

ORDINANCE NO. 109, 1990
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CERTAIN SECTIONS OF THE CITY'S INDUSTRIAL
WASTEWATER PRETREATMENT CODE

WHEREAS, the United States Environmental Protection Agency conducted an audit of the City's wastewater utility industrial pretreatment program, and issued its audit report in May 1990; and

WHEREAS, in said audit report, the United States Environmental Protection Agency recommended and required certain changes to be incorporated into the City's industrial pretreatment code; and

WHEREAS, effective August 23, 1990, the United States Environmental Protection Agency promulgated certain changes to the Federal Industrial Pretreatment Regulations which require corresponding changes to the Code; and

WHEREAS, the Council of the City of Fort Collins has determined that it is in the best interests of the citizens of the City that the wastewater utility industrial pretreatment code be amended as requested by the United States Environmental Protection Agency Audit Report and as required because of the August 23, 1990 amendments to the Federal Industrial Pretreatment Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Chapter 26 of the Code of the City of Fort Collins be amended as follows:

Section 1. That Section 26-206 of the Code of the City of Fort Collins is hereby amended by the addition, in alphabetical order, of the following definitions, to read as follows:

Sec. 26-206. Definitions.

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

Significant industrial user shall mean the following:

- (a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.
- (b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5)

percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8[f][6]).

- (c) Upon a finding that an industrial user meeting the criteria in subparagraph (b) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority (as defined in 40 CFR 403.12[a]) may, at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Significant noncompliance shall mean an industrial user who is in violation of one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (b) Technical review criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);
- (c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under subparagraphs (b) and (c) of Section 26-344 of this Article to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days after 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;

- (f) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance; or
- (h) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

Section 2. That the definition of "new source" as contained in Section 26-206 be amended to read as follows:

New Source shall mean 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 other conditions found in 40 CFR 403.3(k) are met.

Section 3. That the second sentence of Section 26-219(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-219. Inspections; right of access.

(a) Persons or occupants of premises where wastewater is created or discharged shall allow utility personnel ready access to the premises for the purposes of inspection, sampling, records examination and copying, and performance of any of their duties.

Section 4. That Section 26-308, subparagraph (a) of the Code of the City of Fort Collins shall be amended to read as follows:

Sec. 26-308. Industrial discharge permit; application.

(a) All significant industrial users shall obtain an industrial discharge permit for their discharge to the wastewater utility.

Section 5. That Section 26-314, subparagraph (11) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-314. Permits may be conditional.

- (11) Requirements for immediate notification of all slug discharges and all discharges of pollutants that are specified in Title 40, Code of Federal Regulations, Chapter 1, Section 403.5(b).

Section 6. That Section 26-318, subparagraph (b) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-318. Sampling and analysis.

(b) Samples shall be taken from the required monitoring manhole and properly preserved in accordance with standard methods. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Director may waive flow-proportional composite sampling for any industrial user that demonstrates that such sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that such sampling method will provide a representative sample of the effluent being discharged. Grab samples may be required whenever the Director determines that composite samples are inappropriate. All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this Article shall be determined in accordance with procedures established by the EPA pursuant to Section 304(h) of the Act and contained in 40 CFR, part 136, as amended. If no special monitoring facility has been required, the point of sampling shall be as specified by the Director.

Section 7. That Section 26-318 of the Code of the City of Fort Collins is hereby amended by the addition of a new subparagraph (f) to provide as follows:

Sec. 26-318. Sampling and analysis.

(f) Any industrial user subject to the industrial pretreatment reporting requirements established by this Article shall be required to retain, for a period of three years, any records of the monitoring activities and results (whether or not such monitoring activities are required by this Section) and shall make such records available for inspection and copying by the Director. Said period of retention shall be extended to include the pendency of any litigation existing between the user and the Utility or EPA or the Colorado Department of Health regarding the requirements of the industrial pretreatment program

as they relate to the industrial user, or when requested by the Director.

