary, including immediate severance of the sewer connection to prevent or minimize endangerment to the public health, safety or welfare. The City shall reinstate the wastewater treatment service upon proof of the elimination of such discharge. A detailed written statement submitted by the user describing the

causes of such discharge and the measures taken to prevent any harmful discharges in the future shall be submitted to the City within fifteen (15) days of such discharge.

(b) Notification of Violation. Whenever the Director finds that any user has violated any provision of this Chapter, or any prohibition or limitation of requirements contained herein, the Director shall serve upon such user a written notice stating the nature of the violation. At the discretion of the Director, the notice may be accompanied with a cease and desist order prohibiting further violations and requiring corrective measures to be taken. Within thirty (30) days of the date of the notice, or such greater or lesser period as the Director may otherwise specify in the notice, the user shall submit to the Director a plan for the satisfactory correction thereof.

(c) Legal Action. If any person discharges sewage, industrial wastes or other wastes into the City's wastewater collection and treatment system contrary to the provision of this Chapter, National or State Pretreatment Requirements or any order of the City, the City may commence an action for appropriate relief, including injunctive relief in any court of competent jurisdiction. In addition to the remedies provided in this Chapter, the City may also recover reasonable damages by suit at law against any person who is found to have violated this Chapter or the orders, rules and regulations issued hereunder. Such damages shall include but not be limited to costs incurred by the POTW for violation of its NPDES permit where such permit violation is a direct result of the violation of this Chapter.

(d) Public Notification. The City shall annually publish, in a newspaper of wide distribution and general circulation, printed and published daily in the City, a list of the users which were in significant violation of any Pretreatment Standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against such users during the same twelve (12) months. For the purposes of this provision, a significant violation would be a violation which remains uncorrected forty-five (45) days after notification of noncompliance, or which is part of a pattern of noncompliance over a twelve-month period, or which involves a failure to accurately report noncompliance.

(e) Civil Penalties. The Municipal Court is hereby authorized to impose civil penalties of up to twenty-five thousand dollars (\$25,000.00) for each day of violation against any industrial user who violates any provision of this Title, any term or requirement of an IUP or any cease and desist order. Proceedings to impose civil penalties shall be commenced by filing with the Municipal Court a petition signed by the Director which sets forth the nature of the violation and the amount of the penalty sought. Such proceedings shall be civil in nature and the burden of proving the violation shall be by a preponderance of the evidence. Such proceedings shall be given priority on the Court's docket. If the violation is proven, the amount of the civil penalty shall be determined by the Court based upon the following considerations:

- (1) The extent of harm, caused by the violation, if any;
- (2) The magnitude and duration of the violation;
- (3) Any economic benefit gained through the user's violation;
- (4) Corrective actions taken by the industrial user;
- (5) The compliance history of the user; and

(6) Whether the violation was beyond the user's control, occurred as a result of negligence or was caused by willful conduct. (Ord. No. 4846, 2-23-81; Ord. No. 5655, 1-14-91; Ord. No. 5683, 5-28-91)

Sec. 16-9-15. Unlawful conduct and criminal penalties.

(a) It shall be unlawful and a Class 1 municipal offense for any person to knowingly violate, disobey, omit, neglect, refuse or fail to comply with or resist the enforcement of any provision of this Chapter and, upon conviction therefor shall be punished as provided in Section 1-2-1 of this Code. Each day such violation shall continue shall be deemed a separate offense.

(b) Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Chapter, shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. (Ord. No. 4846, 2-23-81; Ord. No. 5655, 1-14-91; Ord. No. 7937 §30, 12-8-08)

Sec. 16-9-16. Confidential information.

(a) Information and data on a user obtained from reports, questionnaires and monitoring programs and inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user or would otherwise be injurious to its user or the user's business.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes and accepted by the Director as confidential shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Chapter, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the Director as confidential shall not be transmitted to any governmental agency until ten (10) days after written notification of such request has been given to the user by first class mail. (Ord. No. 4846, 2-23-81)

Sec. 16-9-17. Conflict; severability.

(a) All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of such inconsistencies or conflict.

(b) If any provision, paragraph, word, section or article of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect. (Ord. No. 4846, 2-23-81; Ord. No. 5655, 1-14-91)

Sec. 16-9-18. Spills or slug discharges.

(a) Definitions. For purposes of this Section, the term *slug discharge* means any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(b) Evaluations. The City will evaluate whether each SIU needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation shall have been conducted at least once by October 14, 2006, except that if, for any reason, it was not so conducted, it shall be performed not later than ninety (90) days after the date of final passage of the ordinance adopting this Section. For all other and additional industrial users, the evaluation shall be performed within one (1) year of being designated an SIU.

(c) Required action. The results of such activities shall be available to the Approval Authority upon request. Significant industrial users are required to notify the City immediately of any changes at its facility affecting potential for a slug discharge. If the Director determines that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the City of slug discharges, including any discharge that would violate a prohibition under 40 C.F.R. § 403.5(b) with procedures for follow-up written notification within five (5) days; and

(4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response. (Ord. No. 8035 §5, 7-27-09)

CHAPTER 10

Septic Waste Businesses

Sec. 16-10-1. Definitions.

(a) As used in this Chapter, the following words and terms shall have the meanings set forth below:

(1) *Sewer system* shall mean both sanitary sewer collection and wastewater treatment systems operated by the City.

(2) *Urban drainage system* shall mean the systems of detention basins, drain pans, culverts and inlets, and pipes and conduits connected thereto, or transmitting flow therefrom, which are owned and operated by the City for the purpose of collection of storm water and conveyance thereof to natural drainage channels. The term shall also be taken to include all private culverts,

conduits, drain pans and pipes which are capable of conveying liquids toward or into the City's storm water collection system, regardless of whether the private facilities are directly connected or not.

(3) *Septic waste business* shall mean any person, partnership, corporation or association which engages in any of the following operations or operates a business engaged in or which perform such services:

a. The cleaning out or drainage of septic tanks, cesspools, privy vaults, portable toilets or grease traps within the City;

b. The haulage by truck or other conveyance anywhere within or through the City of any sewage, septic waste, cesspool waste, grease trap cleanings or other liquid waste of conventional nature; or

c. The discharge of any waste or wastewater into the sewer system, except that by a sewer user discharging wastewater produced or generated on building premises through the authorized and permanent pipe connection and building sewer for such premises.

(4) *Septic wastes* shall mean all forms of domestic wastewater, including waste and wastewater from cesspools, septic tanks, privy vaults, portable toilets, grease traps and other conventional liquid wastes.

(b) All other words used in this Chapter shall have the special meanings ascribed to them by use or definition in Chapters 3, 4, 5, 6, 7 and 9 of this Title and Chapter 1 of Title I, but if no special meaning has been given, words shall have their commonly understood meaning. (Ord. No. 5569, 11-27-89)

Sec. 16-10-2. Permits.

(a) Any person conducting a septic waste business shall be required to obtain a permit therefor. Applications for such permit shall be submitted to the Director of Utilities and contain or be accompanied by all of the following items:

(1) A nonrefundable annual permit fee in the amount of one hundred dollars (\$100.00) which shall be deposited to the credit of the Sewer User Fund.

(2) A statement of the applicant's name, address and telephone number. If the applicant is a partnership, the application shall state the names and addresses of at least three (3) general partners, unless there are fewer than three (3) general partners, in which case the names and addresses of all of the general partners shall be identified and the names and addresses of additional limited partners stated. If the applicant is a corporation, the names and addresses of the president, secretary, treasurer and any local manager shall be stated.

