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TRUSTEE'S BILL

ORDINANCE NO.

NO. 04-07  
Series of 2004

04-06  
Series of 2004

**TITLE: A BILL FOR AN ORDINANCE ENACTING NEW SECTIONS 13-90 THROUGH 13-100 OF THE HUDSON MUNICIPAL CONCERNING INDUSTRIAL WASTE PRE-TREATMENT AND INDUSTRIAL WASTE PRE-TREATMENT PERMITS.**

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. The Hudson Municipal Code is amended by the addition thereto of new Sections 13-90 through 13-100 to read as follows:

**Article 6 Industrial Discharge**

**Sec. 13-90. Definitions.**

(a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

(1) **Act or "the Act"**. The Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. § 1251 to 1387, as amended.

(2) **Authorized Representative of Industrial User**. An authorized representative of an Industrial User may be: (1) A principal executive officer of at least the level of vice-president, if the Industrial User is a corporation; (2) A general partner or proprietor if the Industrial User is a partnership or proprietorship, respectively; (3) 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.

(3) **Biochemical Oxygen Demand (BOD)**. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade expressed in term of weight and concentration (milligrams per liter).

(4) **Categorical Industrial User or Categorical Contributor**. Any Industrial User which operates one of the processing or manufacturing industries specified in 40 CFR Parts 405 through 499, and any Industrial User subject to categorical pretreatment standards under 40 CFR 403.6.

(5) **Chemical Oxygen Demand (COD)**. The measure of the oxygen equivalent to the portion of organic matter in a same that is susceptible to oxidation by a strong chemical oxidant under laboratory procedures, expressed in milligrams per liter.

(6) **Director**. Unless otherwise specified, the Hudson Town Administrator or his/her assignee.

(7) **Harmful Contribution**. An actual or threatened discharge of water or wastes to the POTW which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, causes interference to the POTW or causes the Town to violate any condition of its NPDES permit.

(8) **Industrial**. Meaning of or pertaining to industry, manufacturing, commerce, trade or business as distinguished from domestic or residential.

(9) **Industrial Discharge Permit**. Permit description as set forth in Section 13-92 of this ordinance.

(10) **Industrial User**. A source of indirect discharge as defined in this Section.

(11) **Industrial Wastes or Non-Domestic Wastes**. The water carried wastes from non-domestic sources such as industrial manufacturing, industrial processing or any other industrial or business activities producing non-domestic or non-residential sewage. Such wastes shall include the trade wastes produced by, but not limited to, restaurants, food processing and bottling plants, food manufacturing plants, slaughtering plants, tallow works, plating works, disposal services, industrial cleaning plants, fertilizer plants, car and truck washing operations, laundries, cleaning establishments, cooling plants, industrial plants, factories and chemical treatment installations.

(12) **National Categorical Pretreatment Standard or Pretreatment Standard**. Any regulation containing pollutant discharge limits promulgated by the EPA in 40 CFR Chapter I, Subchapter N, Parts 405 through 499, which applies to a specific category of industrial users.

(13) **National Prohibitive Discharge Standard or Prohibitive Discharge Standard**. Any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

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

(15) **pH**. The intensity of acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

(16) **Pollutant**. Any dredged spoil, solid waste, incinerator 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 discharged into water.

(17) **Pretreatment or Treatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature 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 a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR 403.6(d).

(18) **Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

(19) **Pretreatment Standard.** Any local limit or 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. The term includes prohibitive discharge limits established pursuant to § 403.5.

(20) **Publicly Owned Treatment Works (POTW).** A treatment works as defined by section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the Town. 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. For the purposes of this ordinance, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the Town who are by contract or agreement with the Town, users of the Town's POTW.

(21) **Significant Industrial User or Significant Contributor.** Any Industrial User which either:

(i) Discharges 20

(ii) Discharges five percent (5%) or more of the POTW's average dry weather hydraulic or organic loading; or

(iii) Any Industrial User which, in the opinion of the Director, by the nature of its discharge, has a potential to affect the POTW adversely or to endanger the safety of workers; or

(iv) Any Industrial User which operates one of the processing or manufacturing industries specified in 40 CFR parts 405 through 499, and any Industrial Users subject to categorical pretreatment standards under 40 CFR Parts 403.6 and 40 CFR Chapter I, Subchapter N.

