Introduced by: Mayor Matherly
Introduced: January 9, 2017

ORDINANCE NO. 6038

AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE CHAPTER 82 AND ADOPTING REVISED WASTEWATER TREATMENT REGULATIONS

WHEREAS, in 2007, the City Council adopted Ordinances 5701, 5702, and 5703 to implement new requirements of federal law regarding storm water runoff; and

WHEREAS, since the adoption of the Ordinances the Alaska Department of Environmental Conservation assumed authority over storm water regulations from the U.S. Environmental Protection Agency in October of 2009 and issued the City a new Permit with new terms and conditions; and

WHEREAS, in accordance with new terms and conditions of the Permit, the City must maintain and update the Ordinances to be consistent with the new Permit and current version of the Alaska Construction General Permit; and

WHEREAS, the Engineering Department has extensively reviewed the storm water requirements, with input from other agencies, and recommends the following revisions be made; and

WHEREAS, in 2013 by Ordinance No. 5919, Divisions 2-9 of Article II, Chapter 82, were codified by reference with copies available at the City Clerk's Office and online; the same is now proposed for Divisions 10-12.

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Fairbanks as follows:

Section 1. The City hereby adopts the Revised Wastewater Treatment Regulations contained in Attachment "A" to this Ordinance and by this reference incorporates those regulations as part of the Fairbanks General Code.

Section 2. FGC Section 82-30 is amended as follows [new text in **underlined bold** font; deleted text in ~~strikethrough~~ font]:

Sec. 82-30. – Adoption.

(a) The **2017**~~2013~~ version of the Wastewater Treatment Regulations (Attachment "A" to Ordinance No. **6038**~~5919~~) is adopted by the City of Fairbanks.

(b) Copies of the Wastewater Treatment Regulations will be made available at the City Clerk's Office and made accessible online at the City's website.

DIVISIONS 2 – 12. – RESERVED

Secs. 82-31—82-388. – Reserved.

Section 3. That the effective date of this ordinance is the 28th day of January 2017.

Jim Matherly, City Mayor

AYES: Huntington, Norum, Therrien, Pruhs, Cleworth, Rogers
NAYS: None
ABSENT: None
ADOPTED: January 23, 2017

ATTEST:

Emily Brandt for

D. Danyielle Snider, CMC, City Clerk

APPROVED AS TO FORM:

Paul J. Ewers, City Attorney

Attachment "A"

City of Fairbanks

2017 Wastewater Treatment Regulations*

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ARTICLE II. WASTEWATER TREATMENT REGULATIONS

DIVISION 1. GENERALLY

Sec. 82-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or *the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Applicable pretreatment standards means, for any specified pollutant, the city's prohibitive standards, the city's specific pretreatment standards (local limits), state pretreatment standards, or EPA's Categorical Pretreatment Standards (when effective), whichever standard is appropriate or most stringent.

Approval authority means the regional administrator of the U.S. Environmental Protection Agency Region 10, and/or the State of Alaska Department of Environmental Conservation (ADEC) Division of Water, Northern Region.

Authorized representative of the user means:

(1) If the user is a corporation:

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

b. The manager of one or more manufacturing, production or operation facility, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

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

The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to GHU.

Best Management Practices (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 82-206 of this chapter. BMP also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (milligrams per liter (mg/l)).

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR chapter I, subchapter N, parts 405 through 471.

Categorical Industrial User or Categorical user means a user covered by one of EPA's categorical pretreatment standards.

Color means the optical density at the visual wave length of maximum absorption, relative to distilled water. A transmittance of 100 percent is equivalent to zero optical density.

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

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

Domestic user (residential user) means any person who contributes, causes or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical makeup as that of a residential dwelling unit. Dischargers from a residential

dwelling unit typically include up to 100 gallons per capita per day, 0.2 pound of BOD per capita per day, and 0.17 pound of TSS per capita per day.

Environmental Protection Agency (EPA) means the U.S. Environmental Protection Agency or, where appropriate, the director of the region 10 office of water, or other duly authorized official of that agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

Existing user means any non-categorical user which was discharging wastewater prior to the effective date of this article.

General manager means the general manager and chief executive officer of Golden Heart Utilities, Inc.

Golden Heart Utilities, Inc. (GHU) means the leaseholder and operator of the Fairbanks Regional Wastewater Treatment Plant.

Grab sample means a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and in as short a period of time as feasible.

Indirect discharge or *discharge* means the introduction of pollutants into the POTW from any nondomestic source regulated under section 307(b), (c), or (d) of the act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all appurtenant constructed devices and appliances.

Industrial user means an industrial or commercial establishment which discharges wastewaters having the characteristics of industrial wastes.

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources, does one of the following:

(1) Inhibits or disrupts the POTW, its treatment processes or operations;

(2) Inhibits or disrupts its sludge processes, use or disposal; or

(3) Is a cause of a violation of its current NPDES/APDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued under such provisions (or more stringent state or local regulations):

a. Section 405 of the Clean Water Act;

b. The Solid Waste Disposal Act (SWDA), including title II commonly referred to as the Resource Conservation and Recovery Act (RCRA);

c. Any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA;

d. The Clean Air Act;

e. The Toxic Substances Control Act; and

f. The Marine Protection, Research and Sanctuaries Act.

Liquid waste hauler means any person that collects, pumps, transports and/or disposes of liquid wastes.

Liquid waste hauler permit means a permit issued by GHU pursuant to Division 4 of these regulations which authorizes a liquid waste hauler to discharge permitted wastes into the designated disposal facilities of the POTW.

Liquid wastes means those materials, including but not limited to sand trap pumpings, septic tank pumpings, portable toilet pumpings, food service or petroleum service grease trap pumpings, sludges generated from domestic wastewater treatment plants and lagoons, waste or used oils and lubricants, chemical wastes, wastes from industrial or commercial wastewater treatment systems, hazardous wastes, storm drain sludges or dredgings and other wastes as defined by GHU. Liquid wastes are not considered permitted wastes for legal discharge into the city's designated disposal facilities.

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

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

New source means:

(1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after 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.

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

(3) Construction of a new source has commenced if the owner or operator has:

a. Begun or caused to begin as part of a continuous onsite construction program:

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

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

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for

feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

New user means a user that applies to the city for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the POTW after the effective date of this chapter implementing this definition, or August 1, 1992, whichever is the later date. A new user could also be considered a new source. Any person who buys an existing facility that is discharging nondomestic wastewater will be considered an existing user if no significant changes are made in the manufacturing operation.

Non-Significant Categorical Industrial User (NSCIU) as defined in 40 CFR 403.3 (v)(2) means an Industrial user subject to Categorical Pretreatment Standards under 40 CFR 403.6 who never discharges more than 100 gpd of total Categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater) and submits the certification statement listed in 40 CFR 403.12(q), as well as any supporting documentation, annually and never discharges any untreated concentrated wastewater.

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 City of Fairbanks and Golden Heart Utilities, Inc. NPDES/APDES permit (including an increase in the magnitude or duration of a violation).

Permitted wastes (permitted liquid wastes) means those liquid wastes which are authorized by GHU in a liquid waste hauler permit to be disposed at the designated disposal facilities. Permitted wastes are limited to septic tank pumpings and portable toilet pumpings from domestic origins. Blended or combined wastes from an industrial process or nondomestic source do not qualify as permitted wastes.

Permittee means a person or user issued a wastewater discharge permit.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

pH means a measure of the acidity or alkalinity of a substance expressed in standard units.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, odor, and so forth).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(3).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards or *standards* means prohibited discharge standards, categorical pretreatment standards, local limits, and best management practices (BMP) as established by GHU.

Prohibited discharge standards or *prohibited discharges* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 82-206.

Publicly owned treatment works (POTW) means a treatment works, as defined by section 212 of the act (33 USC 1292) which is owned by the city and leased to Golden Heart Utilities, Inc. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means GHU.

Residential user means the same as "domestic user."

Septic tank waste means any sewage from holding tanks such as trains, airplanes, buses, chemical toilets, campers, trailers and residential septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, and so forth).

Sewer means any pipe, conduit, ditch or other device used to collect and transport sewage from the generating source.

Significant industrial user (SIU) means:

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

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

b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

c. Is designated as such by GHU on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, GHU may, at any time, on its own initiative or in response to a petition received from a user (and in accordance with procedures in 40 CFR 403.3(v)(2) determine that such user should not be considered a significant industrial user.

Slug load means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in sections 82-206 through 82-216 or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

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

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Superintendent means the person designated by GHU to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or such person's duly authorized representative.

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

Toxic pollutant means one of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under section 307 of the act (33 USC 1317).

Treatment plant effluent means the discharge from the POTW into waters of the United States.

Utility superintendent/wastewater means the superintendent and manager of the wastewater utility of GHU. See definition of "superintendent."

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater discharge permit (industrial wastewater discharge permit, discharge permit) means an authorization or equivalent control document issued by GHU to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter.

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

Sec. 82-32. Abbreviations.

The following abbreviations shall have the designated meanings:

AAC--Alaska Administrative Code

ADEC--Alaska Department of Environmental Conservation

APDES – Alaska Pollutant Discharge Elimination System

ASPP--Accidental spill prevention plan

BOD--Biochemical oxygen demand

CFR--Code of Federal Regulations

COD--Chemical oxygen demand

EPA--U.S. Environmental Protection Agency

ERP – Enforcement Response Plan or Enforcement Guide

GHU--Golden Heart Utilities, Inc.

gpd--gallons per day

l--liter

mg--milligrams

mg/l--milligrams per liter

NPDES--National Pollutant Discharge Elimination System

NSCIU---Non-Significant Categorical Industrial User

O&M--Operation and maintenance

POTW--Publicly owned treatment works

RCRA--Resource Conservation and Recovery Act

SIC--Standard industrial classifications

SIU--Significant industrial user

SWDA--Solid Waste Disposal Act (42 USC 6901, et seq.)

TSS--Total suspended solids

UPC--Uniform Plumbing Code

USC--United States Code

Sec. 82-33. Purpose and policy.

(a) This article sets forth uniform requirements for users of the privately operated wastewater treatment works in the city and requires the operator of the POTW to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR part 403). The objectives of these rules and regulations are to:

(1) Prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

(2) Prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

(3) Ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

(4) Protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and

(5) Improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.

(b) These rules and regulations shall apply to all users of the POTW. This article:

(1) Authorizes the issuance of wastewater discharge permits;

(2) Authorizes the issuance of liquid waste hauler permits;

(3) Authorizes monitoring, compliance and enforcement activities outlined in the Enforcement Response Plan (ERP);

(4) Establishes administrative review procedures;

(5) Requires user reporting; and

(6) Provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article. These rules and regulations also provide for the recovery of operations, maintenance or replacement cost of the POTW.

Sec. 82-34. Wastewater utility established.