(3) Identification of all vehicles, and the holding capacity thereof, to be used in connection with the septic waste business within the City or in transporting any septic wastes within the City, such identification to include vehicle make, model, model year, vehicle identification number (VIN number), motor vehicle title number and motor vehicle registration (license plate) number.

(4) A certificate of inspection by Pueblo City-County Health Department for all vehicles identified pursuant to Subsection (a)(3) of this Section indicating that at the time of inspection:

a. The vehicle had a tank or body for the holding of septic wastes so constructed and maintained as to be completely spill- and leak-proof; and

b. the vehicle is equipped with a double drain valve in series or similar redundant design feature to prevent spill or leakage of septic wastes in the event of drain valve failure.

The Pueblo City-County Health Department is authorized and empowered to charge a reasonable fee to defray the cost of performing such vehicle inspections.

(5) The address where the vehicles used in connection with the business or in transporting any septic wastes within the City will be stored or parked when not in use.

(6) Adequate proof that the applicant has in effect general public liability and property damage insurance issued to and covering the liability of the applicant with respect to all operations and conduct of the applicant in connection with the septic waste business, to be written on a comprehensive policy form and written in amounts not less than four hundred thousand dollars (\$400,000.00) per occurrence and aggregate for both personal injury, including death and bodily injury, and property damage.

(7) Adequate proof that the applicant maintains and has in effect Workers' Compensation insurance in accordance with requirements of state law.

(8) A license and performance bond in the penal sum of five thousand dollars (\$5,000.00) executed by the applicant and a corporate surety authorized to issue bonds in the State conditioned that the applicant will conduct the septic waste business in accordance with all laws and ordinances, and that he or she will fully comply with the provisions of this Title, and that he or she will pay for all costs of cleanup of any spill resulting from his or her operations, and further that he or she will promptly pay all sewer user and high strength surcharge fees as same become due.

(b) All permits shall expire at 11:59 p.m. on December 31 of each year unless renewed for the following year by submission of all required items and the annual fee.

(c) Each permittee shall be provided by the Director of Utilities with an identifying sticker or placard to be conspicuously displayed upon the driver's door of each vehicle identified in the application and for which the permittee obtained and filed a certificate of inspection. (Ord. No. 5569, 11-27-89)

Sec. 16-10-3. Operating requirements.

(a) Manifest System. All permittees shall keep and maintain a manifest record for all septic wastes removed or transported by the permittee. The manifest record shall be designed so as to produce an original and at least two (2) copies upon the same impression.

(1) Permittees shall prepare a manifest record each time they pump or receive septic wastes into a vehicle for transport and disposal. The manifest record shall contain identification of the source of the septic wastes, the type of septic wastes, the name and address of the customer or person for whom septic service is being provided, the address where the septic waste was

received, the gallonage of septic wastes removed and placed in the vehicle, the date and time the septic waste was received into the vehicle, identification of the permittee and the particular vehicle used and the mileage on the vehicle odometer prior to leaving the location where the septic waste was received. Prior to transporting the septic waste, an employee of the permittee with knowledge of the accuracy of the information contained in the manifest shall sign the manifest certifying the information to be true to the best of his or her knowledge.

(2) Permittees shall supplement the manifest record at the time of disposal or discharge of the septic wastes to the designated receiving point of the sewer system or another facility duly authorized to accept such wastes. The permittee shall place on the manifest record identification of the disposal facility and its address, the gallonage of septic wastes discharged, the vehicle odometer mileage and the date and time of such discharge. An employee with knowledge of the accuracy of this supplemental information shall sign the manifest certifying the supplemental information to be true to the best of his or her knowledge.

(3) A copy of the manifest records bearing all required information and signatures shall be retained by the permittee for a period of not less than three (3) years and shall be available for inspection during reasonable business hours by the Director of Utilities.

(4) The original copy of the manifest records for all septic wastes received or transported during any month and bearing all required information and signatures shall be submitted to the Director of Utilities by not later than the eighteenth day of the following month.

(5) Every vehicle used by a permittee for the receiving or transportation of septic wastes shall carry a copy of the manifest record for all septic wastes received or transported at any time during the preceding twenty-four (24) hours.

(6) Upon demand of any police officer, employee of the Pueblo City-County Health Department or employee of the Department of Utilities, the driver of any vehicle shall produce for immediate inspection the manifest records for any septic waste presently on the vehicle and a copy of such records for all septic wastes received or transported by the vehicle during the preceding twenty-four (24) hours.

(b) Vehicles and Equipment. Only vehicles for which a current certificate of inspection has been issued in accordance with Section 16-10-2(a)(4) shall be employed in transport of septic wastes. All permittees shall maintain vehicles in a safe and sanitary condition. Permittees shall receive, transport and discharge wastes in a manner so as to avoid leaks, spills and accidental discharge. Permittees shall immediately contain and clean up any spill or leakage which may occur.

(c) Discharge Only to Authorized Facilities. No person engaged in the septic waste business, including all employees thereof, shall discharge septic wastes other than to either the designated receiving point of the sewer system or another facility duly authorized to accept such wastes. It is specifically prohibited for any person engaged in the septic waste business, including all employees thereof, to discharge or overflow any septic wastes to the urban drainage system.

(d) Authorization and Use of Designated Receiving Point.

(1) Any permittee desiring to discharge to a sewer system shall obtain authorization from the Director of Utilities to do so. If authorization is given, the permittee may be issued magnetic or

other access cards or devices, which may only be used by the permittee for the vehicles for which issued, in order to gain access to the designated receiving point of the sewer system.

(2) The Director of Utilities is authorized to adopt reasonable rules and regulations governing use of and safety at the designated receiving point. Such rules and regulations shall be observed by all permittees. Violation of such rules and regulations will be cause for revocation or suspension of the septic waste business permit.

(3) Discharge by septic waste businesses into the sewer system is subject to all requirements of Chapter 6, 7 and 9 of this Title and subject to payment of all sewer user and high strength surcharges at the rates therein established and as may be modified by ordinance or resolution.

(4) Authorization to use the designated receiving point may be suspended or revoked by the Director of Utilities for any of the following reasons: revocation, suspension or expiration of septic waste business permit, disregard or violation of rules and regulations governing use of the designated receiving point, disregard or violation of any ordinance of the City or of any provision of Chapters 6, 7 or 9 of this Title, operating in an unsafe or unsanitary manner, misuse of access cards, failure to timely pay all fees and charges including sewer user and high strength surcharges, and discharge at other than the designated receiving point. Upon suspension or revocation of authorization, the septic waste business shall immediately return all access cards or devices issued to it.

(e) Sampling. Employees of the Department of Utilities and of the Pueblo City-County Health Department are authorized and shall be permitted, without prior notice, to take samples of the contents of any vehicle used in connection with any septic waste business. Permittees and their employees shall cooperate with and assist such authorized personnel in obtaining samples.

(f) Prohibited Wastes. No hazardous waste, as the term is presently or hereafter defined by regulations promulgated by the Administrator of the Environmental Protection Agency and published as Part 260 of Title 40, CFR, shall be transported in vehicles used to transport septic wastes, nor shall any such hazardous wastes be discharged into sewer system or the designated access point of same. Wastewater from commercial or industrial sites is prohibited. (Ord. No. 5569, 11-27-89; Ord. No. 5758, 7-13-92; Ord. No. 8035 §8, 7-27-09)

Sec. 16-10-4. Revocation procedures.

