

**EVANSTON CITY COUNCIL**  
**First Regular Meeting**  
**June 4, 2013**

The official record of proceedings of the first regular meeting of the Evanston City Council for the month of June was held in the Council Chambers of City Hall on the above date. These proceedings were video recorded.

Rick Ludwig led those in attendance in the pledge of allegiance to the Flag.

The roll was called and with a quorum being present, Mayor Joy Bell called the meeting to order at 5:35 p.m. and welcomed everyone present.

Those present from the governing body at the start of the meeting were: Mayor Bell; Councilmembers Tim Lynch, Curtis Rex, Evan Perkes, David Welling, Saundra Meyer, and Wendy Schuler.

Staff members present at the start of the meeting were: City Attorney, Dennis Boal; Director of Administrative Services/City Clerk, Jim Davis; Director of Public Works/City Engineer, Brian Honey; City Treasurer, Kathy Defa; Director of Planning & Development, Paul Knopf; Director of Parks and Recreation, Dennis Poppinga; Public Works Superintendent, Oop Hansen; Deputy City Clerk, Nancy Stevenson; and Police Lieutenant, Bill Jeffers. Police Chief, Jon Kirby was excused. A group of interested citizens were also present.

**Approve Agenda**

**Mayor Bell suggested the following change to the agenda: Under New Business add Resolution 13-34.**

**Councilmember Welling moved, Councilmember Meyer seconded, to approve the agenda with the suggested change.** The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

**Approve Minutes**

**The official record of proceedings for the City Council Meeting held May 21, 2013 and a Work Session Meeting held May 28, 2013 were approved as presented.**

**Bills**

**Councilmember Schuler moved, Councilmember Meyer seconded, to approve the following bills for payment:**

May 22, 2013 to June 4, 2013

VENDOR	FOR	AMOUNT
AAA Equivest	Payroll	1,959.64
FlexShare	Payroll	3,425.00
ING Life Insurance	Payroll	29.20
Orchard Trust	Payroll	583.36
Parks and Recreation	Payroll	140.98
Uinta County Court	Payroll	45.00
Vantage Point	Payroll	1,366.92
Wyoming Child Support	Payroll	827.74
Wyoming Dept. Of Employment	Payroll	6,200.26
Wyoming Retirement	Payroll	40,311.06
Payroll	Payroll	107,585.35
EFTPS	Payroll	37,547.88
Amazing Homes	Sidewalk Project	9,166.00
Bridger Valley Lawn/Landscape	Contract	6,631.22
Castle Rock Chevrolet	Parts	188.90
Cazin's	Supplies	255.39
Verizon Wireless	Cell Phones	446.45
Copy Cats	Printing	125.00
Deru's Glass	Supplies	5,858.23
Easy Picker Golf	Supplies	146.11
Ellingford's	Supplies	716.62
Chemtech-Ford Laboratories	Testing	78.00
Energy Laboratories	Testing	2,386.50
Evanston Chamber of Commerce	Awards	225.00
Evanston Motor Co	Parts	90.33
Evanston Parks & Recreation	Reimbursement/City Subsidy	130,161.32
Ferguson Enterprises	Parts	1,055.89
Fastenal	Parts	51.71
Forsgren Associates	Services	1,890.00