There is established within the city a wastewater utility which shall include a secondary sewage treatment plant, all trunks, laterals and interceptor sewers, other facilities useful in transporting and disposal of sewage; and all appurtenances, including all extensions and improvements.

Sec. 82-35. Establishing industrial cost recovery system.

At such time as industrial wastes, as defined under section 35.905-8, of the Construction Grant Regulations, 40 CFR part 35, are discharged to the facilities constructed under EPA Grant No. C1020039, the city and the private operator shall develop and adopt an industrial cost recovery system acceptable to the United States Environmental Protection Agency. This cost recovery system shall comply with the requirements of PL 92-500 and all pertinent regulations and guidelines.

Sec. 82-36. Administration.

Except as otherwise provided in this chapter, the president of Golden Heart Utilities, Inc., is responsible for the operation, repair and management of the wastewater utility and shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the president may be delegated by the president to other Golden Heart Utilities, Inc., personnel.

Sec. 82-37. Adoption and amendment of rules and regulations; resolution of conflicts.

These rules and regulations have been adopted by the city council, a municipal corporation of the state, and are in compliance with the laws of the state. No individual employee of the city or the private operator has the authority to waive, alter or amend

these rules and regulations, notwithstanding the authority of the mayor to resolve any conflict between this article and other provisions of this Code.

Sec. 82-38. Use of public sewer required.

(a) It shall be unlawful for any person to place, deposit or permit to be placed or deposited in an unsanitary manner upon public or private property within the city or in any area under the jurisdiction of the city any human or animal excretion, garbage or other objectionable waste which is normally introduced into a sanitary sewer.

(b) It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sanitary sewage, industrial waste or other polluted water, except where suitable treatment has been provided in accordance with the provisions of this chapter.

(c) Except as otherwise provided in subsection (e), it shall be unlawful to construct or maintain any privy, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(d) The owner of all houses, buildings or structures used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, easement or right-of-way in which there is located a public sanitary or combined sewer of the city is required at his expense to install suitable toilet facilities in such places, and to connect such facilities directly with the proper sewer in accordance with the provisions of this chapter, within two years after date of official notice to do so, provided the sewer is within 250 feet of the above-described structures.

(e) Chemical toilets or porta potties may be used:

(1) In conjunction with an active construction project for which a building permit has been issued.
(2) In conjunction with special events.
(3) For outdoor recreational and sporting events.
(4) For temporary buildings which are occupied pending construction of a new building which is under construction.
(5) In cases of natural disasters and emergencies.
(6) As approved by the mayor.

All chemical toilets or porta potties shall be:

(1) Registered with the building department and validated with a permit which shall be affixed to the facilities. No permits shall be required in the case of natural disasters or for construction project sites which have building permits.

(2) When the operator of a food establishment provides seating for its patrons no permit shall be issued except upon proof that the applicant has

received approval from the Alaska Department of Environmental Conservation that the use of chemical toilets and porta potties meets the requirements of 18 AAC 31.520 (toilet facilities).

(3) Maintained as required by the Alaska Department of Environmental Conservation and the conditions, if any, set forth in the permits, including any durational or use limitations.

(4) May be required to be screened from public view as set forth and described in the permit.

(5) In compliance with all accessibility requirements as set forth in the Code of Ordinances.

Sec. 82-39. Vandalism.

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

Sec. 82-40. Compliance of plans and specifications with standards.

(a) No sewer collection system shall be constructed and no substantial change in any sewer collection system shall be made until plans and specifications, conforming with the requirements of the state department of environmental conservation and the standards prescribed by GHU are submitted to and approved by GHU.

(b) After such plans and specifications have been approved, no substantial changes shall be made without first submitting a detailed statement of such proposed changes to GHU and receiving approval from GHU.

Sec. 82-41. Review of plans and specifications.

GHU shall consider, in reviewing the engineering report, plans and specifications submitted for approval, the adequacy of the project to meet the present and future needs of the area served, the functional and sanitary features of the design of the project, the economics of the project as compared with possible alternatives, the availability of existing sewer facilities, and the suitability of the project with respect to present or future uses and enjoyment of the area affected.

Sec. 82-42. Time limitation for completion and acceptance of construction.

Construction of a project for which plans and specifications have been approved must be completed and accepted within two years following the approval date or such approval will be void. Extensions shall only be granted for periods of delay caused by

circumstances beyond the control of the property owners. A bond may be required for the uncompleted portion of the work.

Secs. 82-43--82-65. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 82-66. Notification of violation.

(a) When the superintendent finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the superintendent may serve upon that user a written notice of violation via certified letter.

(b) Within 15 days of the receipt of this notice, an explanation of the violation and a plan for its satisfactory correction and prevention, to include specific required actions, shall be submitted by the user to the superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(c) Nothing in this section shall limit the authority of GHU to take any action, including emergency actions or any other enforcement action outlined in the ERP, without first issuing a notice of violation.

Sec. 82-67. Consent orders.

The superintendent may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections 82-69 and 82-70 and shall be judicially enforceable. Use of a consent order shall not be a bar against or a prerequisite for taking any action outlined in the ERP against the user.

Sec. 82-68. Show cause hearing.

(a) The superintendent may order, via a certified letter, a user which has violated or continues to violate, any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, to appear before the superintendent and show cause why the proposed enforcement action should not be taken.

(b) Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken.

(c) The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 20 days prior to the hearing. Such notice may be served on any authorized representative of the user.

(d) A show cause hearing shall not be a bar against or a prerequisite for taking any other action outlined in the ERP against the user.

Sec. 82-69. Compliance orders.

(a) When the superintendent finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.

(b) Compliance orders may also contain other requirements to address the noncompliance, including additional self monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer.

(c) A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement; nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action outlined in the ERP against the user.

Sec. 82-70. Cease and desist orders.

(a) When the superintendent finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

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

(b) Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action outlined in the ERP against the user.

Sec. 82-71. Administrative fines.

(a) When the superintendent finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the superintendent may fine such user in an amount not to exceed $1,000.00. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of ten percent of the unpaid balance; and interest shall accrue thereafter at a rate of 10.5 percent per month. A lien against the user's property will be sought for unpaid charges, fines, penalties and interest.

(c) Users desiring to dispute such fines must file a written request for the superintendent to reconsider the fine along with full payment of the fine amount within 20 days of being notified of the fine. Where a request has merit, the superintendent shall convene a hearing on the matter within 30 days of receiving the request from the user. If the user's appeal is successful, the payment, together with any accruing interest, shall be returned to the user. The costs of preparing administrative enforcement actions, such as notices and orders, may be added to the fine.

(d) Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action outlined in the ERP against the user.

Sec. 82-72. Emergency suspensions.

(a) The superintendent may immediately suspend a user's discharge after informal notice to the user whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The superintendent may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(b) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The superintendent shall allow the user to recommence its discharge when the user demonstrated to the satisfaction of GHU that the period of endangerment has

passed, unless the termination proceedings in section 82-73 are initiated against the user.

(c) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the superintendent prior to the date of any show cause or termination hearing under sections 82-68 and 82-73.

Sec. 82-73. Termination of discharge.

(a) In addition to the provisions of section 82-178, any user that violates the following conditions is subject to discharge termination:

(1) Violation of wastewater discharge permit conditions.

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(5) Violation of the pretreatment standards in section 82-207.

(b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 82-68 why the proposed action should not be taken. Exercise of this option by GHU shall not be a bar against or a prerequisite for taking any other action outlined in the ERP against the user.

Sec. 82-74. Availability of records.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from GHU inspection and sampling activities, shall be available to the public without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of GHU that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES/APDES program or pretreatment program, and

in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Sec. 82-75. List of noncompliant users.

(a) GHU shall publish annually, in the largest daily newspaper published in the city where the POTW is located a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements.

(b) For the purpose of this chapter, a Significant Industrial User (or any Industrial User which violates subsections (3), (4), or (8) of this section) is in "significant noncompliance" if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l), defined as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements taken for each 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 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fat, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violations of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, minimum, longer-term average, instantaneous limit, or narrative Standard) that GHU determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of GHU personnel or the general public;

(4) Any discharge of pollutant that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the city's or GHU's exercise of its emergency authority under sections 82-66 through 72 of this chapter to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a local control mechanism or

enforcement order for starting construction, completing construction or attaining final compliance;

(6) Failure to provide within 45 days after the due date, required reports, such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) 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.

Sec. 82-76. Water supply severance.

Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after the user has satisfactorily demonstrated its ability to comply.

Sec. 82-77. Contractor listing.

Users who have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city and GHU. Existing contracts for the sale of goods or services to the city and GHU held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the city and GHU.

Sec. 82-78. Injunctive relief.

When the superintendent finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued under this article, or any other pretreatment standard or requirement, the superintendent may petition the superior court of the Fourth Judicial District for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this article on activities of the user. GHU may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action outlined in the ERP against a user.

Sec. 82-79 Civil Penalties.

(a) A user which has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of $1,000.00 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) To the fullest extent permitted by state law, the Superintendent may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the city.

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

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action outlined in the ERP against a user.

Sec. 82-79.1 Criminal prosecution.

(a) A user which has willfully or negligently violated any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 per violation per day, or imprisonment for not more than six (6) months, or both.

(b) A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least $1,000.00 per violation per day, or imprisonment for six (6) months, or both such fine and imprisonment. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than $1,000.00 per violation, per day, or imprisonment for not more than six (6) months, or both.

Sec. 82-80. Affirmative defense; upset.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with any applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of subsection (c) of this section are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause of the upset;

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

(3) The user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. A description of the indirect discharge and cause of noncompliance;

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

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

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

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

f. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon

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

Sec. 82-81. Affirmative defense; prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in section 82-206(a) and (b)(3) through (7) if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass through or interference or no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when GHU was regularly in compliance with its NPDES/APDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Sec. 82-82. Affirmative defense; bypass.

(a) For the purposes of this section:

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) through (f) of this section.

(c) If a user knows in advance of the need for a bypass, it shall submit prior notice to GHU at least ten days before the date of the bypass, if possible.

(d) A user shall submit oral notice to GHU of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent

recurrence of the bypass. GHU may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(e) Bypass is prohibited, and GHU may take an enforcement action against a user for a bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime; this condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The user submitted notices as required under subsections (c) and (d) of this section.

(f) GHU may approve an anticipated bypass, after considering its adverse effects, if GHU determines that it will meet the three conditions listed in subsection (e) of this section.

Secs. 82-83--82-105. Reserved.

DIVISION 3. SERVICE CONNECTIONS

Sec. 82-106. Permit required.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance without first obtaining a written sewer connection permit from the superintendent or designated representative.

(b) Where construction, repair, maintenance and excavation in public streets are involved, section 70-500 et seq. shall apply.

Sec. 82-107. Responsibility for damage.

The owner shall be responsible to the city and/or GHU for any loss or damage that may directly or indirectly be occasioned by the installation of the service connection.