(a) Septic waste business permits may be revoked or suspended by the Director of Utilities for any of the following reasons:

- (1) Cancellation, termination or expiration of required insurance or bonds;
- (2) Misrepresentation of material fact or concealment of material fact;
- (3) Disregard or violation of any provision of Chapters 6, 7 or 9 of this Title;
- (4) Discharge to other than a designated receiving point of sewer system or another authorized facility;
- (5) Violation of state or federal clean water laws or regulations;

- (6) Conducting operations in an unsafe or unsanitary manner;
- (7) Failure to timely pay all sewer user charges and fees including high strength surcharges.
- (8) Failure to follow or obey rules and regulations governing use and safety at the designated receiving point.

(b) If the Director of Utilities has received information causing him or her to have reason to believe that suspension or revocation of the permit may be appropriate, he or she shall provide notice and conduct a hearing as follows:

(1) Written notice of the basis for suspension shall be provided to the permittee. It shall be given by either personal service or by first class mail, postage prepaid, to the permittee's last known address as shown in the Department of Utilities permit files.

(2) The notice shall generally state the grounds for suspension or revocation and state the proposed action being considered. The notice shall advise the permittee that he or she may request a hearing on the matter at which he or she may submit information and evidence relevant to the matter, provided that he or she file his or her request for hearing with the Director of Utilities not later than a date specified in the notice, which shall be not less than ten (10) days from the date the notice is personally served or mailed. The notice shall also advise the permittee that if a request for hearing is not timely submitted, the suspension or revocation may be imposed without further notice.

(3) If a hearing is timely requested, the hearing shall be conducted before the Director of Utilities and a record kept. At the hearing, the permittee may be represented by counsel and may offer relevant testimony and evidence bearing on the grounds for suspension or revocation as well as any mitigating factors which may bear upon the duration of any suspension.

(4) Except to the extent in conflict herewith, the hearing shall be conducted as nearly as practicable in accordance with the procedures specified in Title I of this Code; provided, however, that no procedural infirmity in the hearing process shall invalidate the Director's decision unless substantially prejudicial to the permittee.

(5) The decision of the Director to suspend or revoke shall be made in writing and contain findings of fact. The decision shall become final and conclusive unless judicial review is sought pursuant to Rule 106 of the Colorado Rules of Civil Procedure. (Ord. No. 5569, 11-27-89; Ord. No. 5758, 7-13-92)

Sec. 16-10-5. Unlawful conduct.

(a) It shall be unlawful and a Class 1 municipal offense for any person:

- (1) To operate or engage in the septic waste business without a valid permit;
- (2) To operate a septic waste business during a period when its business' permit is under suspension or has been revoked;
- (3) To receive, transport or discharge septic waste in an unsanitary manner;

(4) To leak, spill or discharge septic waste other than to an authorized treatment facility or to the designated access point;

(5) To introduce or cause to be introduced any hazardous wastes or wastes prohibited by Section 16-9-3 of this Title into sewer system;

(6) In conducting a septic waste business to fail to immediately take all reasonable and appropriate measures to contain and clean up any leakage or spill which may occur;

(7) To knowingly obstruct, hinder or interfere with any employee of the Department of Utilities acting under color of his or her official authority, in the discharge or apparent discharge of his or her duties, by means of physical force or violence or by threats of imminent physical force or violence; or

(8) To fail to make, maintain or submit manifest records to the City as required.

(b) Any person convicted of any offense defined in this Section or elsewhere in this Chapter shall be punished as provided in Section 11-1-103 of this Code. (Ord. No. 5569, 11-27-89)

CHAPTER 11

Sanitary Sewer Connection Fees

Sec. 16-11-1. Definitions.

(a) As used in this Chapter, the following words and terms shall have the meanings set forth below:

(1) *Multiple dwelling unit* shall include duplexes, fourplexes and apartment buildings of any other size, condominiums, townhomes, mobile home parks, trailer courts and any other type of multi dwelling usage with independent living.

(2) *New connection* shall mean any direct or indirect connection to the City's sanitary sewer system which will serve a structure, or portion thereof, not previously served.

(3) *Sanitary sewer connection fee* or *connection fee* shall mean a charge assessed to the property for connection to the City's sanitary sewer system.

(4) *Sewer system* shall mean both sanitary sewer collection and wastewater treatment systems operated by the City.

(5) *Water reclamation facility investment fee* or *plant investment fee* shall mean a charge assessed to the property to maintain capacity at the City's water reclamation facility (wastewater treatment system) to treat wastewater generated from the property.

(b) All other words used in this Chapter shall have the special meaning ascribed to them by use or definition in Chapters 3, 4, 5, 6, 7 and 9 of this Title and Chapter 1 of Title I, but if no special meaning has been given, words shall have their commonly understood meaning. (Ord. No. 5872, 5-23-94; Ord. No. 6904 §1, 11-11-02)

Sec. 16-11-2. General requirements.

(a) A connection fee shall be assessed to all new connections and enlargements of existing connections, made to the City's sewer system on or after September 1, 1994. Additionally, a separate plant investment fee shall be assessed to all new connections and enlargements of existing connections made to the City's sewer system on or after January 1, 2003. The connection fee and the plant investment fee shall be paid prior to the issuance of any building permit or plumbing permit for any structure or facility which is to be served by a new or enlarged connection.

(b) The amount of the connection fee and plant investment fee shall be based upon the size of water connection (meter size) serving the structure or property in accordance with Section 16-11-3 of this Chapter. If the water service is enlarged on or after September 1, 1994, the connection fee shall be paid prior to installing the larger water meter and the amount of the fee shall be the difference between the current fee for the existing meter size connection and the current fee for the new water meter size; if the water service is enlarged on or after January 1, 2003, both the connection fee and the plant investment fee shall be paid before installation of the larger meter.

(c) If a structure or property has multiple metered water taps, a connection fee and a plant investment fee shall be paid for each metered tap in accordance with Section 16-11-3 of this Chapter, except for metered taps used solely for irrigation and/or fire protection. No additional connection fee will be assessed for multiple sewer connections. (Ord. No. 5872, 5-23-94; Ord. No. 6904 §1, 11-11-02)

Sec. 16-11-3. Schedule of sanitary sewer connection fees.

(a) Commencing on January 1, 2003, and thereafter for and in accordance with the calendar years indicated in Table 16-11-3(a) below, the connection fee to be assessed upon connection to the City's sanitary sewer system shall be based on the water meter size as follows:

Table 16-11-3(a): Sanitary Sewer Connection Fee (in U.S. Dollars)

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 and subsequent years
Residential, Per Unit										
Single-Family	640	640	690	740	770	830	850	910	940	940
Multi-Family	480	480	520	560	580	620	640	680	710	710
Nonresidential Meter Line Size in Inches										
¾	640	640	690	740	770	830	850	910	940	940
1	1,070	1,070	1,150	1,240	1,290	1,390	1,420	1,520	1,570	1,570
1½	2,130	2,130	2,300	2,460	2,560	2,760	2,830	3,030	3,130	3,130
2	3,410	3,410	3,680	3,940	4,100	4,420	4,530	4,850	5,010	5,010
3	7,470	7,470	8,050	8,640	8,990	9,690	9,920	10,620	10,970	10,970
4	12,800	12,800	13,800	14,800	15,400	16,600	17,000	18,200	18,800	18,800
6	26,670	26,670	28,750	30,840	32,090	34,590	35,420	37,920	39,170	39,170
8	38,400	38,400	41,400	44,400	46,200	49,800	51,000	54,600	56,400	56,400

(b) Commencing on January 1, 2003, and thereafter for and in accordance with the calendar years indicated in Table 16-11-3(b) below, the plant investment fee to be assessed upon connection to the City's sanitary sewer system shall be based on the water meter size as follows:

Table 16-11-3(b): Plant Investment Fee (in U.S. Dollars)