Freeway Tire	Tires	1,757.20
Randy's Heating	Services	5,600.00
Great Basin Turf	Supplies	2,880.00
Murdochs	Supplies	1,921.77
Natalie Albrecht Green	Contract	180.00
Green Source	Supplies	776.00
Hach Company	Supplies	326.44
Sarah Hull	Services	210.00
Harris Law Firm	Contract	4,000.00
Nicholas Earl Horton	Contract	240.00
Hutchinson Oil	Supplies	1,549.93
Intermountain Sweeper	Parts	168.94
Jacobs Engineering	Services	450.00
Johnson Brothers	Supplies	116.92
K&K Construction	Services	4,395.00
Kallas Automotive	Parts	994.51
Lindley Construction	Road Base	291.30
Morgan Valley Polaris	Supplies	67.93
Lewis-Goetz & Company	Supplies	109.21
Andrew Moon	Reimbursement	129.00
Morcon Industrial	Supplies	561.19
Mt West Business Solutions	Contract	1,002.42
Myers/Anderson Architects	Services	53,934.21
Nalco Company	Supplies	4,532.00
Nike	Supplies	135.14
Northwest Scientific	Supplies	99.00
Office Products Dealer	Supplies	409.51
PC Innovation	Software	250.00
City of Evanston	Reimbursement	188.63
Ping	Supplies	554.25
Real Kleen	Supplies	1,985.92
Rain for Rent	Parts	140.02
Remote Control Systems	Software	1,150.00
Safety Supply & Sign	Signs	372.30
Scott Sargent Law Office	Services	980.00
Six States	Parts	24.32
Skaggs	Supplies	460.84
Standard Plumbing	Parts	221.01
Stateline Metals	Supplies	1,046.28
Superior Rental	Parts	32.93
Tom's HVAC	Repairs	2,768.73
Uinta County Herald	Subscriptions	142.00
Incontact	Utilities	461.02
Century Link	Utilities	336.49
Rocky Mountain Power	Utilities	17,278.83
Wal Mart	Supplies	985.19
Xylem Water Solutions	Sensors	3,588.61
Westar Printing	Printing	620.81
Taylor Welling	Contract	45.00
White Mountain Lumber	Supplies	95.48
WYOPASS	Dues	715.00
WAM	Registration	645.00
Wyoming State Historical Society	Dues	120.00
Yamaha Motor Corp	Contract	3,281.75
Uinta County Public Health	Vaccinations	1,033.00
J&J Nursery	Trees	396.00
Warner Truck Center	Parts	202.87
Consolidated Plastics	Supplies	336.05
Meurer Research	Supplies	461.56
Kenneth West	Reimbursement	714.84
Utility Bill Solutions	Services	203.36
HCP Inc	Refund	236.76
Shipping Plus	Shipping	13.26
Nutech	Supplies	80.76

The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

### Council Comments

The Mayor and Councilmembers commented on the Renewal Ball and thanked staff members, and all the fantastic volunteers for another great ball.

Councilmember Schuler commented on how great the golf course looks this year and thanked all those that have worked to get it in such good shape.

Mayor Bell stated the cemetery looked great for Memorial Day this year and thanked the cemetery crew. She congratulated all the 2013 graduates and wish them well. The Mayor also welcomed Wyoming Community Foundation Board Members to Evanston.

### **Public Hearing/Budget Modifications for Fiscal Year 2013**

**City Attorney, Dennis Boal conducted a Public Hearing to receive public input on the proposed modification to the budget for the Fiscal Year 2013. City Treasurer, Kathy Defa explained the proposed budget modifications. No one else addressed the issued and the hearing was closed.**

### **Consent Agenda**

**Councilmember Lynch moved, Councilmember Rex seconded, to approve the following Consent Agenda: A Malt Beverage Permit requested by Kathy Bella with Bluegrass Evanston for the Beer, Brats and Bluegrass Festival at the Depot Square on Friday, June 21, 2013 from 5:00 p.m. to 10:00 p.m. and Saturday, June 22, 2013 from 2:00 p.m. to 10:00 p.m.; A Street Closure Permit requested by Rachel Reifon for the Evanston Brewfest After Party on Main Street from 9<sup>th</sup> Street to 11<sup>th</sup> Street on Saturday, July 20, 2013 from 5:00 p.m. to 10:00 p.m.; and A Open Container Permit requested by Rachel Reifon for the Evanston Brewfest After Party on Main Street from 9<sup>th</sup> Street to 11<sup>th</sup> Street on Saturday, July 20, 2013 from 5:00 p.m. to 10:00 p.m. The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.**

### **Ordinance 13-02**

**Councilmember Meyer moved, Councilmember Welling seconded, to pass Ordinance 13-02 on third and final reading.**

Ordinance 13-02: AN ORDINANCE OF THE CITY OF EVANSTON, WYOMING AMENDING IN ITS ENTIRETY ARTICLE III, WASTEWATER, OF CHAPTER 23, UTILITIES, OF THE CITY CODE TO UPDATE REGULATIONS GOVERNING USERS OF THE MUNICIPAL WASTEWATER SYSTEM.