Section 8. That the first sentence of Section 26-321, subparagraph (b) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-321. Trade secrets.

(b) Information demonstrated to contain trade secrets or other confidential information shall be treated as confidential in accordance with 40 CFR Part 2.

Section 9. That the Code of the City of Fort Collins is hereby amended by the addition of a new Section 26-322, Slug discharge control plans, to read as follows:

Sec. 26-322. Slug discharge control plans.

The Director shall evaluate, at least once every two (2) years, whether each significant industrial user needs a plan to control slug discharges. For purposes of this Section, a slug discharge is any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge. If the Director decides that such a plan is needed, the plan shall contain at least the following elements:

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

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a specific prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five (5) days;

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

(e) If necessary, follow-up practices to limit damage suffered by the treatment plant or the environment.

Section 10. That the Code of the City of Fort Collins is hereby amended by the addition of a new Section 26-323, to read as follows:

Sec. 26-323. Adoption of the Effluent Guidelines and Standards.

The "Effluent Guidelines and Standards" as promulgated by the United States Environmental Protection Agency (revised as of July 1, 1989) and found at Title 40, Code of Federal Regulations Chapter I, Subchapter N, be and hereby are adopted by reference and made a part of the Code as though fully set forth herein.

Section 11. That Section 26-337, subparagraphs (1), (4), (12) and (13) of the Code of the City of Fort Collins are hereby amended to read as follows:

Sec. 26-337. Prohibitive discharge standards.

- (1) Any liquids, solids or gases which by reason or other 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 wastewater system or the operation of the wastewater system or utility. At no time shall two (2) successive readings on any explosion hazard meter, at the point of discharge into the system, be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, without limitation, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, waste streams with a closed cup flash point of less than one hundred forty (140) degrees fahrenheit or sixty (60) degrees centigrade, as determined using the test methods specified in 40 CFR 261.21, and any other substance which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.
- (4) Any wastewater containing pollutants which either singly or by interaction with other substances 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 or otherwise cause injury or interference with the wastewater collection system or treatment process, or create any hazard or toxic effect in the receiving waters or exceed the limitations for toxic pollutants set forth in Sec. 26-343 or in categorical standards;
- (12) Any petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin or any other FOG in amounts that will cause interference or pass through;
- (13) Wastes from septic tank pumpage or vaults, or any other trucked or hauled pollutants unless pursuant to a specific written agreement with the utility;

Section 12. That Section 26-348 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec 26-348. Legal and injunctive relief.

If any user discharges into the wastewater utility contrary to the provisions of this Article, federal or state pretreatment requirements or any order of the city, or commits any other act contrary to said provisions or orders, the City Attorney may commence an action for appropriate legal and/or equitable relief including without limitation, a petition in a court of competent jurisdiction for a temporary restraining order, preliminary and permanent injunction against the violation. In such event, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation from the violator if the city prevails in the litigation.

Section 13. That Section 26-350 of the Code of the City of Fort Collins shall be amended to read as follows:

Sec. 26-350. Public notification.

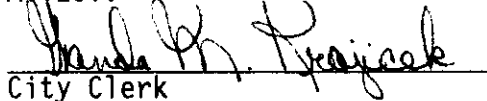
The city shall, at least annually, publish in the largest daily newspaper in the city, a list of industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance. A summary of related enforcement actions taken shall be included in such publication.

Introduced, considered favorably on first reading, and ordered published this 2nd day of October, A.D. 1990, and to be presented for final passage on the 16th day of October, A.D. 1990.

Mayor



ATTEST:



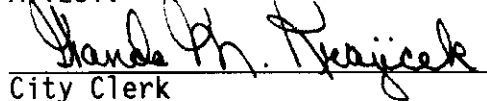
City Clerk

Passed and adopted on final reading this 16th day of October, A.D. 1990.

Mayor



ATTEST:



City Clerk