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 and subsequent years
Residential, Per Unit										
Single-Family	480	510	550	560	580	590	590	640	650	800
Multi-Family	360	380	410	420	440	440	440	480	490	600
Nonresidential Meter Line Size in Inches										
¾	480	510	550	560	580	590	590	640	650	800
1	800	850	920	940	970	990	990	1,070	1,090	1,340
1½	1,600	1,700	1,830	1,860	1,930	1,960	1,960	2,130	2,160	2,660
2	2,560	2,720	2,930	2,980	3,090	3,140	3,140	3,410	3,460	4,460
3	5,600	5,950	6,420	6,540	6,770	6,890	6,890	7,470	7,590	9,340
4	9,600	10,200	11,000	11,200	11,600	11,800	11,800	12,800	13,000	16,000
6	20,000	21,250	22,920	23,340	24,170	24,590	24,950	26,670	27,090	33,340
8	28,800	30,600	33,000	33,600	34,800	35,400	35,400	38,400	39,000	48,000

(c) For multiple dwelling units which are served through a single water meter tap, the connection fee shall be either the connection fee applicable for the water meter size actually installed or an amount computed by multiplying the Multi-Family Residential per-unit amount specified in Table 16-11-3(a) for the specified year by the number of potential dwelling units served, whichever is greater.

(d) Connection fees and plant investment fees applicable within sanitation districts shall be determined pursuant to the provisions of the separate agreements with each district, as approved by City Council.

(e) Connection fees and plant investment fees applicable to hotels, motels, bed and breakfast establishments and nursing homes shall be based on the water meter size for a commercial development as provided in Tables 16-11-3(a) and 16-11-3(b) for the specified year.

(f) In addition to any other fee or charge imposed or authorized pursuant to this Title, every extraterritorial sanitary sewer service connection made on or after September 1, 1994, shall be assessed a sanitary sewer connection fee as provided in Subsection (a) above. A plant investment fee shall also be imposed on extraterritorial sanitary sewer service connections pursuant to Section 16-4-11 of this Title, unless otherwise specified in a separate agreement.

(g) All due and unpaid connection fees and plant investment fees plus interest thereon at the rate of one and one-half percent (1.5%) per month shall constitute a perpetual lien on and against the property served having priority over all liens except general tax liens and collected as provided in Section 16-6-3(3). Due and unpaid connection fees or plant investment fees shall be cause for disconnection for nonpayment as provided in Section 16-6-3(4). (Ord. No. 5872, 5-23-94; Ord. No. 6904 §1, 11-11-02)

Sec. 16-11-4. Sanitary Sewer Collection System Improvement Fund.

(a) There is hereby established, within the Sewer User Fund, a special fund to be known as the Sanitary Sewer Collection System Improvement Fund, ("Fund") to provide monies for structures, machinery and equipment constituting the collection system, for debt service for same, and for special services of benefit only to the users of the sewer collection system.

(b) All revenues received by the City from sanitary sewer connection fees and income therefrom shall be allocated and deposited to the Fund. No expenditure from the Fund shall be made except for growth-related capital projects approved by the City Council. *Growth-related capital projects* shall mean and include any relief main or upgrade required to be made to the existing sanitary sewer system where the capacity of existing mains is insufficient to carry wastewater flows from a proposed development, but shall not include extension of the sanitary sewer system. Authorized expenditures for approved capital projects shall include construction, engineering and administrative costs and debt service related to the sanitary sewer collection system.

(c) Any action taken by the City Council with respect to appropriations of or expenditures from the Fund or the determination concerning growth-related capital projects is, and shall constitute, a legislative measure lying exclusively within the sole and absolute discretion of the City Council. No person shall have a right to or be eligible to receive monies on deposit in the Fund except by action duly taken by the City Council. No recourse shall be had by any person against the City Council or the City or any of its officers, agents or employees resulting from or arising out of any action of the City Council taken with respect to the Fund. (Ord. No. 5872, 5-23-94; Ord. No. 6856 §§1-3, 7-8-02; Ord. No. 6904 §1, 11-11-02; Ord. 7263 §1, 1-10-05)

Sec. 16-11-5. Refunds.

(a) Unless specifically authorized by formal action of the City Manager, no refund shall be authorized or granted for sanitary sewer connection fee charges nor for plant investment fee charges.

(b) Refund applications will only be considered by the City Manager with respect to fees paid for connections which had not been made within a two-year period from the date of payment of the connection fee and not thereafter. Applications for refund shall be made, in writing, to the Director of Wastewater, stating the date the sanitary sewer connection fee was paid, who paid it and the reason for refund request.

(c) If approved by the City Manager by duly adopted resolution, refunds will be paid only to the person who actually paid the sanitary sewer connection fee, upon proof of payment.

(d) No refund shall be made to any customer for a decrease in size of meter or abandonment of service. (Ord. No. 6856 §4, 7-8-02; Ord. No. 6904 §1, 11-11-02; Ord. No. 8120, 12-28-09)

Sec. 16-11-6. Enforcement.

(a) It shall be unlawful and a municipal offense for any person, firm, partnership or corporation to violate, disobey, neglect, refuse or fail to comply with or resist the enforcement of any provision of this Chapter. Any person found guilty of a violation of this Chapter shall be punished as provided in Section 1-2-1 of this Code.

(b) No building permit shall be issued for any construction within the City unless required sewer connection fees and plant investment fees have been paid. (Ord. No. 5872, 5-23-94; Ord. No. 6904 §1, 11-11-02)

Sec. 16-11-7. Plant Reclamation Facility Investment Fund.

(a) There is hereby established, within the Sewer User Fund, a special fund to be known as the Plant Investment Fund, to provide monies for structures, machinery and equipment constituting the water reclamation (wastewater treatment) facility, for debt service for same and for special services of benefit only to the users of the water reclamation facility.

(b) All revenues received by the City from plant investment fees and income therefrom shall be allocated and deposited to the Plant Investment Fund. No expenditure from the Fund shall be made except for growth-related capital projects approved by the City Council. Growth-related capital projects shall include any projects that increase the hydraulic or organic loading capacity of the water reclamation facility in order to allow for treatment of a larger volume of wastewater or a higher-strength wastewater. Authorized expenditures for approved capital projects shall include construction engineering and administrative costs and debt service related to the water reclamation facility. (Ord. No. 6904 §1, 11-11-02)

Chapter 16-11.5

Sanitary Sewer Planning Criteria

Sec. 16-11.5-1. Purpose and policy.

(a) This Chapter sets forth general policies and guidelines for the development of the sanitary sewer collection system in order to accommodate current and future needs and to address major issues related to the expansion of the sanitary sewer collection system.

(b) The objectives of this Chapter are to:

(1) Provide sound engineering and long-range planning in the expansion of the sanitary sewer collection system.

(2) Promote the orderly development of the sanitary sewer collection system. (Ord. 7277 §1, 2-28-05)

Sec. 16-11.5-2. Definitions

(1) *Relief sewer* means either upsizing portions of the existing sewer collection system or installing parallel sewer collection systems when the capacity of the existing sewer collection system is insufficient to carry wastewater from a development.

(2) *Sewer collection system* means the sanitary sewer collection system.

(3) All other words used in this Chapter shall have the special meaning ascribed to them by use or definition in Chapters 5, 6, 7, 9, 10 and 11 of this Title, but if no special meaning has been given, words shall have their commonly understood meaning. (Ord. 7277, 2-28-05)

Sec. 16-11.5-3. Development policy.