WHEREAS, in 1989, the City of Evanston adopted Article III of Chapter 23 of the Evanston City Code to provide for the regulation of the use of its municipal wastewater system in order to comply with state and federal law as required by the Clean Water Act; and

WHEREAS, there is a need to amend Article III of Chapter 23 of the Evanston City Code to update the regulation of its municipal wastewater system in order to maintain compliance with applicable state and federal law;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EVANSTON, WYOMING THAT:

Section 1: Article III, Wastewater, of Chapter 23, Utilities, of the Evanston City Code is hereby amended in its entirety and re-enacted to provide as follows:

### **ARTICLE III WASTEWATER**

#### **§ 23-68. Objectives and Applicability.**

A. The objectives of this Article are to:

- (1) Prevent the introduction of pollutants into the Publicly-Owned Treatment Works (POTW) which will interfere with the operation of the system or contaminate the resulting sludge;
- (2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludge from the system;
- (4) Prevent the introduction of extraneous flows via groundwater infiltration and inflow from any source into the POTW;
- (5) Provide for equitable distribution of the cost of operation, maintenance and improvement of the POTW;
- (6) To provide for and promote the general health, safety and welfare of the citizens and to protect adverse impacts to worker health and safety due to discharges of pollutants from industrial users;
- (7) Enable the City to comply with all applicable state and federal laws and regulations as required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR Part 403).

B. This Article sets forth uniform requirements for all industrial users discharging to the POTW and enables the City to comply with all applicable State and federal laws including the Clean Water Act (33 United States Code (U.S.C.) Section 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). This Article provides for the regulation of industrial users of the POTW through the issuance of permits, enforcement of Pretreatment Standards and Requirements, compliance monitoring, requiring industrial user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. This Article applies to the industrial users located within the City of

Evanston, other industrial user outside the City who are, according to the "Intergovernmental Agreement" between the City and Uinta County, users of the City POTW and any industrial user that otherwise discharges pollutants directly or indirectly to the POTW.

C. Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this Article. Any powers granted to or duties imposed upon the City Engineer may be delegated by the City Engineer to other City personnel.

D. If wastewaters containing any pollutant, including excess flow, or as otherwise defined in this Article, are discharged or proposed to be discharged to the POTW, the City may take any action necessary to:

- (1) Prohibit the discharge of such wastewater;
- (2) Require an Industrial User to demonstrate that in-plant facility modifications will reduce or eliminate the discharge of such substances in conformity with this Article;
- (3) Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the potential for a discharge to violate this Article;
- (4) Require the Industrial User making, causing or allowing the discharge to pay any additional cost or expense incurred by the City for handling, treating, disposing or remediation costs as a result of wastes discharged to the wastewater treatment system;
- (5) Require the Industrial User to apply for and obtain a permit;
- (6) Require timely and factual reports from the Industrial User responsible for such discharge; or
- (7) Take such other action as may be necessary to meet the objectives of this Article.

E. The Environmental Protection Agency (EPA) is the Approval Authority and Control Authority for the purposed of implementation and enforcement of 40 CFR Part 403. An Industrial User may have specific reporting requirements that must be made to EPA. In such cases, the Industrial User shall provide a copy to the City of any reports and submittals made to the EPA pursuant to any reporting requirement under 40 CFR Party 403.

#### **§ 23-69. Definitions and Abbreviations.**

A. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, have the meanings designated in this section.

#### **ACT or THE ACT**

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

#### **AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER**

- (1) If the Industrial 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 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 initiate and direct 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 Industrial Wastewater Discharge Permit 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 government facility: A city or district or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.
- (4) The individuals described in paragraphs (1) through (3) above, may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a 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 the City.