(22) **Significant Violation or Significant Noncompliance.** An Industrial User commits a significant violation or is in significant noncompliance whenever its conduct or operations satisfy one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, meaning conditions in which sixty-six percent (66%) or more of all the measurements taken during a six (6) month period exceed, by any magnitude, the daily minimum limit or the average limit for the same pollutant parameter; or

(ii) Technical review criteria (TRC) violations, meaning conditions in which thirty-three percent (33%) or more of all the measurements taken during a six (6) month period or exceed the product of the average limit multiplied by the applicable TRC. For BOD, TSS, fats, oil and grease, TRC = 1.4. For all other pollutants except pH, TRC = 1.2; or

(iii) Any other violation of a pretreatment limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, an interference or pass through (including endangering the health of POTW personnel or the general public); or

(iv) Any discharge of a pollutant that has caused or created an imminent hazard or danger to human health, welfare or the environment or has resulted in the POTW's exercise of its emergency authority under section 13-99 of this article to halt or prevent such a discharge; or

(v) Any failure to meet, within 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; or

(vi) Any failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports or reports regarding compliance with compliance schedules; or

(vii) Any other violation or group of violations which the control authority determines will adversely affect the operation of implementation of the local pretreatment program.

(23) **Slug or Slug Load**. Any discharge of a sewage or industrial waste that in concentration or mass of any given constituent exceeds, for any one period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour or normal working period concentration mass.

(24) **Slug Discharge**. Any discharge of a non-routine or episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

(25) **Total Organic Carbon (TOC)**. The total quality of organic carbon as measured by the amount of carbon dioxide formed. Expressed in milligrams per liter. Used in assessing the potential oxygen-demanding load of organic material

## **Sec. 13-91. Prohibited Discharges.**

It shall be unlawful to discharge any pollutant within any area under the jurisdiction of the Town, including any Town service area, except as authorized by the Director in accordance with the provisions of this article.

When the Director determines that a User is contributing to the POTW, any of the following enumerated substances in such amounts as to interfere with the operation of the POTW, the Director shall:

- (1) Advise the User of the impact of the contribution to the POTW;
- (2) Develop effluent limitation(s) for such User to correct the interference with the POTW; and
- (3) Perform the actions listed in Section 13-100 (Legal Action) as he deems necessary.

(A) General Discharge Prohibitions.

(1) No User shall introduce any pollutant to the wastewater system which will interfere with the operation or performance of the POTW or cause a pass through. This prohibition applies to all sources, regardless of other Federal, State, or local requirements.

(2) No User shall discharge any pollutants which create a fire or explosion hazard in the POTW. More specifically, no User shall discharge any wastestream with a closed cup flashpoint of less than sixty (60) degrees centigrade (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21. No User shall discharge any wastestream which contains gasoline, fuel oil, lubricating oil, diesel fuel, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, or sulfides. No User shall discharge any wastestream which contains liquids, solids or gases that, by their nature or quantity, either singly or combined, cause to create a hazard of fire or explosion. The Director may require Users with the potential to discharge flammable, combustible, or explosive substances to install and maintain an approved combustible gas detection meter or explosion hazard meter. No two successive readings on an explosion hazard meter at the point of discharge shall be more than five percent (5), nor any one reading more than ten percent (10%), of the Lower Explosive Limit (LEL) of the meter.

(3) No discharge shall contain substances with corrosive or toxic properties capable of causing a public nuisance, structural damage or other hazard to the POTW system, damage or hazard to human or animal life, or of preventing entry into the sewers for unauthorized maintenance, repair, sampling, or monitoring. This prohibition shall include all herbicides, pesticides, fungicides, phenols, and hydrogen sulphide, and all discharges with a pH or less than 5.0 (unless the POTW specifically designed to accommodate discharges with a pH of less than 5.0).

(4) No solid or viscous substances, which in quantity or size may cause obstructions in flow or interfere with the treatment process, may enter the POTW.

Examples of these are: garbage with particle size greater than one-half inch, grass, straw, hair, feathers, hides, fleshings, glass, fabric, mud, plaster concrete, rocks, tar, paper, paint or any other items determined by the Director to be outside the scope of domestic wastes.

(5) No pollutant shall be discharged at either a flow rate or concentration sufficient to impair the POTW's ability to meet NPDES or receiving water quality requirements. This provision shall include oxygen demanding pollutants as measured by BOD-5, COD, and TOC tests.