Sec. 82-108. Investigation of permit applications.

(a) All requested permit applications shall be screened and evaluated by the superintendent or his designated representative to determine the following:

(1) The quantity and characteristics of the sewage to be introduced.

(2) The availability of a public sewer.

(3) The sufficiency of the public sewer capacity.

(4) The commitment of the owner to comply with all provisions of this Code.

(b) The unacceptability of any item in subsection (a) of this section shall be sufficient grounds for denying an application.

Sec. 82-109. Plumbing requirements.

(a) Every service line shall contain cleanouts outside the building as required by the Uniform Plumbing Code.

(b) All structures shall contain a check valve to prevent sewer backup inside the confines of the structure as required by the Uniform Plumbing Code.

Sec. 82-110. Individual sewer service.

Independent and separate sewer services shall be provided on each lot for all buildings within the city or that are to be ultimately connected to the municipal sewerage system. Common sewer services are expressly prohibited in zero lot line and townhouse developments. Condominiums or planned unit developments with specific association agreements subject to city and GHU review, and satisfaction may be allowed as exceptions.

Sec. 82-111. Maintenance and repair.

Users shall be responsible for all maintenance and repair of their service line, connection cleanouts and check valves, and shall further be responsible for the removal of soft plugs or debris which accumulates in their service line or connection as well as frozen service line and connections. Users shall ensure that all-weather access is available to sewerage system personnel for cleanouts, valves, control manholes and pretreatment facilities located on user property.

Sec. 82-112. Disclaimer of warranty.

Any approval by the city of a type, kind or capacity of an installation shall not relieve a person of the responsibility of revamping, enlarging or otherwise modifying

such installation to accomplish an intended purpose. Nor shall any written or oral agreements as to limits of constituents of volume of waters or wastes be considered as final approval for continuing operation. These limits will be subject to constant study and change as considered necessary to serve their intended purpose. The utility expressly disclaims warranty of facilities installed by users or by user's representatives.

Secs. 82-113--82-135. Reserved.

DIVISION 4. LIQUID WASTE HAULER PERMIT

Sec. 82-136. Required.

Liquid waste haulers are subject to this article, excepting for sections as otherwise noted in this article. Persons disposing of permitted wastes at the designated disposal facility of the city shall obtain a liquid waste hauler permit in the manner specified in this division.

Sec. 82-137. Application.

Persons seeking a permit to use the designated disposal facilities of GHU shall complete and file with the superintendent or his designee an application on the form prescribed by the superintendent. In support of the application, the user shall be required, at a minimum, to submit the following information:

(1) Name and address of the hauler.

(2) Number, capacity and type of all vehicles that are operated by the hauler for purposes of hauling liquid wastes.

(3) Types of materials pumped by the hauler and the specific disposal methods and locations for those materials.

(4) Other items as the superintendent deems appropriate to assure compliance with this article.

Sec. 82-138. Disposal charge.

(a) The disposal charge for all permitted liquid waste shall be the current rate as established in the state public utilities commission approved tariff for GHU. Such charge shall be payable on a monthly basis and shall be collected by GHU.

(b) Accounting and billing of each such load discharged will be accomplished by use of an electronic card reading and printing device located at the disposal station or by other means deemed appropriate by the superintendent.

(c) Each vehicle using the designated disposal facilities of GHU must have an authorization document issued by GHU, which shall identify the company, permit number, identification of vehicles and other items as appropriate or otherwise indicated in the liquid waste hauler permit.

(d) GHU shall establish a charge per card for replacement of lost or damaged electronic pass cards.

Sec. 82-139. Conformity with article.

Permits to use the designated disposal facilities of GHU are subject to all the provisions of this article unless otherwise indicated in this section and the issued permit, and all other regulations, charges and fees deemed applicable by the superintendent.

Sec. 82-140. Sampling authorized.

(a) Liquid wastes disposed of at the designated disposal facilities of GHU shall be subject to sampling to determine compliance with all applicable provisions of this article. GHU may collect samples of each hauled load to ensure compliance with applicable standards. GHU may require the hauler to provide a waste analysis of any load prior to discharge. Liquid waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, sources of waste, and volume and characteristics of waste.

(b) Limitations and prohibitions governing these pumpings are contained in section 82-209, except the following limitations and prohibitions shall also apply:

Total petroleum hydrocarbon, mg/l.....	25
Closed cup flashpoint test, degrees Fahrenheit.....	Greater than 140

Sec. 82-141. Liquid waste hauler permit conditions.

(a) Liquid waste hauler permits shall be issued for no longer than three years. All terms and conditions of the permit may be subject to modification and change by the superintendent at any time during the life of the permit.

(b) A liquid waste hauler permit may not be transferred, reassigned or sold.

(c) Liquid waste hauler permit renewal must be applied for and an updated permit application submitted to the superintendent at least 30 days prior to the expiration date contained in the permit.

(d) Conditions and information contained in the liquid waste hauler permit may include but are not limited to the following:

(1) Firm name, address, phone number.

(2) Authorized representative information and signature.

(3) Certification of permit condition acceptance.

(4) Restrictions of hours of operation if applicable.

(5) Conditions upon which permit revocation may occur.

(6) Limitation on fats, oils, greases, hydrocarbons or other pollutants.

(7) Permit number, card number.

(8) Recordkeeping and reporting requirements.

(9) Compliance with rules and regulations of GHU regarding proper cleanliness and sanitary conditions.

(10) Requirements to immediately notify the superintendent of any unusual circumstances observed during liquid waste pumping operations.

(11) Other conditions, limitations or prohibitions deemed appropriate by the superintendent.

(e) Liquid waste hauler truck contents shall be subject to sampling and analysis by GHU wastewater utility employees at any time.

(f) All reports and records required to be retained by this article shall be retained for a minimum of three years and shall be made available immediately upon request by the superintendent.

Sec. 82-142. Use of electronic cards.

(a) Electronic cards shall be issued for each truck utilizing the designated disposal facilities of GHU.

(b) Properly issued cards shall be designated in the liquid waste hauler permit identifying the specific truck issued to, card number, and date issued.

(c) The authorization document issued by GHU in accordance with this Code shall accompany each vehicle and be made available upon request of any GHU wastewater utility employee.

Sec. 82-143. Discontinuance of discharges authorized.

Any GHU wastewater utility employee shall have the authority to order the immediate discontinuance of the discharge from any liquid waste hauler truck into the designated disposal facilities of GHU. Such order shall be based on the employee's best professional judgment that the discharge may be in violation of any applicable condition of this article, or may otherwise be deleterious to the operation of the wastewater treatment plant, the POTW, or the safety of GHU employees.

Sec. 82-144. Denial of permit.

(a) The superintendent may deny the issuance of a liquid waste hauler permit on the following grounds:

(1) The applicant knowingly falsified information on his application;

(2) The applicant's previous liquid waste hauler permit is under suspension or probation or has been otherwise revoked and the condition upon which such action was taken still exists;

(3) The applicant is not current on all disposal and permit related reports and charges;

(4) Discharge to the POTW of unpermitted or otherwise prohibited wastes; or

(5) Other items as the superintendent considers significant.

(b) If an application for a liquid waste hauler permit is denied, the superintendent shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with the degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.

(c) Upon receipt of notification of denial of a permit application, the applicant may request and shall be granted a hearing to be held by the superintendent or his designated representative. At such hearing the applicant shall have the burden of establishing that the conditions set out in this article have been met and that the permit should be issued.

(d) The superintendent may conduct the hearing and take the evidence or may designate a representative to:

(1) Issue in the name of the superintendent notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to the matter involved in such hearings;

(2) Take the evidence; and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, to the superintendent, together with recommendations for action thereon.

Sec. 82-145. Revocation, suspensions, probation.

(a) All liquid waste hauler permits issued to any person may be revoked, suspended or entered into a probationary period upon a finding by the superintendent that any of the following conditions exist:

(1) Such person has failed to pay disposal charges in accordance with the state public utilities commission tariff of GHU;

(2) Such person or his representative has improperly used and/or maintained the designated disposal facilities of GHU in violation of requirements established by the superintendent;

(3) Such person or his representative failed to display the authorized document upon request by a representative or employee of GHU;

(4) Such person or his representative has changed, altered or otherwise modified the face of a permit or authorization document without the permission of the superintendent;

(5) Such person or his representative has violated any condition of the permit;

(6) Such person or his representative has falsified any application, records, reports or monitoring results required to be maintained, or has failed to immediately make available such items to the superintendent upon his request; or

(7) Such person or his representative failed to immediately halt the discharge from his truck into the designated disposal facilities of GHU upon the order of a GHU wastewater utility employee.

(b) Any liquid waste hauler permit which has been revoked, suspended or entered into probation pursuant to this section may be reinstated upon a finding by the superintendent that the condition which resulted in such revocation no longer exists.

(c) Upon determination of a Code or liquid waste hauler permit violation, any permittee shall be subject to the enforcement actions outlined in division 2 of this article, or as is otherwise contained in the liquid waste hauler permit as necessary to protect the wastewater treatment plant or environment.

(d) Suspensions and periods of probation may be effected by the superintendent for any length of time up to one year.

Sec. 82-146. Private wastewater disposal.

(a) Where a public sewer is not available under the provisions of the Uniform Plumbing Code (UPC), as adopted and amended in FGC Sections 10-136 and 10-137, the building sewer shall be connected to a private wastewater disposal system complying with the same provisions and applicable city, state and federal requirements.

(b) Upon completion of construction of a sewer system extension in an area, GHU shall publish a notice that the sewer service is available to serve the property owners of that area. The owner of property served by a private wastewater disposal system shall have installed or cause to be installed, at his expense, a connection to the public sewer within one year from the date such sewer service is declared available, provided the sewer is within 250 feet of the property line. The connection shall be of a type and installed in a manner consistent with this article.

(c) No statement contained in this section shall be construed to interfere with any additional requirement that may be imposed under FGC Chapter 10 or Chapter 34 or by the City Engineer or the City Building Official.

Sec. 82-147. Building sewers.

All building sewers shall be installed in complete accordance with provisions of the Uniform Plumbing Code, as adopted and amended in FGC Sections 10-136 and 10-137 and the requirements of the state public utilities commission approved tariffs of GHU.

Secs. 82-148--82-170. Reserved.

DIVISION 5. WASTEWATER DISCHARGE PERMIT

Sec. 82-171. Required for significant industrial users.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the superintendent. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subject the wastewater discharge permittee to the sanctions set out in this article. Obtaining a wastewater discharge permit does not

relieve a permittee of the obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(b) The superintendent may require other users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this division.

Sec. 82-172. Existing significant industrial user (SIU).

Any significant industrial user (SIU) that was discharging wastewater into the POTW prior to the effective date of the ordinance implementing this section and that wishes to continue such discharges in the future shall within 60 days after notification by the superintendent submit a permit application to GHU in accordance with section 82-175.