#### **BEST MANAGEMENT PRACTICES (BMPs)**

Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the General and Specific Prohibitions listed in §23-70 of this Article. BMPs may also include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs shall be considered local limits and Pretreatment Standards for the purposes of this Article and Section 307(d) of the Act (40 CFR Section 403.5(c)(4).

#### **BIOCHEMICAL OXYGEN DEMAND (BOD<sub>5</sub>)**

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure over a period of five days at twenty degrees Celsius and expressed in milligrams per liter mg/L).

#### **BUILDING SEWER**

A sewer conveying wastewater from the premises of a user to the POTW.

#### **CATEGORICAL INDUSTRIAL USER (CIU)**

An Industrial User subject to a Categorical Pretreatment Standard.

#### **CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD**

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with

Section 307(b) and (c) of the Act (33 U.S.C. Section 1317) that apply to a specific category of industrial users and that appear in 40 CFR chapter I, subchapter N, Parts 405-471.

**CITY**

The City of Evanston, Wyoming.

**CITY ENGINEER**

The person designated by the City Council who administers and supervises the affairs of and operations and maintenance of wastewater facilities of the City and the person authorized by the City Council to act on their behalf to implement and enforce Chapter 23, Article III of the City Code.

**COMPOSITE SAMPLE**

A representative flow-proportioned sample generally collected within a twenty-four (24) hour period and combined according to flow. Time-proportional sampling may be approved or used by the City where time-proportional samples are believed representative of the discharge.

**COOLING WATER**

- (1) Contact. Water used for cooling purposes which comes in contact with any raw material, intermediate product, waste product or finished product.
- (2) Noncontact. Water used for cooling purposes which does not come in contact with any raw material, intermediate product, waste product or finished product and the only pollutant added is heat.

**DOMESTIC SEWAGE**

Wastewater from residential sources including, but not limited to wastewater from kitchen, bath, and laundry facilities; or wastewater from the personal sanitary conveniences (toilets, showers, bathtubs, fountains, noncommercial sinks and similar structures) of commercial, industrial or institutional buildings, provided that the wastewater exhibits characteristics that are similar to those of wastewater from normal residential activities.

**ENVIRONMENTAL PROTECTION AGENCY (EPA)**

The U.S. Environmental Protection Agency, or where appropriate, the Administrator or other duly authorized official of said Agency.

**FATS, OIL AND GREASE (FOG)**

Non-petroleum organic polar compounds derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical procedures established in 40 CFR Part 136.

**GRAB SAMPLE**

A sample which is taken from a waste stream on a one-time basis with no regard to the flow and over a period of time not to exceed fifteen (15) minutes.

**INDUSTRIAL USER**

A discharger that introduces pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act (including holding tank waste discharged into the system).

**INDUSTRIAL (NON-DOMESTIC) WASTES**

The liquid or solid wastes from industrial manufacturing processes, trade or business activities producing non-domestic or non-residential sewage as distinct from domestic wastewater.

**INDUSTRIAL WASTEWATER DISCHARGE PERMIT**

A permit issued to an Industrial User by the City that allows, limits, and/or prohibits the discharge of pollutants or flow to the POTW as set forth in §23-73 of this Article.

**INSTANTANEOUS LIMIT**

The maximum or minimum concentration or measurement of a pollutant property allowed to be discharged at any time for any length of time. For pollutants, compliance is typically determined by use of a grab sample.

**INTERFERENCE**

A discharge, which alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW treatment processes, or operations or its sludge processes, use or disposal; and
- (2) Therefore, is a cause of violation of any requirement of the City's WYPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resources Conservation and Recovery Act (RCRA); any State regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solids Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

**NEW SOURCE**

A term that establishes the applicable Categorical Standards for certain industrial users shall as defined at 40 CFR Section 403.3(m) and herein incorporated by reference.

**NORMAL DOMESTIC STRENGTH WASTEWATER**

Wastewater, when analyzed in accordance with procedures established by the EPA pursuant to 40 CFR Part 136, as amended, contains no more than two hundred fifty (250) mg/L of TSS and/or two hundred fifty (250) mg/L of BOD<sub>5</sub>.