(6) The temperatures of any discharges to the POTW shall not exceed 65.5 degrees centigrade (150 degrees Fahrenheit) or inhibit biological activity at the POTW.

(7) No User shall discharge radioactive wastes or isotopes in any concentration.

(8) No User shall make a sewer connection which will allow water to enter the POTW from any of the following sources: storm water runoff, sump discharges, water accumulated in excavations or construction work, any underground drain (as in a foundation drain) or any water from refrigeration, air conditioning or similar use.

(9) Discharge to the POTW shall contain no substances which may cause the POTW's effluent, sludge or residue to be unsuitable for, or interfere with, the reclamation and reuse process as determined by the Director, State, or Federal guidelines.

(10) Under no circumstances shall a User attempt to achieve compliance with the limitations developed by the Town, State, or Federal Governments by diluting its waste with tap water, unpolluted water, sanitary sewage, or any other diluent.

(11) No User shall discharge waste with concentration of suspended solids or total solids such that unusual expense or attention is required to treat or handle the material.

(12) The Director is entitled to review and approve the installation and operation of any garbage grinder with motor size  $\frac{3}{4}$  horsepower or greater.

(13) No person shall discharge sewage or polluted water from any premises within the Town into or upon any public highway, land, public place, stream, watercourse, or into any cesspool, storm or private sewer, or natural water outlet, except where suitable treatment has been provided in accordance with Federal, State, and local laws.

(14) In instances where investigation reveals the presence on the system of unacceptable wastes emanating from any lot, land, or structure, the owner or occupant shall, at his expense, convert the waste to the satisfaction of the Director into acceptable wastes.

(15) No User shall discharge "slug" loads as defined herein.

(16) No waste may be discharged containing dye waste, paint pigments, tanning solutions, or any objectionable color not removable by the treatment process.

(17) No User shall discharge petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through

(18) No User shall discharge pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute health and safety hazards for employees of the Town employed at the POTW.

(19) No User shall discharge any trucked or hauled pollutants except as authorized by the Director and only at discharge points designed by the Director.

(20) In general, no User shall discharge pollutants which pass through the POTW with inadequate treatment.

(B) Specific Discharge Prohibitions.

MAX. CONTRIBUTION (mg/1)

<u>POLLUTANT</u>	<u>SYMBOL</u>	<u>GRAB SAMPLE</u>
Arsenic	As	0.63
Cadmium	Cd	0.50
Chromium	Cr	3.14
Copper	Cu	0.72
Lead	Pb	7.44
Mercury	Hg	0.02
Nickel	Ni	3.76
Selenium	Se	0.02
Silver	Ag	0.40
Zinc	Zn	6.06
Cyanide	Cn	10.73
Nitrogen		
As Ammonia	NH3/NH4	50.00
pH		No less than 5.5
Grease/Oil		200.00

**Sec. 13-92. Industrial Discharge Permits.**

(a) All Industrial Users proposing to connect to or to contribute to the POTW shall apply for an Industrial Discharge Permit before connecting to or contributing to the POTW. Application for such Permit shall be made at least ninety (90) days prior to the proposed date of connection or contribution to the POTW. All existing Industrial Users connected to or contributing to the POTW shall apply for an Industrial Discharge Permit within ninety (90) days after the effective date of this Ordinance.

(b) Users required to obtain an Industrial Discharge Permit shall complete and

file with the Director an application in the form prescribed by the Town, accompanied by the specific fee for the required classification (see Section 13-96). In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address and a location (if different from the address);
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in Section 13-91 of the Ordinance as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, as amended.
- (4) Time and duration of contribution;
- (5) Average daily and three (3) minute peak wastewater flow rates, including daily, monthly and seasonal variations;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation;
- (7) Description of activities, facilities, and plant processes on the premises including all materials that are or could be discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any Town, State or Federal Pretreatment Standards and a statement regarding whether or not the Pretreatment Standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards.
- (9) Accidental discharge plans as described in Section 13-98 shall be submitted.
- (10) If additional pretreatment will be required to meet the Pretreatment Standards, the shortest schedule by which the 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;

The following conditions shall apply to this schedule.

- (i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing



construction, completing construction, etc.). No such increment shall exceed nine (9) months.

(ii) Not later than fourteen (14) days following each date in the schedule and the final date for completion, the User shall submit a progress report to the Director, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director.