Sec. 82-173. New sources and new users.

(a) At least 90 days prior to the anticipated start-up, new sources, sources that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, and new users considered by GHU to fit the definition of significant industrial user (SIU) shall apply for a wastewater discharge permit and will be required to submit to GHU at least the information listed in section 82-175. A new source (new user) cannot discharge without first receiving a wastewater discharge permit from GHU.

(b) New sources and new users shall also be required to include in their application information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources and new users shall give estimates of the information requested in section 82-175(b)(4) and (5).

Sec. 82-174. Extrajurisdictional users.

Any existing user located beyond the city limits required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in section 82-175. New sources and new users located beyond the city limits required to obtain a wastewater discharge permit shall comply with section 82-173.

Sec. 82-175. Wastewater discharge permit application contents.

(a) Reporting requirements for Industrial Users upon effective date of Categorical Pretreatment Standard—Baseline Monitoring Report (Initial Compliance Report). Within 180 days after the effective date of a Categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing Industrial Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the

superintendent a report which contains the information listed in the paragraphs (b)(1)-(8) of this section. 90 day Compliance Report (Periodic Compliance Report) –At least 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 superintendent a report which contains the information listed in paragraphs (b)(1)-(5) of this section. New Sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable Pretreatment Standards. New Sources shall give estimates of the information requested in paragraphs (b) (4) and (5) of this section.

(b) All users required to obtain a wastewater discharge permit must submit, at a minimum, the information in this section. The superintendent shall approve a form to be used as a permit application. Categorical users submitting the following information shall have complied with 40 CFR 403.12(b):

(1) *Identifying information.* The user shall submit the name and address of the facility, including the name of the operator and owners.

(2) *Permits.* The user shall submit a list of any environmental control permits held by or for the facility.

(3) *Description of operations.* The user shall submit a brief description of:

A. The nature, average rate of production, and standard industrial classification of the operations carried out by such industrial user, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

B. Number and type of employees, hours of operation;

C. Each product produced by type, amount, process and rate of production;

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

E. The time and duration of discharges;

This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details shall show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(4) *Flow measurement.*

A. *Categorical user.* A categorical user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

1. Regulated or manufacturing process streams; and

2. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

B. *Non-categorical user.* A non-categorical user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW as required by the superintendent from each of the following:

1. Total process flow;

2. Wastewater treatment plant flow;

3. Total plant flow; and

4. Individual manufacturing process flow.

C. *Verification.* GHU may verify the estimates of these flows where justified by cost or feasibility considerations.

(5) *Measurements of pollutants.*

A. *Categorical user.*

1. A categorical user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

2. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the categorical pretreatment standard or as required by GHU of regulated pollutants (including standards contained in sections 82-206 through 82-209, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in section 82-271 and 82-272.

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

4. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Pretreatment Standards.

5. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard, this adjusted limit along with supporting data shall be submitted as part of the application.

B. *Non-categorical user.*

1. A non-categorical user shall identify the applicable pretreatment standards for its wastewater discharge.

2. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by GHU) of regulated pollutants contained in sections 82-206 through 82-209, as appropriate, in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in section 82-271 and 82-272.

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

4. Where the superintendent developed alternate concentration or mass limits because of dilution, this adjusted limit along with supporting data shall be submitted as part of the application.

C. Non-Significant Categorical Industrial User (NSCIU).

A Non-Significant Categorical Industrial User (NSCIU) shall follow 5(a)(1)-(5) with the exception that a signed annual certification statement, an example of which can be found at 40 CFR 403.12(q), and any supporting documentation and/or alternative report be turned into the superintendent.

(6) *Certification*. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in section 82-176, indicating whether the applicable 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 the applicable pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the applicable pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The user's schedule shall conform with the requirements of section 82-243. The completion date in this schedule shall not be later than the compliance date established pursuant to section 82-214.

A. Where the user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by this subsection, the information required by subsection (b)(6) and this subsection (b)(7) shall pertain to the modified limits.

B. If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by subsection (b)(6) and this subsection shall be submitted by the user within 60 days after the modified limit is approved.

(8) *Other information.* The user shall submit any other information as may be deemed necessary by the superintendent to evaluate the wastewater discharge permit application.

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

Sec. 82-176. Signatory and certification requirement.

All wastewater discharge permit applications and user reports must be signed by a responsible officer or manager, or sole proprietor or general partner as applicable, or duly authorized representative.

(1) For the purpose of this section, a responsible officer or manager means:

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

b. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the approval authority prior to or together with the report being submitted of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(2) A duly authorized representative is an individual designated by the responsible officer, manager, sole proprietor or general partner in writing. The written authorization must be submitted to GHU and also specifies either an individual or a position having the responsibility of the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company. If an authorization in this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to GHU prior to or together with any reports to be signed by an authorized representative.

Sec. 82-177. Wastewater discharge permit decisions.

The superintendent will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the superintendent will determine whether or not to issue a

wastewater discharge permit. Upon a determination to issue, the permit shall be issued within 30 days of full evaluation and acceptance of the data furnished. The superintendent may deny any application for a wastewater discharge permit.

Sec. 82-178. Wastewater discharge permit contents.

(a) Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(b) Wastewater discharge permits must contain the following conditions and information:

(1) A statement that indicates the wastewater discharge permit duration, which in no event shall exceed five years.

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from GHU, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(3) Applicable pretreatment standards and requirements, including any special state requirements.

(4) Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law.

(5) Requirement for immediate notification to GHU where self-monitoring results indicate noncompliance.

(6) Requirement to report a bypass or upset of a pretreatment facility.

(7) Requirement for the significant industrial user (SIU) who reports noncompliance to repeat the sampling and analysis and submit results to GHU within 30 days after becoming aware of the violation.

(8) A statement of applicable civil, criminal and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

(c) Wastewater discharge permits may contain but need not be limited to the following conditions:

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

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

(3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or routine discharges.

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.

(5) The unit charge or 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 and equipment.

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(8) Any special agreements the superintendent chooses to continue or develop between GHU and the user.

(9) Other conditions as deemed appropriate by the superintendent to ensure compliance with this article, and state and federal laws, rules and regulations.

Sec. 82-179. Wastewater discharge permit appeals.

(a) Any person, including the user, may petition GHU to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.

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

(c) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(d) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(e) If GHU fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(f) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing an appeal with the Superior Court for the Fourth Judicial District of the State of Alaska within the time provided in Alaska Rules of Court, Rules of Appellate Procedure, Rule 602.

Sec. 82-180. Wastewater discharge permit duration.

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

Sec. 82-181. Wastewater discharge permit modification.

The superintendent may modify the wastewater discharge permit for good cause, including but not limited to the following:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW 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 POTW, GHU personnel or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

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

Sec. 82-182. Wastewater discharge permit transfer.

(a) Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 60 days advance notice to the superintendent and the superintendent approves the wastewater discharge permit transfer.

(b) The notice to the superintendent must include a written certification by the new owner and/or operator which:

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

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(c) Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.

Sec. 82-183. Wastewater discharge permit revocation.

(a) Wastewater discharge permits may be revoked for but not limited to the following reasons:

(1) Failure to notify GHU of significant changes to the wastewater prior to the changed discharge.

(2) Failure to provide prior notification to GHU of changed conditions.

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

(4) Falsifying self-monitoring reports.

(5) Tampering with monitoring equipment.

(6) Refusing to allow GHU timely access to the facility premises and records.

(7) Failure to meet discharge limitations.

(8) Failure to pay fines.

(9) Failure to pay sewer charges.

(10) Failure to meet compliance schedules.

(11) Failure to complete a wastewater survey or the wastewater discharge permit application.

(12) Failure to provide advance notice of the transfer of a permitted facility.

(13) Invocation by GHU of its emergency provision as cited in section 82-72.

(14) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

(b) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

Sec. 82-184. Wastewater discharge permit reissuance.

(a) A user who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with section 82-175, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.

(b) A user whose existing wastewater discharge permit has expired and has submitted its reapplication in the time period specified in this section shall be deemed to have an effective wastewater discharge permit until GHU issues the new wastewater discharge permit.

(c) A user whose existing wastewater discharge permit has expired and who failed to submit its reapplication in the time period specified in this section will be deemed not to have a wastewater discharge permit.

Secs. 82-185--82-205. Reserved.

DIVISION 6. GENERAL REQUIREMENTS

Sec. 82-206. Prohibited discharge standards.

(a) *General prohibitions.* No user shall introduce or cause to be introduced into the GHU wastewater collection system or into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the GHU wastewater collection system or into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the GHU wastewater collection system and/or the POTW, including but not limited to waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21;

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

(3) Solid or viscous substances in amounts which will cause obstruction of the flow to and within the POTW resulting in interference;

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

(5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius) unless the approval authority, upon the request of the POTW, approves alternate temperature limits;

(6) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through;

(7) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated and approved by GHU;

(9) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

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

(11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the superintendent in compliance with applicable state or federal regulations;

(12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater unless specifically authorized by the superintendent;

(13) Sludges, screenings or other residues from the pretreatment of industrial wastes;

(14) Medical wastes, except as specifically authorized by the superintendent in a wastewater discharge permit;

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

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

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

(18) Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt

residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;

(19) Any substance which will cause the POTW to violate its NPDES/APDES and/or other disposal system permits;

(20) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage or other wastewater unless the person has first obtained testing and approval as may be generally required by GHU and paid all fees assessed for the privilege of the discharge;

(21) Any hazardous wastes as defined in rules published by the state or in EPA rules, 40 CFR 261; or

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

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

Sec. 82-207. Federal Categorical Pretreatment Standards.

The national categorical pretreatment standards found in 40 CFR parts 405 through 471 are incorporated by reference.

Sec. 82-208. State requirements.

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this article or other applicable code.

Sec. 82-209. Local limits.

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following parameters & maximum daily concentrations in mg/L:

Concentration (mg/l)	Parameter
4.35	Arsenic
0.33	Cadmium
1.23	Chromium

3.38	Copper
1.20	Cyanide
0.69	Lead
0.19	Mercury
4.74	Nickel
25.0	Oil and grease (petroleum or mineral oil products)
100.0	Oil and grease (animal and vegetable based)
0.0*	PCB
0.0*	Pesticides (all)
0.50	Phenol
0.43	Silver
1.00	Sulfide
5.0	Tin
2.61	Zinc

*No Detectable Amount

These limits apply at the point where the wastewater is discharged to the wastewater collection system. All concentrations for metallic substances are for total metal unless indicated otherwise. The superintendent may impose mass limitations in addition to or in place of the concentration-based limitations above. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit shall apply.

POTW's may develop Best Management Practices (BMP) to implement paragraphs as listed in 40 CFR 403.5 (c) (1) and (2). Such BMP shall be considered local limits and Pretreatment Standards for the purpose of this chapter and section 307(d) of the Act.