**PASS THROUGH**

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's WYPDES permit (including an increase in the magnitude or duration of a violation).

**PERSON**

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.

**pH**

The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution and reported as Standard Unit (SU).

**POLLUTANT**

Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance, biological material, biological nutrient, toxic substance, radioactive material, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or agricultural wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD<sub>5</sub>, COD, toxicity, or odor) discharged into or with water.

**POLLUTION**

The manmade or man induced alteration of the chemical, physical, biological or radiological integrity of water.

**POTW TREATMENT PLANT**

That portion of the POTW or any portion thereof designed to provide treatment of wastewater.

**PRETREATMENT**

The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR section 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 Section 403.6(e).

**PRETREATMENT REQUIREMENTS**

Any substantive or procedural requirement related to pretreatment, other than a Pretreatment Standard imposed on an Industrial User.

**PRETREATMENT STANDARD, NATIONAL PRETREATMENT STANDARD, OR STANDARDS**

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial Users. The term includes prohibitive discharge limits, local limits, and Best Management Practices that are or may be established by the City. In cases of differing standards or regulations, the more stringent shall apply.

**PUBLICLY OWNED TREATMENT WORKS (POTW)**

A treatment works as defined by Section 212 of the Act (33 U.S.C 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature and any sewers, pipes or other conveyances which convey wastewater to the treatment plant. The term also means the municipality having jurisdiction over the Industrial User discharges to and the discharges from the treatment works.

**SHALL, WILL, MAY**

“Shall” and “will” are mandatory; “may” is permissive.

**SIGNIFICANT INDUSTRIAL USER (SIU)**

Except as provided in paragraph (3) of this definition, a Significant Industrial User is:

- (1) An Industrial User subject to Categorical Pretreatment Standards; or
- (2) An Industrial User that:
  - (a) Discharges an average of twenty-five thousand gallons per day (25,000 gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - (b) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (c) Is designated as such by the City or EPA 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.
- (3) Upon finding by the City that an Industrial User meeting the criteria in paragraph (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with 40 CFR 403.8(f)(2), determine that such Industrial User is not a Significant Industrial User.

**SLUG DISCHARGE**

Any discharge at a flow rate or concentration, which could cause a violation of the Specific Prohibitions in §23-70. A Slug Discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, or a discharge which exceeds the hydraulic or design of an Industrial Users treatment system or any part of the treatment unit including a discharge which has a reasonable potential to cause Interference or Pass Through or in any other way violate an applicable Pretreatment Standard or Requirement or an Industrial Wastewater Discharge Permits issued by the City.

**STORM DRAIN OR STORM SEWER**

Every pipe, culvert, flume, ditch, gutter, storm sewer, cistern, tank, drain, lake, pond, stream,

ravine, gully or other facility or natural feature, that contains, holds, transports, diverts, channels, impounds, or drains water, into which any naturally occurring stormwater runoff within the City may seep, percolate or flow; and every street, sidewalk, alley, gutter, roof, parking lot, yard, field, driveway, patio and other surface within the City across which any naturally occurring stormwater runoff may seep, percolate or flow.

**STORMWATER**

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

**TOTAL SUSPENDED SOLIDS (TSS)**

The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering in accordance with procedures approved in 40 CFR Part 136, as amended.

**TOXIC POLLUTANT**

Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under Section 307(a) of the CWA or as otherwise listed at 40 CFR Part 122, Appendix D.

**WASTEWATER**

The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

**WATERS OF THE STATE**

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

**WYOMING DISCHARGE PERMIT SYSTEM (WYPDES)**

The State of Wyoming program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into Waters of the State as authorized under Section 402 of the Clean Water Act.