- (a) All development within the City shall be connected to the sewer collection system.
- (b) A developer is responsible for the cost and construction of the sewer collection system required to serve a development. The sewer collection system shall include, but is not limited to manholes, sewer mains, service lines, pumping stations, force mains and all necessary appurtenances.
- (c) The sewer collection system within a development shall be sized to the ultimate capacity of that portion of the sub-basin area which will discharge through the development, including the sub-basin area upstream of the development as determined by the Director of Public Works based upon present and future development within the sub-basin area.
- (d) If a larger sewer collection system (including pumping stations) is required to serve a sub-basin area as described in Subsections (b) and (c) above than is required to serve the development, the developer shall be responsible for construction of the larger sewer collection system. In such event, the developer may be eligible to recover a portion of the cost of the larger system under Section 16-5-5 of this Title. Cost recovery shall be based on the following:
 - (1) Cost recovery related to oversizing the sewer collection system shall be considered only for mains twelve (12) inches or larger and shall be the difference in the cost of pipe and installation between ten (10) inches and the actual size installed.
 - (2) Cost recovery related to oversizing a pumping system shall be based on the difference in cost between the capacity required to serve the development as described in Subsection (b) above and the capacity required to serve the sub-basin as described in Subsection (c) above, as determined from information and data submitted by the developer and approved by the Director of Public Works.
- (e) Developments will not be allowed to connect to sewer lines smaller than ten (10) inches, provided, however, that if adequate capacity is available, the Director of Public Works may approve connection to a sewer line smaller than ten (10) inches for a small residential development where there is no reasonable potential for the development or any future upstream development to lead to a requirement for constructing a relief sewer.
- (f) Developments shall discharge into the sewer collection system within the basin in which the development is located at a point or points identified in the Master Sewer Plan then in effect. A development may be allowed to discharge outside of its identified basin boundary if such development will not adversely impact the sewer collection system outside of its identified basin boundary as determined and approved by the Director of Public Works. (Ord. 7277 §1, 2-28-05)

Sec. 16-11.5-4. Main extension policy.

- (a) The developer shall be responsible for extending the sewer collection system from the existing sewer collection system to the exterior boundaries of the development, including oversizing the sewer main extension in accordance with the approved Sanitary Sewer Master Plan. If a Sanitary Sewer Master Plan has not been approved for the area, such extension shall be in accordance with the preliminary Sanitary Sewer Master Plan for the area.

(b) The sewer collection system shall be sized to the ultimate capacity as described in Subsection 16-11.5-3(c) and extended to the exterior boundaries of each subdivision within the development.

(c) If the developer extends the sanitary sewer mains or related facilities outside the proposed development (offsite sewer collection system improvements), the developer is eligible for recovery of some of the costs for said off-site improvements and oversizing in accordance with Section 16-5-5. (Ord. 7277 §1, 2-28-05)

Sec. 16-11.5-5. Relief sewer policy.

(a) If the Wastewater Department determines there is insufficient capacity in the existing sewer collection system to serve a proposed development, the development shall not be approved until a relief sewer has been constructed in accordance with the Sanitary Sewer Master Plan. The Wastewater Department will maintain a list of areas where sanitary sewer capacity is inadequate or is expected to become inadequate within the foreseeable future. If a Sanitary Sewer Master Plan has not been approved for the area in which the development is located, such relief sewer shall be constructed in accordance with the preliminary Sanitary Sewer Master Plan for such area.

(b) Subject to the provisions of Paragraphs (1) and (2) below, and to the extent sufficient monies are on deposit in the Sanitary Sewer Collection System Improvement Fund ("Fund"), the City will cause the relief sewer for a proposed development to be constructed, provided that:

(1) The City Council by resolution approves the relief sewer and authorizes the costs thereof to be paid out of the Fund as set forth in Section 16-11-4; and,

(2) The estimated cost of the relief sewer will not reduce the Fund below six hundred thousand dollars (\$600,000.00) or, if the proposed development will provide an extraordinary benefit to the City as determined by the City Council, the estimated cost of the relief sewer will not reduce the Fund below three hundred thousand dollars (\$300,000.00).

(c) If there are insufficient monies on deposit in the Fund to construct the relief sewer and maintain the reserves specified in Paragraph (b)(2) above, the City shall be under no obligation to construct the relief sewer. In such event, the development shall not be approved, or, in the alternative, the developer may at its sole cost and expense construct the relief sewer without any payment or reimbursement from the Fund. (Ord. 7277 §1, 2-28-05)

Sec. 16-11.5-6. Conflict.

In the event there is a conflict between any provision of this Chapter and any other provision of Title XVI, the provisions of this Chapter shall control to the extent of such conflict. (Ord. 7277 §1, 2-28-05)

CHAPTER 12

Stormwater Utility

Article I *General Provisions*

Sec. 16-12-1. Title.

This Chapter shall be known and cited as the Stormwater Utility Ordinance of Pueblo. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-2. Legislative intent and purpose.

(a) The City Council finds and determines that due to its general terrain and geographic location, property within the City is particularly subject to damage from floods and stormwater which, from time to time, overflow existing watercourses and stormwater facilities; existing stormwater facilities are inadequate to control such overflow; stormwater facilities require continuous operation, maintenance, repair, renewal and replacement; and property owners of the City should pay for the use and availability of stormwater facilities necessary or required to control and manage floods and stormwater runoff.

(b) It is the intent and purpose of the City Council in enacting this Chapter:

(1) To promote public health, safety and welfare by permitting the movement of emergency vehicles during storm or flooding periods and by minimizing storm and flood losses and the inconvenience and damage resulting from uncontrolled stormwater runoff in the City;

(2) To provide for the establishment of a master drainage plan for effective stormwater and flood management;

(3) To establish a stormwater utility enterprise to coordinate, design, construct, manage, operate and maintain the stormwater and flood management systems and stormwater facilities;

(4) To establish reasonable stormwater utility service charges based on the use and availability of stormwater facilities; and

(5) To encourage and facilitate urban water resources management techniques including without limitation, detention of floods and stormwater runoff, minimizing the need to construct stormwater facilities, reduction of pollution and enhancement of the environment. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-3. Definitions.

For purposes of this Chapter, the following words shall have the following meaning, unless the context clearly indicates otherwise:

(1) *Developer* means an owner or owners of one or more parcels of real property intending to undertake a development which changes the scope, type or amount of improvements on the real property.

(2) *Director* means the Director of the Department of Public Works or the Director's Designee.

(3) *Grant* means a cash payment of public funds or contribution of money made directly to the stormwater utility enterprise by a state or local governmental entity or district, which is not required to be repaid. *Grant* does not include public funds paid or advanced to the stormwater utility enterprise in consideration for the provision of any goods, services, facilities, rights or interest by the stormwater utility enterprise to a state or local governmental entity or district, nor does *grant* include refunds made in the current or next fiscal year, gifts, any payments directly or indirectly from federal funds or earnings on federal funds whether or not the state or local governmental entity or district acts as a conduit for such payments, collections for another governmental entity and any other payments or revenue excluded from the definition of *grant* under the Colorado constitution or law.

(3.5) *Illegal discharge* means any direct or indirect spill or discharge of any substance, other than stormwater drainage runoff and naturally occurring groundwater, to the City's storm drainage system; provided, however, that the following discharges shall be allowed and will not constitute an illegal discharge: return flows from irrigation; lawn watering runoff; water from building foundation drains and drainage; runoff from noncommercial car washing; dechlorinated water from swimming pools; water from fire hydrants, including water used for potable water system cleaning and testing as well as water used for firefighting and fire training; emergency discharges of contaminated water from ditches and canals as necessary to protect public drinking water supplies; water diversions undertaken pursuant to decreed water rights; and such other waters as the City has determined, by regulation adopted by the Director of the stormwater utility enterprise which have been approved by the City Manager, to be noncontaminated and acceptable for discharge to the City's storm drainage system and any receiving stream. Nothing contained herein shall be construed to relieve any person discharging into the storm drainage system from any liability for damage caused by the volume or quality of water so discharged.