(11) Each product by type, amount, process, and processes and rate of production;

(12) Type and amount of raw materials processed (average and maximum per day);

(13) Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(14) Any other information as may be deemed by the Director to be necessary to evaluate the permit application;

(15) The following certification statement signed by an authorized representative of the Industrial User: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations." After evaluation and acceptance of the data furnished, the Director may issue an Industrial Discharge Permit subject to terms and conditions provided in this article.

(c) Permits shall be issued for a specific time period, not to exceed two (2) years. The Industrial User shall apply for permit reissuance a minimum of sixty (60) days prior to the expiration of the Industrial User's existing permit. The terms and condition of the permit may be subject to modification by the Town during the term of the permit as limitations or requirements as identified in Section 13-91 are modified or other just cause exists. The Industrial User shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for the Industrial User to achieve compliance with such changes or new conditions.

(d) Industrial Discharge Permits are issued to a specific User for a specific operation. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without the approval of the Town. Any succeeding owner or User shall also comply with the

terms and conditions of the existing permit until a new permit is issued.

### **Sec. 13-93. Industrial Discharge Permit Modifications.**

Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Industrial Discharge Permit of Users subject to such standards shall be revised, if necessary, to require compliance with such standard within the time frame prescribed by such standard. Where a User subject to a National Categorical Pretreatment Standard has not previously submitted an application for an Industrial Discharge Permit are required by Section 13-92, the User shall apply for an Industrial Discharge Permit within one hundred eighty (180) days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the User with an existing Industrial Discharge Permit shall submit to the Director within one hundred eighty (180) days after the promulgation of the applicable Federal Categorical Pretreatment Standard the information required by paragraph (h) and (i) of Section 13-94.

### **Sec. 13-94. Industrial Discharge Permit Conditions.**

Industrial Discharge Permits shall be expressly subject to all provisions of this Municipal Code and all other applicable regulations, user charges and fees established by the Town. Permits may contain the following:

(a) The charge or schedule of user charges and fees for the wastewater to be discharged into a public sewer;

(b) Limits on the average and maximum wastewater constituents and characteristics, including but not limited to, effluent limits based upon applicable pretreatment standards, categorical pretreatment standards, local limits and state and local law;

(c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(d) Requirements for installation and maintenance of inspection and sampling facilities;

(e) Self-monitoring, sampling, reporting, notification, and record-keeping requirements, including but not limited to, identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on the applicable pretreatment standards in either 40 CFR Part 403, the categorical pretreatment standards, this article, or other state or local law;

(f) Compliance schedules, provided that such schedules do not extend the compliance dates beyond federal deadlines;

(g) Requirements for submission of technical reports or discharge reports;

- (h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Town, and affording Town access thereto;
- (i) Requirements for notification of the Town of any new introduction of wastewater constituents of any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (j) Requirements for notification of slug discharges;
- (k) Statements of applicable civil and criminal penalties for the violation of pretreatment standards and requirements;
- (l) Other conditions as deemed appropriate by the Town or the Director to ensure compliance with all applicable rules and regulations.

### **Sec. 13-95. Industrial User Classifications.**

Based on the potential to impact the POTW, Industrial Users will be listed in one of the following three classes. The Director will have final authority for the classification or reclassification for any Industrial User. For each Industrial User classification, a permit fee may be charged to reflect costs incurred in handling and monitoring the permit. There is a non-refundable fee due at the time the permit is used which is set pursuant to Section 13-96. The Director has the authority to waive permit fees if such a waiver is in the best interest of the Town.

- (a) Class I – Industrial User. A source of indirect discharge.
- (b) Class II – Significant Industrial User or Significant Contributor. Any Industrial user which either:
  - (i) Discharges 25,000 gallons or more of process wastewater each day; or
  - (ii) Discharges five percent (5%) or more of the POTW's average dry weather hydraulic or organic loading; or
  - (iii) Any industrial user which, in the opinion of the Director, by the nature of its discharge, has a potential to affect the POTW adversely or to endanger the safety of workers; or
  - (iv) Any industrial user which operates one of the processing or manufacturing industries specified in 40 CFR parts 405 through 499, and any industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.
- (c) Class III – Categorical Industrial User. Any industrial user which operates one of the processing or manufacturing industries specified in 40 CFR parts 405 through 4089, and any industrial user subject to categorical pretreatment standards

under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N.