B. Abbreviations. The following abbreviations shall have the designated meanings:

BMP	Best Management Practice
BOD <sub>5</sub>	Biochemical Oxygen Demand
°C	Degrees Celsius
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
CWA	Clean Water Act
EPA	U.S. Environmental Protection Agency
FOG	Fats, Oils and Grease
mg/L	Milligrams per Liter
O&M	Operation and Maintenance
POG	Petroleum, Oil and Grease
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
§	Section
TSS	Total Suspended Solids
U.S.C.	United States Code
WYPDES	Wyoming Pollutant Discharge Elimination System

**§ 23-70. Prohibited Discharges and Limitations.**

A. General Discharge Prohibitions. An Industrial User may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These General Prohibitions and the Specific Prohibitions in paragraph B of this Section apply to each Industrial User introducing pollutants into a POTW whether or not the Industrial User is subject to other Pretreatment Standards or Requirements.

B. Specific Prohibitions

- (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR Section 261.21. The City may require industrial users with the potential to discharge flammable, combustible or explosive substances to install and maintain an approved combustible gas detection meter or explosion hazard meter. No two successive readings on an explosion hazard meter at the point of discharge shall be more than five percent (5%), nor any one reading more than ten percent (10%), of the Lower Explosive Limit (LEL) of the meter;
- (2) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in the Interference. Pollutants include, but not limited to, grease, garbage, solids greater than 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
- (3) Any wastewater having a pH less than 6.0 or greater than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW;
- (4) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;

- (5) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 degrees Celsius (104F) unless the EPA, upon 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) Any trucked or hauled pollutants, except at discharge points designated by the City;
- (9) Stormwater drainage from ground resulting in Infiltration and Inflow (I&I) through the Industrial User's service line(s) or surface, roof drains, catch basins, unroofed area drains (e.g. commercial car washing facilities) or any other source unless otherwise approved by the City Engineer. Specifically prohibited is the connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to the City's wastewater collection system. No person shall connect or discharge water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction activities;
- (10) Any substance which may cause the POTW's effluent, sludge, or residue to be unsuitable for, or interfere with, the reclamation or reuse process;
- (11) Any substance which will cause the POTW to violate the WYPDES permit or the receiving Water Quality Standards;
- (12) Any pollutant directly into a manhole or other opening in the POTW unless specifically authorized by the City or as otherwise permitted under this Article. Prohibited is the opening of a manhole or discharging into any opening in violation of this Article;
- (13) Liquid wastes from chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the POTW except at locations authorized by the City to collect such wastes;
- (14) No chemicals, materials, or substances, including but not limited to, paints, solvents, boiler or water treatment chemicals, sludges, chemicals, or wastes shall be stored in proximity to a floor drain or other sewer openings. Containers shall be clearly labeled and stored in a place where the chemicals, materials, substances or wastes, in case of leakage or rupture of the container, cannot enter the wastewater collection system. The storage of any chemicals, materials, substances or wastes that leak or have potential to leak or discharge into the wastewater collection system which may create an explosion hazard or in any way have a deleterious effect to the POTW or constitute a nuisance or a hazard to POTW personnel, the general public, the environment, or the receiving stream shall be prohibited;
- (15) Any water contaminated as a result of discharge from aboveground and/or underground gasoline, diesel fuels, fuel oil, kerosene, and jet fuel tanks, tank accessories, and/or pipelines without applying for and obtaining a permit prior to discharge;
- (16) Any wastes containing detergents, surface-active agents, or other substances in concentrations which cause excessive foaming in the POTW or cause or contribute to Interference or Pass Through;
- (17) Any radioactive substance, the discharge of which, does not comply with limits established by the City or other regulations set forth by the Wyoming Department of Environmental Quality or that violates any applicable federal Standard;
- (18) Any water or waste which contains grease or oil or any other substances that will solidify or become discernibly viscous at temperatures between thirty-two degrees Fahrenheit (32° F) and one hundred fifty degrees Fahrenheit (150° F);
- (19) Wastewater containing free or floating oil and grease, or any discharge containing animal fat or grease by-product in excess of two hundred and fifty milligrams per liter (250 mg/L) except where a food service establishment has installed and is properly operating and maintaining a grease interceptor and implementing all required BMPs;
- (20) Wastewater containing Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin or any discharge in excess of one hundred milligrams per liter (100 mg/L) except where the industrial user has installed and is properly operating and maintaining a sand-oil interceptor and implementing all required BMPs;
- (21) Reintroduce any portion of wastes pumped from grease interceptors, grease traps, sand-oil separators or other treatment units back into the POTW either directly or indirectly.
- (22) Any wastewater with concentration of ammonia over twenty-five (25) mg/L from Significant Industrial Users.