Sec. 82-210. Right of revision.

GHU reserves the right to establish, by its tariff through the Regulatory Commission of Alaska and by ordinance through the city council or in its wastewater discharge permits, more stringent standards or requirements on discharges to the POTW than are established in this article.

Sec. 82-211. Special agreement.

The city reserves the right for GHU to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will

a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the approval authority in accordance with 40 CFR 403.13.

Sec. 82-212. Dilution.

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

Sec. 82-213. Pretreatment facilities.

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

Sec. 82-214. Deadline for compliance with applicable pretreatment requirements.

(a) Compliance by existing users (categorical users) covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standard. GHU shall establish a final compliance deadline date for any existing significant industrial user (SIU) not covered by categorical pretreatment standards or for any categorical user when the local limits for that user are more restrictive than EPA's categorical pretreatment standards.

(b) New source dischargers and new users that fit the definition of SIU are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New sources and new users shall install and have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

(c) Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's categorical pretreatment standards. Any other existing SIU which is in noncompliance with any local limits shall be provided a compliance schedule placed in an order or other similar enforcement document as outlined in this article.

Sec. 82-215. Additional pretreatment measures.

(a) Whenever deemed necessary, the superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.

(b) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the superintendent and the city's building department and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at his expense.

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

Sec. 82-216. Accidental discharge/slug control plans.

(a) The superintendent may require any user to develop and implement an accidental discharge/slug control plan. Where deemed necessary by GHU, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental spill prevention plan/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to GHU for review and approval before implementation. The GHU shall determine which user is required to develop a plan and require the plan to be submitted within 30 days after notification by GHU. Each user shall implement its accidental spill prevention plan (ASPP) as submitted or as modified after such plan has been reviewed and approved by GHU. Review and approval of such plans and operating procedures by GHU shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of section 82-213.

(b) Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge, which notification must also be given for any discharge which would violate any of the prohibited discharges in sections 82-206 through 82-209; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to:

A. Inspection and maintenance of storage areas;

B. Handling and transfer of materials;

C. Loading and unloading operations;

D. Control of plant site runoff;

E. Worker training;

F. Building of containment structures or equipment;

G. Measures for containing toxic organic pollutants (including solvents); and/or

H. Measures and equipment for emergency response.

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

(d) Within five days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

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

Secs. 82-217--82-240. Reserved.

DIVISION 7. REPORTING REQUIREMENTS

Sec. 82-241. Baseline Monitoring Report (initial compliance report).

(a) Within 180 days following the date for initial compliance by the significant industrial user (SIU) with applicable pretreatment standards and requirements set forth in this article, in a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or new users considered by GHU to fit the definition of SIU, the affected discharger shall submit to GHU a report containing the information outlined in subsections (b)(1) through (6) of section 82-175.

(b) For users subject to equivalent mass or concentration limits established by GHU in accordance with procedures established in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

Sec. 82-242. 90 Day Compliance Report (Periodic compliance report).

(a) Any user that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to GHU during the months of June and December, unless required on other dates or more frequently by GHU, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, users shall sample their discharge at least twice per year.

(b) The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this article or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled more frequently than what was required by GHU or by this article, it must submit all results of sampling and analysis of the discharge during the reporting period.

(c) Any user subject to equivalent mass or concentration limits established by GHU or by unit production limits specified in the applicable categorical standards shall report production data as outlined in this section.

(d) If GHU calculated limits to factor out dilution flows or non-regulated flows, the discharger will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

(e) Flows shall be reported on the basis of actual measurement; however, GHU may accept reports of average and maximum flows estimated by verifiable techniques if GHU determines that an actual measurement is not feasible.

(f) Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in section 82-271.

(g) GHU may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewerage system.

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

Sec. 82-243. Compliance schedules for meeting applicable pretreatment standards.

(a) 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.).

(b) No increment referred to in subsection (a) of this section shall exceed nine months.

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to GHU, including, at 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 months elapse between such progress reports.

Sec. 82-244. Notification of significant production changes.

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify GHU within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

Sec. 82-245. Hazardous waste notification.

(a) Existing users that are discharging more than 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) are required to provide a one-time notification in writing to GHU, director of the EPA region 10 office of air, waste and toxic chemicals and the northern region of the department of environmental conservation. Any existing user exempt from this notification shall comply with the requirements contained in this section within 30 days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the GHU sewerage system. Such notification shall include:

(1) The name of the hazardous waste as set forth in 40 CFR part 261;

(2) The EPA hazardous waste number; and

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

(b) If an industrial user discharges more than 100 kilograms of such waste per calendar month to the sewerage system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

(1) An identification of the hazardous constituents contained in the wastes;

(2) An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month; and

(3) An estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

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

(d) Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify GHU of the discharge of such a substance within 90 days of the effective date of such regulations.

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

Sec. 82-246. Notice of potential problems, including accidental spills and slug loadings.

Any user shall notify GHU immediately of all discharges that could cause problems to the POTW, including any slug loadings. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a slug of pollutants shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the city and/or GHU under state or federal law.

Sec. 82-247. Noncompliance reporting.

If sampling performed by a user indicates a violation, the user shall notify GHU within 24 hours of becoming aware of the violation. The user shall also repeat the sampling within five days and submit the results of the repeat analysis to GHU within 30 days after becoming aware of the violation, except the user is not required to resample if:

(1) GHU performs sampling at the user at a frequency of at least once per month; or

(2) GHU performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

Sec. 82-248. Notification of changed discharge.

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

Sec. 82-249. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to GHU as the superintendent may require.

Sec. 82-250. Recordkeeping.

(a) Users subject to the reporting requirements of this article shall retain and make available for inspection and copying all records or information obtained pursuant to any monitoring activities required by this article and any additional records or information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, including documentation associated with Best Management Practices

(b) Records shall include the date, exact place, method, and time of sampling and the name of the person taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

(c) These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the superintendent.

Secs. 82-251--82-270. Reserved.

DIVISION 8. SAMPLING AND ANALYTICAL REQUIREMENTS

Sec. 82-271. Sampling requirements for users.

(a) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. The samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during the 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory. Composite samples for other parameters unaffected by compositing procedures as documented in approved EPA methodologies may be authorized by the superintendent, as appropriate.

(b) For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by 40 CFR 403.12 (e) and (h), the control authority shall require the number of

grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

Sec. 82-272. Analytical requirements.

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

Sec. 82-273. GHU monitoring of user's wastewater.

When GHU has occasion to monitor a user's wastewater, GHU shall follow the procedures for monitoring outlined in sections 82-271 and 82-272.

Secs. 82-274--82-295. Reserved.

DIVISION 9. INSPECTION

Sec. 82-296. Authorized.

(a) GHU shall have the right to enter the facilities of any user to ascertain whether the purposes of this article and any wastewater discharge permit or order issued under this article are being met and whether the user is complying with all requirements of this article.

(b) Users shall allow the superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

Sec. 82-297. Superintendent's access.

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

(b) The superintendent shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the

written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

(d) Unreasonable delays in allowing the superintendent access to the user's premises shall be a violation of this article.

Sec. 82-298. Monitoring facilities.

(a) Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling and flow measurements of each sewer discharge to the GHU wastewater utility collection system. Each monitoring facility shall be situated on the user's premises. The superintendent, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line or wastewater treatment system).

(b) There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

(d) The superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

Sec. 82-299. Search warrants.

If the superintendent has been refused access to a building, structure or property, or any part of a building, structure or property, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect as part of a routine inspection program of GHU designed to verify compliance with this article or any wastewater discharge permit or order issued hereunder this article, or to protect the overall public health, safety and welfare of the city, the superintendent shall seek issuance of a search and/or seizure warrant from the Superior Court of the Fourth Judicial District of the State of Alaska. Such warrant shall be served at reasonable hours by the superintendent in the company of a uniformed peace officer.

Sec. 82-300 – 82-309 - Reserved

DIVISION 10. CONSTRUCTION SITE STORMWATER RUNOFF

Sec. 82-310. Introduction/Purpose.

When vegetation is removed or soil is disturbed during the construction process, soil is highly vulnerable to erosion by wind and water. The sediment produced from this erosion endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Sedimentation of storm sewers and ditches also increases maintenance costs to the City of Fairbanks.

The City of Fairbanks, City of North Pole, University of Alaska Fairbanks, and Alaska Department of Transportation and Public Facilities - Northern Region collectively received a Phase II National Pollutant Discharge Elimination System (NPDES) Permit (Permit) from the U.S. Environmental Protection Agency (EPA) on June 1, 2005, to discharge from all Municipal Separate Storm Sewer Systems (MS4s) into receiving waters, which includes Beaver Springs, Chena River, Chena Slough, Noyes Slough, and other associated Waters of the U.S. The ~~Phase II NPDES~~ Permit require**d**~~s~~ the aforementioned agencies to develop, implement, and enforce a local stormwater runoff plan review and inspection program to reduce pollutants in stormwater runoff from construction activities within the Fairbanks Urbanized Area. Therefore, the purpose of this article is to empower the City of Fairbanks to meet the requirements of the ~~Phase II NPDES permit~~ **Permit** within the Urbanized Area of the City of Fairbanks, as mandated by the EPA. **The Alaska Department of Environmental Conservation (ADEC) assumed authority over the Permit in October 2009 under the Alaska Pollutant Discharge Elimination System (APDES) program. The original Permit conditions remain in effect.** The objective of this article ~~is to reduce the discharge of sediment~~, to the maximum extent practicable, **is to reduce the discharge of sediment and other pollutants resulting** from construction activities to the MS4 and waters of the U.S. This article will also promote public and environmental welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Fairbanks.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-311. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Alaska Stormwater Pollution Prevention Plan Guide: A publication prepared by the Alaska State Department of Transportation and Public Facilities (DOT&PF), and all future amendments thereto, incorporated by reference into this division.~~

Alaska Pollution Discharge Elimination System (APDES) Program: **In 2008, the State of Alaska applied to implement the NPDES Program. The EPA approved the**

application and agreed to transfer program authority to the State over four phases. The State's program is called the Alaska Pollutant Discharge Elimination System (APDES) Program and is administered by ADEC. The initial phase transferred in 2008 and included domestic discharges, log storage and transfer facilities, seafood processing facilities, and hatcheries. Phase II was completed in 2009 and included federal facilities, stormwater, wastewater pretreatment programs, and non-domestic discharges. Phase III was completed in 2010 to include mining activities. November 1, 2012 marked the completion of Phase IV and included wastewater permitting for the oil and gas industry, pesticides, munitions, and any other facilities that had not yet been transferred. New (APDES) regulations were adopted at 18 AAC 83, along with subsequent amendments effective October 23, 2008.