**Sec. 13-96. Industrial User Fees.**

Permit fees for each class of Industrial User are listed in the following table. The fee cost includes permit review and initial monitoring by the Town.

Class I Industrial User	No Fee
Class II Significant Industrial User	\$300.00
Class III Categorical Industrial User	\$600.00

In addition, to recover the cost to the Town of implementing the program established by this Article, the Town may adopt charges and fees, including, but not limited to, the following:

- (a) fees for monitoring, inspections, and surveillance procedures;
- (b) fees for reviewing accidental discharge procedures and construction;
- (c) fees for permit applications;
- (d) fees for filing appeals;
- (e) fees for consistent removal by the Town of pollutants otherwise subject to Federal Pretreatment Standards;
- (f) such other fees as the Town may deem necessary to carry out the requirements contained herein.

**Sec. 13-97. Promulgation of Standards.**

(a) Upon the promulgation of the Federal Categorical Pretreatment Standard for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed by Ordinance for sources in that subcategory, shall immediately supercede the limitations imposed by Ordinance. The Director shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(b) State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

(c) The Town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW.

(d) All analyses, including sampling results submitted in support of any application, in any required reports, or as otherwise required by any permit or order, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, as amended. If 40 CFR Part 136 does not specify an applicable sampling or analytical technique for the pollutant, such analysis shall be performed in accordance with

procedures approved by the Director or by the EPA.

**Sec. 13-98. Accidental, Slug, and Hazardous Waste Discharges.**

(a) Prevention Plans. Each Industrial User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or User's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director with the permit application for review. Such plans shall be approved by the Director before the issuance of a discharge permit pursuant to Section 13-92(c).

(1) No Industrial User shall be permitted to introduce pollutants into the POTW until the Director has approved such accidental discharge plans and operating procedures. Review and approval of such accidental discharge plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the User's facilities as necessary to meet the requirements of this article.

(2) In addition to the plans for accidental discharges, each significant Industrial User shall be required to submit spill prevention or slug discharge control plans when so ordered by the Director. The Director, or his designee, shall evaluate the procedures and facilities of each significant Industrial User at least once every two (2) years, and other Users as deemed necessary, regarding the need for, or sufficiency of, a slug discharge control plan for each User. The Director shall make the results of such evaluation available to the approval authority upon request. If the results of such evaluation indicate that a slug discharge control plan is needed, the significant Industrial User shall submit a slug discharge control plan to the Director within ninety (90) days of notice by the Director. A slug discharge control plan shall contain, at minimum, the following elements:

(i) A description of the User's discharge practices, including non-routine batch discharges;

(ii) A description of stored chemicals, if any;

(iii) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for subsequent written notification to the POTW within five (5) days; and

(iv) If necessary, procedures to prevent adverse impacts from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, construction of containment structures or use of containment equipment, measures for containing toxic organic pollutants (including solvents) and other measures and equipment available for an emergency response.

(3) The Director may review the User's slug discharge control plan and order such changes and modifications as deemed necessary by the Director. Facilities or equipment necessary to implement spill prevention or slug discharge control plans shall be provided at the User's cost and expense. The Director shall approve the

detailed plans for any facilities necessary under such plans before the User begins construction of those facilities. Approval of a spill prevention of slug discharge control plan shall not relieve the User of its obligation to comply with all other laws and regulations governing the use, storage and transportation of hazardous substances.

(b) Notification Requirements.

(1) Accidental and Slug Discharges. In the case of an accidental discharge, it is the responsibility of the Industrial User to 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. Within five (5) days following an accidental discharge, such 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. Significant Industrial Users who have approved the slug discharge control plans shall also notify the POTW of slug discharges pursuant to the approved plans. A notification to the POTW pursuant to this subsection (b) shall not relieve the User of any expense, loss, damage or other liability which may be incurred as a result of severe property damage, other damage to the POTW, fish kills, or any other damage to person or property. A notification to the POTW pursuant to this subsection (b) shall not relieve the User of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(2) Hazardous Waste Discharges. Any Industrial User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division and the Colorado Department of Health in writing of any discharge into the POTW of any substance which, if otherwise disposed of, would be a hazardous waster under 40 CFR Part 261. Such notification shall include the name of the hazardous waste as specified in 40 CFR Part 261, and EPA hazardous waste number, and the type of discharge (continuous, batch or other). All notifications shall occur no later than 180 days after the discharge commences. The User shall also certify to the POTW that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree determined by the Director to be economically practical. Any notification under this subsection (b)(2) need be submitted only once for each hazardous waste discharged. This notification requirement does not apply to pollutants already reported to the POTW pursuant to other provisions of this article. This notification requirement does not relieve the User of any additional reporting or notification requirements of this article.