C. Other Pretreatment Standards and Requirements

- (1) The following limits shall apply to wastewaters that are discharged from the groundwater cleanup of petroleum or gasoline underground storage tanks or other remediation wastewaters containing these pollutants or where these pollutants are appropriate surrogates. It shall be unlawful for any Industrial User to discharge or cause to be discharged any waste or wastewater to the POTW that exceeds the following limits, as applicable.

Pollutant <sup>(c)</sup>	Daily Maximum Limit (mg/L)
Benzene <sup>(a)</sup>	0.050
BTEX <sup>(b)</sup>	0.750

(a) All pollutants shown in the Table are total.  
(b) BTEX shall be measured as the sum of benzene, ethylbenzene, toluene and

- xylene.
- (c) These technology-based pollutant limits will be required where a wastewater contains gasoline or petroleum products, a discharge has the reasonable potential to exceed these limits, or where the City determines that these pollutants are surrogates for other pollutants in the discharge. These limits are based upon installation of air stripping technology as described in the EPA document: "Model NPDES Permit for Discharges Resulting from the Cleanup of Gasoline Released from Underground Storage Tanks. June 1989."
- (2) Dilution is prohibited as a substitute for treatment and shall be a violation of this Article. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The City may impose mass limitations on industrial users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the imposition of mass limitations is appropriate.
- (3) The City may establish more stringent pollutant limits, additional site-specific pollutant limits, Best Management Practices, or additional Pretreatment Requirements when, in the judgment of the City, such limitations are necessary to implement the provisions of this Article.
- (4) All industrial users subject to a Categorical Pretreatment Standard shall comply with all requirements of such Standard, and shall also comply with any limitations contained in this Article. Where the same pollutant is limited by more than one Pretreatment Standard, the limitations which are more stringent shall prevail. Compliance with Categorical Pretreatment Standards shall be the timeframe specified in the applicable Categorical Pretreatment Standard.
- (5) State requirements and limitations on discharges shall apply in any case where they are more stringent than federal Pretreatment Standards and Requirements or those in this Article.

**§ 23-71. Pretreatment and Monitoring Facilities**

A. **Treatment Required:** An Industrial User shall provide necessary wastewater treatment at the Industrial User's expense as required to comply with this Article and shall achieve compliance with all Pretreatment Standards and Requirements within the time limitations specified by the EPA, the State, or the City, whichever is more stringent. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City Engineer for review and shall be acceptable before construction of the facility. The review of such plans and operating procedures will in no way relieve the Industrial User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Article.

B. **Wastewater Discharge Control:** The City may require an Industrial User to restrict discharge during peak flow periods, designate that certain wastewater be discharged only into specified 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 demonstrate the Industrial User's compliance with the requirements of this Article.

C. **Flow Equalization:** The City may require any Industrial User discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An Industrial Discharge Permit may be issued solely for flow equalization.

D. **Monitoring Facilities:** The City may require an Industrial User to install at the Industrial User's expense, suitable monitoring facilities or equipment that allows for the representative sampling and accurate observation of wastewater discharges. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the City's requirements and all applicable construction standards and specifications. Monitoring equipment and structures shall be maintained in proper working order and kept safe and accessible at all times to City personnel. The monitoring equipment shall be located and maintained on the Industrial User's premises outside of the building unless otherwise approved by the City. When such a location would be impractical, the City may allow such facility to be constructed in the public street or easement area, with the approval of the agency having jurisdiction over such street or easement, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.

E. **Multitenant Buildings:** When more than one Industrial User is able to discharge into a common service line, the City may require installation of separate monitoring equipment for each Industrial User.