Best management practices (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution to the MS4 and waters of the U.S. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act **(CWA**): The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction activity: Activities including, but not limited to, clearing and grubbing, grading, excavating, and demolition.
Design criteria: The design requirement that BMPs used during construction shall be designed to handle the two-year, six-hour duration storm event without failure of the BMPs and without any degradation to water quality of the receiving water.

Erosion and sediment control plan: A set of plans indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction for activity that will result in a ground disturbance of 10,000 square feet to one acre.

Fairbanks Urbanized Area: The area of the Fairbanks North Star Borough delineated by the U.S. Census Bureau consisting of contiguous, densely settled census block groups and census block that meet minimum population density requirements, along with adjacent densely settled census blocks that together encompass a population of 50,000 people; as named by the U.S. Census Bureau on May 1, 2002 (67 FR 21962).

Hazardous materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, biological, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Maximum extent practicable: ~~The technology-based discharge standard to reduce pollutants in stormwater discharges~~**The discharge standard that uses best available technology and methods in order to reduce pollutants entering waters of the U.S. as** established by CWA § 402(p).

*Municipal **S**~~s~~eparate **S**~~s~~torm **S**~~s~~ewer **S**~~s~~ystem (MS4):* The conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) designed or used for collecting or conveying stormwater; (i**i**) which is not a combined sewer; (iii) which is not part of a publicly owned treatment works; and, (iv) which discharges to waters of the U.S.

National Pollutant Discharge Elimination System (NPDES): The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA §§ 307, 402, 318, and 405.

Pollutant: Anything that causes or contributes to pollution including, but not limited to: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation, including ice and snow melt runoff.

*Stormwater **P**~~p~~ollution **P**~~p~~revention **P**lan **(SWPPP)**:* A document that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site, and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-312. Applicability.

This division shall apply to all ground disturbances **totaling**~~of~~ 10,000 square feet or greater **on a common parcel** within the Urbanized Area of the City of Fairbanks **for development projects** ~~on private property~~ funded by the private sector, including private development where all or part of the project will be transferred to the City of Fairbanks at a later date (i.e. roads and associated right-of-way within new subdivisions).

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-313. Responsibility for administration.

The City of Fairbanks shall administer, implement, and enforce the provisions of this division.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-314. Severability.

The provisions of this division are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this division or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this division.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-315. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore this division does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-316. Permit.

No person shall be granted a residential or commercial building permit for construction activity that will result in a ground disturbance of 10,000 square feet to one acre without the submission of an **E**~~e~~rosion and ~~s~~**S**ediment ~~c~~**C**ontrol **P**~~p~~lan (ESCP) meeting the requirements set forth in this division, and approval by the City of Fairbanks.

No person shall be granted a residential or commercial building permit for construction activity that will result in a ground disturbance of greater than or equal to one acre, or result in a ground disturbance less than one acre but will be part of a larger common plan of development or sale that will collectively disturb more than one acre, without the submission of a ~~stormwater pollution prevention plan (~~SWPPP~~)~~ meeting the requirements set forth in this division, and approval by the City of Fairbanks.

An ESCP or SWPPP is not required for the following activities:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.

(**c**~~b~~) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(**d**~~c~~) Small construction activities (less than five acres) meeting the requirements for a rainfall erosivity waiver, total maximum daily load waiver, equivalent analysis waiver, or other waiver detailed in the most recently issued EPA construction general permit.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-317. Review and approval.

The City of Fairbanks will review each ESCP and SWPPP to determine its conformance with the provisions of this division. Within seven business days after receiving an ESCP or SWPPP, the City of Fairbanks shall, in writing:

(a) Issue a letter of non-objection to the ESCP or SWPPP;

(b) Issue a letter of non-objection to the ESCP or SWPPP subject to such reasonable conditions as may be necessary to secure substantially the objectives of this division, and issue the permit subject to these conditions; or

(c) Disapprove the ESCP or SWPPP, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-318. ESCP requirements.

The ESCP shall, at a minimum, include the following:

~~(~~a.~~)~~ Site description narrative.

i. *Site description:* Provide a **site address and** description of the property boundary, construction site boundary (area of disturbance **in square feet**), existing soil conditions, **and** approximate depth to groundwater.

ii. *Project description:* Provide a description of the nature and extent of the construction activity, including all ground disturbing activities, their sequence, **estimated begin and end dates,** and any work requiring dewatering.

iii. *Area of disturbance:* Provide estimates (to the nearest 500 square feet) of the total area of the property, and the total area **(square feet)** that is expected to be disturbed.

iv. *Receiving waters:* Include the name and approximate distance (to the nearest 100 feet) of all receiving waters, including wetlands as defined by the U.S. Army Corps of Engineers, where to stormwater will discharge. If the stormwater discharges to the MS4 (i.e. roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), identify the point of discharge to the MS4 and the receiving water to which the MS4 outfalls.

v. *Erosion and sediment controls:* Describe all BMPs to be used during construction, both structural (i.e. perimeter control, matting, etc.) and non-structural (project phasing, sequencing, etc.), including all BMP inspection and maintenance requirements.

vi. Any information on known contaminated soils or groundwater that may be present on site in consultation with the ADEC Contaminated Sites Program.

b. Site plan.

i. *Site characteristics:* Include the property boundary, construction site boundary, names of all adjacent streets or roadways, north arrow, and scale bar.

ii. *Construction plan:* Include the location of all planned excavation and fill activities; and all existing and proposed buildings, surfaced areas, utility installations, material or equipment staging areas, temporary soil stockpile areas, and borrow sites.

iii. *Drainage patterns:* Include approximate slopes (to the nearest percent) and direction of slopes (i.e. flow direction arrows) for both pre- and post-construction for all surfaces, ditches, and culverts.

iv. *Receiving waters:* Identify all surface waters and wetlands within one mile of the construction site, including the location where stormwater will discharge to the receiving waters. If the stormwater discharges to the MS4, identify the point of discharge to the MS4 **using the most recent copy of the City of Fairbanks Stormwater MS4 map.**

v. *Erosion and sediment controls:* Identify the location of all BMPs to be used during construction, including final stabilization.

c. BMP detail sheets.

i. *BMP standard detail sheets:* Include standard drawings of all structural BMPs to be used, including BMP-specific notes detailing installation and maintenance requirements.

d. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.

e. A signed statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the ESCP.

f. Payment of the ESCP plan review fee in the amount prescribed by the City of Fairbanks.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-319. SWPPP requirements.

The SWPPP shall, at a minimum, meet the following requirements:

(a) Conformance to the most recently issued **ADEC**~~EPA N~~**A**PDES **C**onstruction **G**general **P**permit **and any existing permit stipulations**.

(b) ~~Conformance to the most recently issued DOT & PF Alaska Stormwater Pollution Prevention Plan Guide.~~

(~~c~~**b**) Conformance to any additional standards adopted by the City of Fairbanks necessary to ensure that construction site operators practice adequate erosion, sediment, and waste control.

(~~d~~**c**) Be developed by a certified professional in ~~erosion and sediment control~~ **stormwater management** or a professional engineer registered in the State of Alaska.

(~~e~~**d**) Meet the design criteria that BMPs used during construction shall be designed to handle the two-year, six-hour duration storm event without failure of the BMPs and without any degradation to water quality of the receiving water.

(~~f~~**e**) Include a copy of the notice of intent submitted to the ~~EPA~~**ADEC**.

(~~g~~**f**) Include a signed statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the SWPPP.

(~~h~~**g**) Include the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.

(~~i~~**h**) Include payment of the SWPPP plan review fee in the amount prescribed by the City of Fairbanks.

(~~j~~**i**) Include payment of the construction site inspection fee in the amount prescribed by the City of Fairbanks.

(~~k~~**j**) **The SWPPP must be kept on-site and contain a record of the implementation of the SWPPP and other permit requirements, including the installation and maintenance of BMPs, site inspections, and stormwater monitoring.**

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-320. Inspection.

The City of Fairbanks will inspect each permitted construction site at least once per year. Access to a construction site for inspection shall not be denied. In addition to other available penalties, any permit issued under this division may be immediately suspended until an inspection is conducted. If, during construction, the City of Fairbanks finds that BMPs are improperly installed, not maintained, or inappropriate for proper erosion, sediment and waste control, any permit issued under this division may be immediately suspended until the identified problem is resolved.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-321. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm

drainage system, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of Fairbanks in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Fairbanks within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-322. Enforcement.

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this division. Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this division is committed, continued, or permitted, shall constitute a separate offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this division shall be required to bear the expense of such restoration.

In the event that any person holding a residential or commercial building permit pursuant to this division violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of Fairbanks may issue a notice of violation, suspend, or revoke the permit.

Notice of Violation

Whenever the City of Fairbanks finds that a person has violated a prohibition or failed to meet a requirement of this article, the City of Fairbanks may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(a) The performance of monitoring, analyses, and reporting;
(b) The elimination of construction stormwater discharges, illicit connections or discharges;
(c) That violating discharges, practices, or operations shall cease and desist;
(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
(e) Payment of a fine to cover administrative and remediation costs; and

(f) implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore affected property within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-323. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the City of Fairbanks. The notice of appeal must be received within 30 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the City of Fairbanks or their designee shall be final.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-324. Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 30 days of a decision by the City of Fairbanks, then the City of Fairbanks shall enter upon the subject private property, and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City of Fairbanks or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-325. Cost of abatement of the violation.

Within 90 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest to the City of Fairbanks objecting to the amount of the assessment within 14 days. If the amount due is not paid within a timely manner as determined by the decision of the City of Fairbanks or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Fairbanks by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest as allowable by law shall be assessed on the balance beginning on the 91st day following discovery of the violation.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-326. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division. If a person has violated or continues to violate the provisions of this division, the City of Fairbanks may petition for a preliminary or permanent injunction restraining the person from activities that would create further violations, or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-327. Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this division, the City of Fairbanks may impose upon a violator alternative compensatory actions, such as ~~storm drain stenciling,~~ attendance at compliance workshops, **and** ~~stream~~ cleanup **activities**, etc.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-328. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this division is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate may be taken to enjoin or otherwise compel the cessation of such nuisance.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-329. Criminal prosecution.

Any person that has violated or continues to violate this division shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties and/or imprisonment.
The City of Fairbanks may recover all attorney's fees, court costs, and other expenses associated with enforcement of this division, including sampling and monitoring expenses.

(Ord. No. 5751, § 1, 5-24-2008)

Sec. 82-329.1. Remedies not exclusive.

The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the City of Fairbanks to seek cumulative remedies.

(Ord. No. 5751, § 1, 5-24-2008)

DIVISION 11. ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sec. 82-330. - Purpose/intent.

The purpose of this division is to provide for the health, safety, and general welfare of the citizens of the City of Fairbanks through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the ~~National~~ **Alaska** Pollutant Discharge Elimination System (~~NPDES~~**APDES**) permit process.

The objectives of this division are to:

(a) Regulate the contribution of pollutants to the storm drainage system and local waterways from stormwater discharges and snow melt by any user.