(i) If the User discharges more that ten (10) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known to the User: an identification of the hazardous constituents contained in the wastes, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) calendar months.

(ii) Users who discharge hazardous waste are exempt from the notification requirements of subsection (b)(2) during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous waste, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). The

discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month or of any acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). The discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month or of any acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) requires a one time notification.

(iii) In the case of any new regulation under the resource conservation and recovery act ("RVRA") (42 U.S.C. § 6901 to 6992k, as amended) identifying additional characteristics of hazardous wastes or listing additional substances as hazardous wastes, the User must notify the POTW, the EPA regional waste management division, and the Colorado Department of Health in writing of any discharge of such substance within ninety (90) days of the effective date of such regulations.

(c) Employee Training. A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place on the Industrial User's premises advising employees whom to call in the event of a dangerous discharge as specified in this section. Industrial Users shall insure that all of their employees who may cause or suffer such a dangerous discharge to occur are properly trained and advised of the appropriate emergency notification procedures.

#### **Sec. 13-99. Notification of Violation – Suspension of Service.**

Whenever the Town finds that any User has violated or is violating this Article, Industrial Discharge Permit, or any prohibition, limitation of requirements contained herein, the Town may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, the User thereof shall submit a plan for the satisfactory correction to the Town.

The Town may suspend the wastewater treatment service and/or an Industrial Discharge Permit when such suspension is necessary, in the opinion of the Town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the Town to violate any condition of its NPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the Industrial Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The Town may reinstate the Industrial Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be summoned to the Town within five (5) days of the date of occurrence.

#### **Sec. 13-100. Enforcement.**

(a) Civil Penalties. Any user who is found to have violated an Order of the control authority or who has willfully or negligently failed to comply with any provision of this Article and the orders, rules, regulations and permits issued hereunder, shall be assessed a civil penalty of not more than one thousand dollars (\$1,000.00) for each violation. Each day on which any user permits, allows or causes any violation or noncompliance to occur or continue shall be deemed a separate and distinct violation subject to civil penalties pursuant to this section. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) Criminal Prosecutions. Any person who willfully, knowingly, or negligently violates any provision of this article or any orders or permits issued under this article shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000.00) per day of violation, or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment.

(c) Public Nuisance. Any violation of this article, a wastewater discharge permit, or any order issued pursuant to this article, is hereby declared a public nuisance and may be corrected or abated by the Director or his designee. Any person creating such a public nuisance may be subject to the provisions of the Hudson Municipal Code governing nuisances, including the provision requiring reimbursement to the Town for its costs of abatement. The Director may initiate, on behalf of the Town, an action in any court of competent jurisdiction concerning the abatement of any public nuisance created or caused by a violation of this article. In any such action, the Director may request any legal or equitable relief, including injunctive relief, and civil damages, as provided by law.

(d) Other Remedies. The remedies provided in this section are not exclusive remedies. Nothing in this section shall be construed to prevent the Town from pursuing any or all of the remedies provided in those sections against Users or persons involved in violations of this article. In addition to the civil or criminal penalties provided herein, the Town may recover reasonable attorney fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action at law against the person found to have violated this article or the orders, rules, regulations, and permits issued hereunder. In any action involving an award of civil damages in favor of the Town, the Town shall also recover interest on such damages as specified in Section 5-12-102, Colorado Revised Statutes, as amended.

(e) Tenant Responsibility. Where an owner of a property leases a premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an Industrial User, either or both may be held responsible, jointly, or severally, for compliance with the provisions of this article.

Section 2. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines



that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Charles E. Rossi, Mayor

ATTEST:

\_\_\_\_\_  
Judy Larson, Town Clerk

PASSED ON SECOND AND FINAL READING this \_\_\_\_\_ day of \_\_\_\_\_, 2004, AND ORDERED PUBLISHED ONCE IN FULL.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Charles E. Rossi, Mayor

ATTEST:

\_\_\_\_\_  
Judy Larson, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Corey Y. Hoffmann, Town Attorney