(3.7) *Illicit connection* means any drain, pipe or conveyance, whether located on the ground surface or below ground, which allows an illegal discharge to enter the City's storm drainage system, or any drain, pipe or conveyance discharging into the City's storm drainage system (even if the conveyance is located outside the corporate boundaries) any sewage, industrial or commercial process wastewater or other nonstormwater containing a pollutant.

(4) *Impervious surface* means surfaces on or in real property where the rate of infiltration of stormwater into the earth has been reduced by improvements.

(5) *Improvement* means any works of man or manmade change to real property including but not limited to buildings or other structures, streets, parking lots, driveways, patio areas, roofs, sidewalks, storage areas, paving and compacted surfaces.

(6) *Major stormwater facilities* means those stormwater facilities within each drainage basin identified and described as major stormwater facilities in the official master drainage plan of the City and, until adoption of the official master drainage plan of the City by the City Council, *major stormwater facilities* means those stormwater facilities identified and described as major stormwater facilities in a developer's master drainage plan for the real property being developed, meeting the standards and criteria established by the Storm Drainage Criteria and Policies and approved by the Director.

(6.5) *Pollutant* as used in this Chapter means any contaminant of water discharged into stormwater facilities except those which are naturally occurring in stormwater runoff and area groundwater. Pollutants include, but are not limited to, the following: paints, varnishes and solvents; oil, antifreeze, transmission fluid and other automotive fluids; liquid, semi-solid and solid wastes; refuse, rubbish, garbage and litter; pesticides, herbicides and fertilizers; sewage, animal feces, pathogens and sanitary waste; commercial carpet cleaning discharges; grease; power wash discharges; and dissolved and particulate metals other than those naturally occurring in stormwater and local groundwater.

(7) *Project costs* means those costs of administration, operation, management, planning, financing, engineering, construction, maintenance, reconstruction, replacement, right-of-way acquisition, contingencies, fiscal and legal costs of stormwater facilities, including those costs to comply with federal, state or City laws regulating stormwater facilities or runoff.

(8) *Revenue bonds* means bonds, notes or other obligations lawfully issued or otherwise contracted for, payable from the revenues to be derived from the functions, services, benefits or facilities of the stormwater utility enterprise or from other available funds of the stormwater utility enterprise.

(9) *Runoff* means that that part of snowfall, rainfall or other stormwater which is not absorbed, transpired, evaporated or left in surface depressions and which then flows controlled or uncontrolled into a watercourse or body of water.

(10) *Storm Drainage Criteria and Policies* means the Storm Drainage Criteria and Drainage Policies for the City of Pueblo, Colorado, dated June 9, 1997 and as same may be subsequently amended by resolution by the City Council.

(10.5) *Storm drainage system* means City-owned or City-controlled stormwater facilities.

(11) *Stormwater facilities* means any one or more of the various devices used in the collection, disposition or treatment of storm, flood or surface drainage waters, including man-made structures and natural watercourses for the conveyance of runoff, such as: conduits and appurtenant features, canals, ditches, streams, gulches, gullies, flumes, culverts, streets, curbs, gutters, detention areas, pumping stations, pipes and related equipment and appurtenances; all extensions, improvements, remodeling, additions and alterations thereof; and any and all rights or interest in such stormwater facilities. (Ord. No. 6914 §1, 11-25-02; Ord. No. 7427 §1, 12-27-05)

Sec. 16-12-4. Stormwater utility enterprise.

(a) There is hereby created a stormwater utility in the Department of Public Works.

(b) The stormwater utility shall constitute an enterprise empowered to coordinate, design, conduct, manage, operate and maintain the stormwater and flood management systems and stormwater facilities of the City and to implement the provisions of this Chapter. The stormwater utility enterprise is authorized to issue its own revenue bonds. The enterprise shall be wholly owned by the City and operated in accordance with applicable ordinances and resolutions of the City and other applicable law.

(c) The City Council shall act ex officio as the governing body of the stormwater utility enterprise.

(d) The stormwater utility enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as a "water activity enterprise" within the meaning of Section 37-45.1-102, C.R.S., and as an "enterprise" within the meaning of Section 20 of Article X of the Colorado Constitution. Specifically, but not by way of limitation, the stormwater utility enterprise is not authorized and shall not receive ten percent or more of its annual revenue in grants. So long as the stormwater utility enterprise continues to qualify as a "water activity enterprise" and as an "enterprise," the stormwater utility enterprise and all spending and revenue thereof shall not be subject to Section 20 of Article X of the Colorado Constitution. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-5. Imposition of a stormwater utility service charge.

(a) There is hereby imposed on each and every lot or parcel of improved real property containing an impervious surface within the City, and the owners thereof, except as specifically hereinafter provided, a stormwater utility service charge. This charge is deemed reasonable and is necessary for:

- (1) The project costs of existing City stormwater facilities, and
- (2) The project cost of future City stormwater facilities.

All of the proceeds of these service charges are deemed to be in payment for the availability and use of the City's stormwater facilities by the real property on, and with respect to, which the service charge is imposed and the owners thereof.

(b) All public highways, roadways, streets, alleys, sidewalks, bike paths, parks, open-spaces and golf courses and railroad rights of way used for trackage are deemed to be part of the City's stormwater facilities and shall be exempt from all charges and fees imposed by this Chapter. Such exemption shall not apply to public parking lots, driveways, service drives, drive aisles or internal site roadways and sidewalks. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-6. Determination of stormwater utility service charges.

(a) The monthly stormwater utility service charge is hereby established and shall be computed as follows:

- (1) For real property improved for residence, one-family:

<i>Impervious Surface</i>	<i>Monthly Service Charge</i>
up to 2,000 sq. feet	\$2.00
2,001 to 4,000 sq. feet	3.50
in excess of 4,000 sq. feet	6.25

(2) For all other improved real property, regardless of ownership or use, the monthly stormwater service charge shall be determined by dividing the square feet of impervious surface in and on the real property, as determined by the Director, by two thousand eight hundred sixty-five (2,865) and then multiplying the quotient thereof by three dollars and fifty cents (\$3.50). If the improved real property is served by a stormwater detention facility adequately maintained by property owners other than the City, the Director shall reduce the stormwater utility charge for such property by sixty percent (60%).

(b) The Director shall determine the number of square feet of impervious surface in or on the real property described in (a)(2) above of each owner or owners thereof by any one (1) or more of the following methods:

- (1) On-site measurement of the impervious surface made by the City or in its behalf;
- (2) Computation of the impervious surface using the dimension of impervious surfaces contained in the records of the City or the Pueblo County Assessor; or
- (3) Estimation, calculation and computation of the impervious surfaces using aerial photography or photogrammetry or using the information and data from on-site measurements of like or similar property or features or as contained in the records of the City or the Pueblo County Assessor which set forth certain of the characteristics of the improvements on the property such as the space above the basement level in all buildings or structures, size of roofs, parking areas, driveways and other compacted areas, the area of the real property, assessor's use code and assessor's class code (the *assessor's characteristics*) of the improvements and actual measurements made by the City or in its behalf, if any, of impervious surfaces in or on real properties whose assessor's characteristics are similar to those assessor's characteristics of the real property for which the estimate, calculation and computation is made.