(b) Prohibit illicit connections and discharges to the storm drainage system or local waterways.

(c) Establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this division.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-331. Definitions.

For the purposes of this division, the following shall mean:

Authorized enforcement agency: Employees or designees of the City of Fairbanks ~~Director of Public Works~~ designated to enforce this division.

Alaska Pollution Discharge Elimination System (APDES) Program: **In 2008, the State of Alaska applied to implement the NPDES Program. The EPA approved the application and agreed to transfer program authority to the State over four phases. The State's program is called the Alaska Pollutant Discharge Elimination System (APDES) Program and is administered by the ADEC. The initial phase transferred in 2008 and included domestic discharges, log storage and transfer facilities, seafood processing facilities, and hatcheries. Phase II was completed in 2009 and included federal facilities, stormwater, wastewater pretreatment programs, and non-domestic discharges. Phase III was completed in 2010 to include mining activities. November 1, 2012 marked the completion of Phase IV and included wastewater permitting for the oil and gas industry, pesticides, munitions, and any other facilities that had not yet been transferred. New**

(APDES) regulations were adopted at 18 AAC 83, along with subsequent amendments effective October 23, 2008.

Best management practices (BMPs): Schedules of activities; prohibitions of practices; general good housekeeping practices; pollution prevention and educational practices; maintenance procedures; and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices; operating procedures; and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act ***(CWA):*** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction activity: Activities subject to ~~NPDES~~ **APDES** construction permits. Currently, these include construction projects resulting in land disturbance of one acre or more **and discharges from smaller sites that are part of a larger common plan of development or sale.** Such **earth-disturbing** activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Hazardous materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, biological, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge: Any direct or indirect non-stormwater discharge to the storm drainage system, except as exempted by this division.

Illicit connections: An illicit connection is defined as either of the following:

> Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drainage system including, but not limited to, any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drainage system; and any connections to the storm drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or any drain or conveyance connected to the storm drainage system from a commercial or industrial land use, and which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial activity: Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal ***S****~~s~~eparate* ***S****~~s~~torm* ***S****~~s~~ewer* ***S****~~s~~ystem (MS4):* Facilities within the City of Fairbanks Urbanized Area owned or operated by the co-permittees holding Permit No. AKS-053406 by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, city streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit: A permit issued by the Environmental Protection Agency (EPA) (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge: Any discharge to the storm drainage system that is not composed entirely of stormwater.

Person: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law, and acting as either the owner or the owner's agent.

Pollutant: Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oils, grease, and other automotive fluids; non-hazardous liquids, detergents, and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ammunition, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises: Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Snow storage: Any area used to store snow removed from residential and commercial facilities, roadways, parking lots, storage areas.

Storm drainage system: MS4 facilities within and under the control of the City of Fairbanks by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, city streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

~~*Stormwater*~~ ***Storm Water*** ~~*pollution*~~ ***Pollution*** ~~*prevention*~~ ***Prevention*** ~~*plan*~~ ***Plan (SWPPP)****:* A document that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site, and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Waterways: Area waterways include the Chena River, Noyes Slough, ponds, lakes, gravel pits, stormwater retention basins, and all associated drainage pathways, swales, ditches, channels, etc.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-332. Applicability.

This division shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-333. Responsibility for administration.

The City of Fairbanks shall administer, implement, and enforce the provisions of this division. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the director of the authorized enforcement agency to persons or entities acting in the beneficial interest of, or in the employ of, the agency.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-334. Severability.

The provisions of this division are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this division or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this division.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-335. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore this division does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-336. Discharge prohibitions.

Prohibition of illegal discharges

(1) No person shall cause or permit the illicit discharge of any of the following in such a manner that access was, is, or will be gained to:

   a. Waters of the state, or waters of the United States, unless such is first treated in a manner approved by the authorized enforcement agency having jurisdiction; or

   b. To a storm drainage system of the City of Fairbanks, other than pursuant to an ~~NPDES~~**APDES** permit:

1. Grease, fatty materials, offal, or garbage;
2. Sand, sand dust, dirt, gravel, sawdust, **coal, coal ash**, metal filings, broken glass, **yard waste, domestic animal or livestock waste** or any material which may cause or create an obstruction in the storm sewer system;
3. Gasoline, benzene, fuel oil or a petroleum product, or volatile liquid;
4. Milk or any liquid milk waste products;
5. Wax, cyanide, phenols, or other chemical or substances that may cause damage to materials of which the storm sewer system is constructed;
6. Wastewater; or
7. Pollutants or any materials other than stormwater which are prohibited by the Clean Water Act, National Pollutant Discharge Elimination System under 33 USC 1342 (1987) and regulations adopted thereunder located at 40 CFR 22, 23 and 24 (1990).

(2) Dumping in watercourse. No person shall deposit, dump, abandon, throw, scatter, or transport solid waste, garbage, rubbish, junk, fill, soil, dirt, snow**,** **yard waste, domestic animal or livestock waste** or other material in such a manner as to obstruct, impound, pollute or cause siltation of any river, stream, creek, watercourse, ditch, drain, or gutter except as otherwise allowed by valid federal, state, or local permits or licenses relative to water pollution, water impoundment, or water quality control.

The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as described as follows:

a. The following discharges are exempt from discharge prohibitions established by this division: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering or cooling systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one part per million (PPM chlorine), fire fighting activities, and any other water source not containing pollutants.

b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

c. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

d. The prohibition shall not apply to any non-stormwater discharge permitted under an ~~NPDES~~**APDES** permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided

that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drainage system.

Prohibition of illicit connections.

(1) The construction, use, maintenance, or continued existence of illicit connections to the storm drainage system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this division if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-337. Suspension of MS4 access.

Suspension due to illicit discharges in emergency situations. The City of Fairbanks may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this division may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-338. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity ~~NPDES~~**APDES** stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with such permit may be required in a form acceptable to the City of Fairbanks prior to the allowing of discharges to the MS4.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-339. Monitoring of discharges.

Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

Access to facilities.

(a) The City of Fairbanks shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(b) Facility operators shall allow the City of Fairbanks ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an ~~NPDES~~**APDES** permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(c) The City of Fairbanks shall have the right to set up, on any permitted facility, such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(d) The City of Fairbanks has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at their own expense. All devices used to measure stormwater flow and quality shall be calibrated yearly to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Fairbanks and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(f) Unreasonable delays in allowing the City of Fairbanks access to a permitted facility is a violation of a stormwater discharge permit and of this division. A person who is the operator of a facility with a ~~NPDES~~**APDES** permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this division.

(g) If the City of Fairbanks has been refused access to any part of the premises from which stormwater is discharged and is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the

community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-340. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The City of Fairbanks will adopt requirements identifying BMPs for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm drainage system. Compliance with all terms and conditions of a valid ~~NPDES~~**APDES** permit authorizing the discharge of stormwater associated with an industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a ~~stormwater pollution prevention plan (~~SWPPP~~)~~ as necessary for compliance with requirements of the ~~NPDES~~**APDES** permit.

(Ord. No. 5703, § 1, 7-16-2007)

~~Sec. 82-341. - Accidental discharge/slug control plan.~~

~~Any user conducting industrial activities is required to develop and implement an accidental discharge/slug control plan and shall submit a plan to the City of Fairbanks which addresses, at a minimum, the following:~~

~~(a) Description of discharge practices;~~

~~(b) Description of stored chemicals, including material safety data sheets (MSDS);~~

~~(c) Procedures for immediately notifying the City of Fairbanks of any accidental or slug discharge, which notification must also be given for any discharge which would violate any prohibited discharges; and~~

~~(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to:~~

~~1. Inspection and maintenance of storage areas;~~

~~2. Handling and transfer of materials;~~

~~3. Loading and unloading operations;~~

~~4. Control of site runoff;~~

~~5. Worker training;~~

~~6. Building of containment structures or equipment;~~

~~7. Measures for containing toxic organic pollutants (including solvents); and/or~~

~~8. Measures and equipment for emergency response.~~

~~(Ord. No. 5703, § 1, 7-16-2007)~~

Sec. 82-34**1**~~2~~. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. Any pollutants discharged into a watercourse through a privately-owned system shall constitute an illegal discharge.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-34**2**~~3~~. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Fairbanks within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-34**3**~~4~~. Enforcement.

Notice of violation. Whenever the City of Fairbanks finds that a person, public entity, business, or corporation has violated a prohibition or failed to meet a requirement of this division, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(a) The performance of monitoring, analyses, and reporting;

(b) The elimination of illicit connections or discharges;

(c) That violating discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and

(e) Payment of a fine to cover administrative and remediation costs; and

(f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore affected property within the established deadline, the work will be done by a designated governmental agency or a contractor, and the expense thereof shall be charged to the violator.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-34**4**~~5~~. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 30 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the authorized enforcement agency or their designee shall be final.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-34**5**~~6~~. Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or in the event of an appeal, within 30 days of a decision by the authorized enforcement agency upholding the original decision, then representatives of the authorized enforcement agency shall enter upon the subject private property, and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-34**6**~~7~~. Cost of abatement of the violation.

Within 90 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a

written protest to the authorized enforcement agency objecting to the amount of the assessment within 14 days. If the amount due is not paid within a timely manner as determined by the decision of the authorized enforcement agency or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the authorized enforcement agency by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest as allowed by law shall be assessed on the balance beginning on the 91st day following discovery of the violation.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-34**7**~~8~~. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division. If a person has violated or continues to violate the provisions of this division, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities that would create further violations, or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-34**8**~~9~~. Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this division, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-3**49**~~50~~. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this division is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate may be taken to enjoin or otherwise compel the cessation of such nuisance.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-35**0**~~1~~. Criminal prosecution.

Any person that has violated or continues to violate this division shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties and/or imprisonment.

The authorized enforcement agency may recover all attorney's fees, court costs, and other expenses associated with enforcement of this division, including sampling and monitoring expenses.

(Ord. No. 5703, § 1, 7-16-2007)

Sec. 82-35**1**~~2~~. Remedies not exclusive.

The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state, or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. No. 5703, § 1, 7-16-2007)

Secs. 82-35**2**~~3~~—82-369. Reserved.

DIVISION 12. POST-CONSTRUCTION STORMWATER MANAGEMENT

Sec. 82-370. Introduction/purpose.

Land development and redevelopment projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. This can be controlled and minimized through the regulation of project design in consideration of post-development stormwater runoff quantity and quality.

The City of Fairbanks, City of North Pole, University of Alaska Fairbanks, and Alaska Department of Transportation and Public Facilities - Northern Region collectively received a Phase II National Pollutant Discharge Elimination System (NPDES) Permit **(Permit)** from the U.S. Environmental Protection Agency (EPA) on June 1, 2005, to discharge from all Municipal Separate Storm Sewer Systems (MS4s) into receiving waters, which includes Beaver Springs, Chena River, Chena Slough, Noyes Slough, and other associated waters of the U.S. The ~~Phase II NPDES~~ Permit require**d**~~s~~ the aforementioned agencies to develop, implement, and enforce a program to address post-construction stormwater runoff from new development and redevelopment projects within the Fairbanks Urbanized Area. Therefore, the purpose of this division is to empower the City of Fairbanks to meet the requirements of the ~~Phase II NPDES~~ Permit within the urbanized area of the City of Fairbanks, as mandated by the EPA. **The Alaska Department of Environmental Conservation (ADEC) assumed authority over the Permit in October 2009 under the Alaska Pollutant Discharge Elimination System (APDES) program. The original Permit conditions remain in effect.** This division will also promote public and environmental welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Fairbanks.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-371. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alaska Pollution Discharge Elimination System (APDES) Program: In 2008, the State of Alaska applied to implement the NPDES Program. EPA approved the application and agreed to transfer program authority to the State over four phases. The State's program is called the Alaska Pollutant Discharge Elimination System (APDES) Program and is administered by ADEC. The initial phase transferred in 2008 and included domestic discharges, log storage and transfer facilities, seafood processing facilities, and hatcheries. Phase II was completed in 2009 and included federal facilities, stormwater, wastewater pretreatment programs, and non-domestic discharges. Phase III was completed in 2010 to include mining activities. November 1, 2012 marked the completion of Phase IV and included wastewater permitting for the oil and gas industry, pesticides, munitions, and any other facilities that had not yet been transferred. New (APDES) regulations were adopted at 18 AAC 83, along with subsequent amendments effective October 23, 2008.

Best management practices (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution to the MS4 and waters of the U.S. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act **(CWA)**: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction activity: Activities including, but not limited to, clearing and grubbing, grading, excavating, and demolition.

Design criteria: The design requirement for (1) runoff volume that post-development peak runoff shall be limited to five percent over pre-development peak runoff based on the ten-year, one-hour duration storm event; and (2) runoff quality that permanent BMPs shall be designed to treat the initial 0.5 inch of runoff from each storm event, and provide treatment at a minimum of 0.005 inch per minute after the first flush storm event.

Fairbanks Urbanized Area: The area of the Fairbanks North Star Borough delineated by the U.S. Census Bureau consisting of contiguous, densely settled census block groups and census block that meet minimum population density requirements, along with adjacent densely settled census blocks that together encompass a population of 50,000 people; as named by the U.S. Census Bureau on May 1, 2002 (67 FR 21962).

Hazardous materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, biological, or infectious characteristics may cause, or significantly contribute to, a substantial

present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Maintenance agreement: A signed statement that the owner of the site will operate, maintain, and/or schedule all permanent BMP(s) in accordance with the **P**~~p~~ermanent **S**~~s~~torm **W**~~w~~ater **C**~~c~~ontrol **P**~~p~~lan ~~(PSWCP)~~.

Maximum extent practicable: **The discharge standard that uses best available technology and methods in order to reduce pollutants entering waters of the U.S. as established by CWA § 402(p).**~~The technology-based discharge standard to reduce pollutants in stormwater discharges established by CWA § 402(p).~~

Municipal **S**~~s~~eparate **S**~~s~~torm **S**~~s~~ewer **S**~~s~~ystem (MS4): The conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

(1) Designed or used for collecting or conveying stormwater;

(2) Which is not a combined sewer;

(3) Which is not part of a publicly owned treatment works; and

(4) Which discharges to waters of the U.S.

National Pollutant Discharge Elimination System (NPDES): The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA §§ 307, 402, 318, and 405.

Permanent **S**~~s~~torm **W**~~w~~ater **C**~~c~~ontrol **P**~~p~~lan (PSWCP): A document that describes the specific BMPs, and maintenance therein, to be incorporated into the project design to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable for construction activity that will result in a ground disturbance of greater than or equal to one acre.

Pollutant: Anything that causes or contributes to pollution including, but not limited to: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation, including ice and snow melt runoff.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-372. Applicability.

This division shall apply to all ground disturbances ~~of~~ **totalling** one acre or greater **on a common parcel** within the **U**~~u~~rbanized **A**~~a~~rea of the City of Fairbanks ~~on~~ **for development projects funded by the private sector, including private development where all or part of the project will be transferred to the City of Fairbanks at a later date (i.e. roads and associated right-of-way within new**

subdivisions).~~private property funded by the private sector, including private development where all or part of the project will be transferred to the City of Fairbanks at a later date (i.e., roads and associated rights-of-way within new subdivisions).~~

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-373. Responsibility for administration.

The City of Fairbanks shall administer, implement, and enforce the provisions of this division.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-374. Severability.

The provisions of this division are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this division or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this division.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-375. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore this division does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-376. Permit.

No person shall be granted a residential or commercial building permit for construction activity that will result in a ground disturbance of greater than or equal to one acre, or result in a ground disturbance less than one acre but will be part of a larger common plan of development or sale that will collectively disturb more than one acre, without the submission of a ~~permanent stormwater control plan (~~PSWCP~~)~~ meeting the requirements set forth in this division, and approval by the City of Fairbanks.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-377. Review and approval.

The City of Fairbanks will review each PSWCP to determine its conformance with the provisions of this division. Within seven business days after receiving an PSWCP, the City of Fairbanks shall, in writing:

(a) Issue a letter of non-objection to the PSWCP;

(b) Issue a letter of non-objection to the PSWCP subject to such reasonable conditions as may be necessary to secure substantially the objectives of this division, and issue the permit subject to these conditions; or

(c) Disapprove the PSWCP, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-378. PSWCP requirements.

The PSWCP shall be developed by a certified professional in erosion and sediment control or a professional engineer registered in the State of Alaska, and at a minimum, include the following:

(a) BMP selection narrative.

i. Site description: Provide a description of the property boundary, construction site boundary (area of disturbance), existing soil conditions, and approximate depth to groundwater.

ii. Site conditions: Include a summary of pre- and post-developed site conditions including existing and proposed land use, amount of impervious area **existing and proposed**, drainage patterns to and from the site, and any known historical drainage problems such as flooding and/or erosion.

iii. Receiving waters: Include the name and approximate distance (to the nearest 100 feet) of all receiving waters, including wetlands as defined by the U.S. Army Corps of Engineers, where stormwater will discharge. If the stormwater discharges to the MS4 (i.e., roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), identify the point of discharge to the MS4 and the receiving water to which the MS4 outfalls.

iv. Pollutant sources: Include a description of all potential pollutant sources from the proposed land use, which may add pollutants to stormwater discharges.

v. BMP selection: Identify all permanent structural and nonstructural BMPs selected and incorporated into the project design to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable. For each BMP, also include a description of the methodology used to size and locate each BMP.

vi. Operation and maintenance procedures: Include a description of all operation and maintenance procedures for each BMP to be installed on site.

(b) Site plan.

i. Site characteristics: Include the property boundary, construction site boundary, names of all adjacent streets or roadways, north arrow, and scale bar.

ii. Construction plan: Include the location of all planned excavation and fill activities, existing and proposed buildings, surfaced areas, and utility installations.

iii. Drainage patterns: Include approximate slopes (to the nearest percent) and direction of slopes (i.e., flow direction arrows) for both pre- and post-development for all surfaces, ditches, and culverts.

iv. Receiving waters: Identify all surface waters and wetlands within one mile of the construction site, including the location where stormwater will discharge to the receiving waters. If the stormwater discharges to the MS4, identify the point of discharge to the MS4.

v. Permanent stormwater controls: Identify the location of all permanent structural BMPs to be installed on site, as well as all areas where non-structural BMPs will be implemented.

(c) Sizing and design information.

i. Include calculations, manufacturers' guidance, or other process decisions showing how all permanent structural BMPs were sized and designed, and their performance goals. At a minimum, the project must meet the design requirement for (1) runoff volume that post-development peak runoff shall be limited to five percent over pre-development peak runoff based on the ten-year, one-hour duration storm event; and (2) runoff quality that permanent BMPs shall be designed to treat the initial 0.5 inch of runoff from each storm event, and provide treatment at a minimum of 0.005 inch per minute after the first flush storm event.

(d) A signed statement that the owner of the site will operate, maintain, and/or schedule all permanent BMP(s) in accordance with the PSWCP.

(e) Payment of the PSWCP plan review fee in the amount prescribed by the City of Fairbanks.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-379. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a

release of non-hazardous materials, said person shall notify the City of Fairbanks in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Fairbanks within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-380. Enforcement.

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this division. Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this division is committed, continued, or permitted, shall constitute a separate offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this division shall be required to bear the expense of such restoration.

In the event that any person holding a residential or commercial building permit pursuant to this division violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of Fairbanks may issue a notice of violation, suspend, or revoke the permit.

Notice of Violation

Whenever the City of Fairbanks finds that a person has violated a prohibition or failed to meet a requirement of this division, the City of Fairbanks may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(a) The performance of monitoring, analyses, and reporting;

(b) The elimination of construction stormwater discharges, illicit connections, or discharges;

(c) That violating discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of stormwater pollution or contamination hazards, and the restoration of any affected property; and

(e) Payment of a fine to cover administrative and remediation costs; and

(f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore affected property within the established deadline, the work will be done by a designated governmental agency or a contractor, and the expense thereof shall be charged to the violator.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-381. Appeal of notice of violation.

Any person receiving a notice of violation may appeal to the City of Fairbanks. The notice of appeal must be received within 30 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 14 days from the date of receipt of the notice of appeal. The decision of the City of Fairbanks or their designee shall be final.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-382. Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or, in the event of an appeal, within 30 days of a decision by the City of Fairbanks, then representatives of the City of Fairbanks shall enter upon the subject private property, and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City of Fairbanks or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-383. Cost of abatement of the violation.

Within 90 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest to the City of Fairbanks objecting to the amount of the assessment within 14 days. If the amount due is not paid within a timely manner as determined by the decision of the City of Fairbanks or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Fairbanks by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest as allowed by law shall be assessed on the balance beginning on the 91st day following discovery of the violation.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-384. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division. If a person has violated or continues to violate the provisions of this division, the City of Fairbanks may petition for a preliminary or permanent injunction restraining the person from activities that would create further violations, or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-385. Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this division, the City of Fairbanks may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, stream cleanup, etc.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-386. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this division is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate may be taken to enjoin or otherwise compel the cessation of such nuisance.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-387. Criminal prosecution.

Any person that has violated or continues to violate this division shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties and/or imprisonment. The City of Fairbanks may recover all attorney's fees, court costs, and other expenses associated with enforcement of this division, including sampling and monitoring expenses.

(Ord. No. 5780, § 1, 8-15-2009)

Sec. 82-388. Remedies not exclusive.

The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the City of Fairbanks to seek cumulative remedies.

(Ord. No. 5780, § 1, 8-15-2009)