(c) The Director shall no less often than every two (2) years cause a review of project costs and stormwater utility service charges to ascertain if the stormwater utility service charges generate sufficient revenue to pay the total project costs. The Director shall submit such report to the City Council for its review and consideration. The first such biennial review shall be completed on or before July 1, 2003. (Ord. No. 6914 §1, 11-25-02; Ord. No. 7070 §1, 10-27-03)

Sec. 16-12-7. Stormwater utility fund.

(a) There is hereby created pursuant to Section 7-21 of the Charter a special fund designated as the *Stormwater Utility Fund* which shall be separate and segregated from all other City funds. All stormwater utility service charges paid and collected pursuant to this Chapter shall be credited and deposited into the Stormwater Utility Fund and shall not be transferred therefrom to any other account of the City or used for any purpose except to pay project costs.

(b) Funds on deposit in the Stormwater Utility Fund and income earned thereon shall be allocated and apportioned in the following percentages to project costs:

<i>Project Costs</i>	<i>Percentage</i>
Capital improvements (planning studies and existing stormwater facilities)	30.00%
Stormwater quality program (NPDES permit) program maintenance	20.00%
Routine maintenance	28.75%
Operations (billing, receivables, accounting, customer service, permits, inspection, review)	9.00%
Operating and emergency reserves	6.00%
Administrative services	6.25%

(c) Funds on deposit in the Stormwater Utility Fund shall be invested as permitted by law.

(d) The annual budget for the Department of Public Works shall include a proposed budget for project costs for the ensuing budget year. There shall also be included in the annual budget a statement of all amounts in the Stormwater Utility Fund and estimated revenues for the ensuing budget year. The annual budget and appropriations of funds on deposit in the Stormwater Utility Fund as finally adopted by the City Council by ordinance may vary, alter or amend the allocations and percentages set forth in Section 16-12-7(b) above. (Ord. No. 6914 §1, 11-25-02; Ord. No. 7070 §2, 10-27-03; Ord. No. 8064 §1, 9-14-09)

Sec. 16-12-8. Stormwater utility enterprise debt issuance.

(a) The stormwater utility enterprise is authorized to issue revenue bonds for the payment or other financing of eligible project costs or for the purpose of refunding any revenue bonds issued for such purpose. Such bonds shall be authorized by ordinance adopted by the City Council in the same manner as other ordinances of the City.

(b) The terms, conditions and details of revenue bonds, the procedures related thereto and the refunding thereof shall be set forth in the ordinance authorizing the revenue bonds. Each bond issued under this Section shall recite in substance that said bond, including the interest thereon, is payable from the revenues and other available funds of the stormwater utility enterprise pledged for the payment thereof. Notwithstanding any other provision of law to the contrary, such revenue bonds may be issued to mature at such times not beyond thirty (30) years from their respective issue dates, shall bear interest at such rates and shall be sold at private or public sale at, above or below the principal amount thereof, all as shall be determined by the City Council. The powers provided in this Section shall be in addition to and shall not modify, limit or affect the powers conferred by any other law, either directly or indirectly.

(c) The City may pledge all or any portion of the Stormwater Utility Fund, including revenues anticipated to be collected, to the payment of principal, interest, premiums, if any, and reserves for revenue bonds, issued for the payment or other financing of eligible project costs, or for the purpose of refunding any revenue bonds issued for such purposes. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-9. Master and stormwater basin drainage plans.

(a) The Director shall, as soon as is practicable and subject to funds from the Stormwater Utility Fund being budgeted and appropriated for such purpose, formulate and develop a master drainage plan for the City. The master drainage plan shall, based on expert engineering studies, set forth the location of all stormwater facilities in each stormwater basin within the City, including those facilities which presently exist and those which are planned to be constructed in the future.

(b) The master drainage plan shall:

(1) Identify and delineate the boundaries of each stormwater basin within the City;

(2) Identify and describe all major drainage ways within each stormwater basin; and

(3) Identify and describe all stormwater facilities, including major stormwater facilities required to provide for drainage and control of runoff within each basin to carry the runoff to the designated points of outflow or discharge.

The studies of future needs shall be based upon land use as projected by the City's comprehensive plan.

(c) The Director shall make such additional studies as may be necessary to determine the most cost-effective approach and the estimated costs of constructing the stormwater facilities in each stormwater basin shown on the master plan which do not exist.

(d) The master drainage plan shall not be considered to be the official master drainage plan of the City until and unless it shall have been first adopted by resolution by the City Council. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-10. Developer's obligation.

(a) Each developer of real property within the City shall provide all necessary stormwater facilities to ensure adequate drainage and control of runoff to, on and from such real property including, without limitation, the construction and installation of all on-site and off-site stormwater facilities including major stormwater facilities:

(1) In conformity and compliance with the standards established by the Storm Drainage Criteria and Policies, and

(2) Meeting the requirements of the official master drainage plan of the City and, until adoption of the official master drainage plan of the City, meeting the requirements of the developer's master drainage plan for the real property being developed and approved by the Director.

(b) No owner of real property being developed through which a natural drainage way flows as shown on the master drainage plan shall obtain a building permit to develop the real property, unless the owner first grants to the City at no charge a permanent easement to construct, maintain, repair and reconstruct the stormwater drainage channel along the drainage way.

(c) Upon the completion of the design of all detention facilities, the developer will submit documentation outlining the terms of facility maintenance certified as accurate by a licensed qualified engineer which shall ensure proper working order of the facility and maintenance access. This documentation will be included in the drainage report and incorporated in a maintenance agreement, if appropriate. The proposed maintenance program for the facilities shall be structured as follows:

(1) Detention facilities serving solely commercial or industrial sites will be privately owned and maintained. If these facilities are maintained to the standards outlined by the maintenance agreement, the property will qualify for a reduction in stormwater utility service charges pursuant to Subsection 16-12-6(a)(2).

(2) Detention facilities serving residential lots will be maintained by the homeowners' association (HOA) when an established HOA operates and/or maintains common interest. If these facilities are maintained to the standards outlined by the maintenance agreement, the property will qualify for a reduction in stormwater utility service charges pursuant to Subsection 16-12-6(a)(2).

(3) Detention facilities serving residential lots when an HOA does not exist to operate and/or maintain common interests will be maintained by the City, and reduction in stormwater utility service charges will not be given.

(4) Existing noncommercial/industrial detention facilities serving residential development under private ownership will be accepted by the City if the facility is in proper working order and qualifies under the required maintenance standards and maintenance access. Reduction in stormwater utility service charges will not be given.

(5) The City will encourage joint use and regional facilities which will be maintained by the Parks Department, with the stormwater utility paying a prorated share of maintenance costs.

(6) Detention facilities implemented during construction will be maintained by the developer until proper working order is established and approved by the City. In the case of phased development or construction, the developer will be responsible for sediment removal until eighty percent (80%) of the last phase of the development or construction is complete.

(7) The City will inspect all facilities on an annual basis to ensure proper maintenance is being implemented. (Ord. No. 6914 §1, 11-25-02; Ord. No. 7070 §3, 10-27-03)

Sec. 16-12-11. Billing, collection and liens.

(a) Stormwater utility service charges shall be billed to the owner or occupant of the property monthly in arrears in accordance with billing procedures adopted by the Director. The obligation to pay such bill shall not be affected by the failure of the owner or occupant to receive a statement for services.

(b) Full payment of stormwater utility service charges shall be due and payable within ten (10) days after the date of billing. A delinquent charge established by resolution of the City Council shall be assessed upon stormwater utility service charges not paid in full within fifteen (15) days after the date of the billing.

(c) Sanitary sewer services are subject to termination and disconnection when stormwater utility charges remain delinquent for more than sixty (60) days. An additional delinquent charge, as determined by resolution of the City Council, shall be assessed on the date that the sanitary sewer services are subject to termination and disconnection for nonpayment of the stormwater utility service charges.

(d) The City Council hereby finds and determines that it is the policy of the City that all stormwater facilities furnished, supplied and made available by the City are and shall be deemed to be supplied, furnished and made available to the real property served without regard to the person billed for the stormwater utility service charge.

(e) All unpaid stormwater utility service charges, plus delinquent charges, shall constitute a perpetual lien against the real property served having priority over all other liens except general tax liens.

(f) The Director of Finance shall cause a notice of the lien, stating the amount of the due and unpaid stormwater utility service charges plus delinquent charges, and describing the property served, to be recorded in the office of the County Clerk and Recorder.

(g) The Director of Finance is authorized and empowered to certify to the County Treasurer the amount of the due and unpaid stormwater utility service charges and delinquent charges, describing the property served upon which the lien is imposed, which shall be collected and paid over to the City

by the County Treasurer in the same manner authorized for the collection of delinquent general property taxes.

(h) The City may treat unpaid stormwater utility service charges and delinquent charges as a debt due the City and may recover the amount thereof together with all collection charges, including reasonable attorney fees, from the owner and/or occupant of the property being charged such stormwater utility service charge.

(i) The remedies for the collection of the delinquent stormwater utility service charges are cumulative and the exercise of one shall not bar the exercise of any other. The remedies herein provided shall be in addition to any other lawful remedies for the collection thereof. (Ord. No. 6914 §1, 11-25-02; Ord. No. 7070 §4, 10-27-03)

Sec. 16-12-12. Administration and review.

(a) The administration of the provisions of this Chapter is vested in and shall be exercised by the Director who may prescribe forms and rules and regulations in conformity with this Chapter for the proper administration and enforcement of this Chapter. The Director may delegate the administration of this Chapter, or any part thereof, to duly qualified persons in the Department of Public Works.

(b) Every decision or determination of the Director shall be in writing and notice thereof shall be served upon or mailed by first class mail, postage prepaid, to the affected person at his or her address shown on the records of the Department of Public Works. Service by first class mail as provided herein shall be conclusive evidence of service of such decision or determination. The decision or determination of the Director shall be final and conclusive upon the affected person unless he or she timely files a petition for hearing.

(c) Any person aggrieved by any decision or determination of the Director may petition the Director for a hearing on revision or modification of such decision or determination no later than thirty (30) days after notice thereof is served on the aggrieved person.

(d) Such petition shall be verified in writing upon forms approved by the Director and specify in detail the aggrieved person's reasons and grounds for revision or modification. The petition shall be accompanied by all documents or other evidence supporting the petition.

(e) The Director shall schedule a hearing on the petition not less than sixty (60) days from the date the Director receives the petition. The Director may designate a representative of the City as the hearing officer.

(f) The hearing shall take place at the time, date and location specified by the Director in the notice of hearing. Notice of the hearing shall be given to the petitioner by first class mail addressed to the petitioner at his or her address shown in the petition. The hearing shall be conducted in accordance with the rules and regulations issued by the Director. The petitioner shall have the burden of proof. Failure to timely file a petition or the failure of the petitioner or his or her representative to appear at the hearing shall constitute and be deemed to be a waiver of the right to a hearing by the aggrieved person.

(g) Within thirty (30) days after the hearing, the Director or hearing officer shall make findings of fact based upon relevant and competent information and evidence submitted at the hearing. The Director shall make a decision or determination based upon such findings and, if appropriate, modify

his prior decision or determination accordingly. The decision or determination by the Director after hearing shall be final and conclusive upon the petitioner subject only to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Procedure.

(h) A petition may be filed only once in connection with any decision or determination of the Director. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-13. Nonliability of City.

Runoff may occur which exceeds the capacity of the City's stormwater facilities. This Chapter does not imply that real property liable for the charges and fees established herein will be free from runoff or flood damage. Nor shall this Chapter create any liability on the part of, or cause of action against, the City or any officer or employee thereof for runoff or flood damage. This Chapter does not purport to reduce the need or necessity for obtaining flood insurance. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-14. Violations and penalties.

It shall be unlawful for any person to violate, disobey, neglect, omit or refuse to comply with or resist the enforcement of any provision of this Chapter or to fail to pay any charge or fee imposed by this Chapter, and upon conviction thereof, shall be punished as provided in Section 1-2-1 of this Code. Each day such violation shall continue shall be deemed a separate offense. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-15. Cooperation with the County.

(a) The City shall cooperate with the County in providing stormwater facilities in stormwater basins, or parts thereof, extending from the County into the City and from the City into the County, and in general to carry out the drainage plans, if any developed therefor.

(b) The City expresses its willingness to enter into an intergovernmental agreement with the County to establish a joint stormwater technical committee to review and recommend joint stormwater facilities, priorities and cost-sharing thereof to the City Council and the Board of County Commissioners. (Ord. No. 6914 §1, 11-25-02)

Sec. 16-12-16. Amendments.

The City Council may by ordinance modify, alter, amend or repeal any and all provisions of this Chapter including, without limitation, the stormwater utility service charge and the stormwater utility plant investment fee and their method of determination and computation, payment and procedures with respect to the collection thereof. (Ord. No. 6914 §1, 11-25-02)

Secs. 16-12-17—16-12-20. Reserved.

Article II
Illicit Connections

Sec. 16-12-21. Unlawful acts; enforcement.

(a) It shall be unlawful and a municipal offense for any person to make, conduct, engage in or knowingly permit or suffer to exist any illegal discharge to the City's storm drainage system.

(b) It shall be unlawful and a municipal offense for any person to make, use, maintain or continue existence of any illicit connection to the City's storm drainage system.

(c) Any person found guilty of any violation of this Chapter declared to be a municipal offense shall be punished as provided in Section 1-2-1 of this Code.

(d) In the event any person, firm or corporation fails or refuses to comply with the requirements of this Chapter or violates any provision of this Chapter, the City or its stormwater utility enterprise or the Health Officer may initiate an action for injunctive relief in any court of competent jurisdiction to compel compliance with this Chapter.

(e) Illicit connections to the City's stormwater drainage system and illegal discharges to the City's stormwater drainage system are each hereby declared to be a nuisance, and may be abated in accordance with the procedures set forth in Subsection 11-1-405(e) of this Code, except that the Director of the stormwater utility enterprise is hereby granted concurrent authority with the Health Officer to issue any orders, take action and perform abatements pursuant to said Subsection.

(f) The enforcement remedies set forth in this Chapter are cumulative and the exercise of any one (1) or more of them is not dependent upon the exercise of any other remedy, nor shall it constitute any bar or limitation to the exercise of any other remedy. (Ord. No. 7427 §2, 12-27-05)

Sec. 16-12-22. Inspection; access to property.

(a) If the Director shall, at any time, have reasonable grounds to believe that an illegal discharge from any premises has occurred or is occurring, or has reasonable grounds to believe that an illicit connection exists from any premises to the City's stormwater drainage system, the Director of the stormwater utility enterprise, the Director's designated inspectors and the Health Officer shall each have authority to enter upon any such premises, inspect said premises and take samples of any discharge from said premises.

(b) In the event any owner or occupant of premises within the City refuses entry to the Director, his or her designated inspector or the Health Officer, if the premises are locked, or if the Director, designated inspector or Health Officer is unable to obtain permission of the owner or occupant to enter, the Municipal Court is authorized to issue an inspection or search warrant authorizing such entry in accordance with the procedures set forth in the Colorado Municipal Court Rules. (Ord. No. 7427 §2, 12-27-05)