F. **Flow, pH and LEL Meters:** If the City determines that an Industrial User needs to measure and report wastewater flow, discharge process wastewaters necessitating continuous pH measurement or discharge wastewater that may contain flammable substances may be required to install and maintain, at the Industrial User's expense, approved meters, structures and equipment.

G. Unless approved by the City Engineer in writing, no Industrial User shall cover any manhole, sewer cleanout, or other openings in the wastewater collection system with earth, paving, or otherwise render it inaccessible.

H. Grease interceptors and oil and sand separators shall be installed when, in the opinion of the City Engineer, they are necessary for the proper handling of wastewater containing excessive amounts of these pollutants or other pollutants that are appropriately treated by these treatment systems. All treatment units shall be of a type and capacity approved by the City Engineer and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, at the owner's expense.

**§ 23-72. User charge system.**

A. **General Provisions.** To provide for the recovery of costs from the users of the City's wastewater disposal system (EWWTP), the applicable charges and/or fees shall be set forth in the City's annual

budget resolution for wastewater monthly charges.

- (1) The purpose of the user charge system is to provide for an equitable distribution of the costs of operating and maintaining the municipality owned and operated treatment works (EWWTP) to all users and to promote self-sufficiency with respect to operation, maintenance and replacement costs.

B. User Classification.

- (1) The City of Evanston shall place users of the EWWTP into one of three categories:
  - (a) Residential users;
  - (b) Commercial or industrial, nonsignificant users;
  - (c) Commercial or industrial, significant users.
- (2) Residence classification requires the act or fact of dwelling in a place, the place where one actually lives, a building used as a home. Evanston elementary schools, middle schools, high school and churches are given residential status and will be billed as outlined in this article for residential users.
- (3) Commercial classification requires being engaged in commerce or occupied in acts interpreted as relating to commerce.
- (4) Industrial classification requires being engaged in manufacturing, processing, cleaning, assembling or acts interpreted as relating to industry.
- (5) Significant users are those that meet the definition of Significant Industrial User in §23-69 or other industrial user that has an average BOD<sub>5</sub> concentration over 250 mg/L or average Total Suspended Solids over 250 mg/L.
- (6) Non-significant users are those, commercial or industrial, who do not meet any of the conditions specified in paragraph B.(5) of this Section.
- (7) Classifications shall be made by City staff designated to make such determinations. Users, however, may appeal classification status to the City council; the City council's determination will be final.
- (8) A guideline for general user classification is as follows:
  - Residential
    - House, Apartment, Condominium
    - Mobile Home, Mobile Home Park
    - School
    - Church
  - Commercial
    - Hotel, Motel
    - Restaurant, Bar or Tavern
    - Shops (Non-Food), Stores
    - Banks
    - Theater
    - Gas Station
    - Day Care, Nursery
    - Laundry (Including self-service)
    - Beauty Parlor, Barber Shop
    - Garage
    - Doctor's, Dentist's Office
    - Offices and Multi-Use Business Facilities
    - Photo Lab
    - Car Wash
    - Funeral Parlor
    - Fitness Center
    - Overnight RV or Trailer Park

C. Billing Structure.

- (1) All users of the EWWTP will be billed monthly for their contribution of wastes. The City of Evanston shall review the operation, maintenance and replacement costs of the EWWTP at least once each year to evaluate the costs of the previous year. This review shall be used to indicate what, if any, adjustments must be made to the annual budget resolution to improve upon the self-sufficiency of the EWWTP. Adjustments shall be made as necessary to assure equity of the user charge system among all users and user categories. Evanston's residential and non-significant users (commercial or industrial) will be charged a common user fee (base rate) dependent upon the size of meter for the potable water supply plus an amount calculated from consumptive use or volumetric use of the City's potable water system. Each user will be charged the base rate which will be added to the volumetric charges calculated from metered use of potable water. The volumetric rate will be applied to each thousand gallons of metered usage. The base rates and volumetric rates will be determined and established annually by the City Council and adopted as part of the annual budget resolution.
- (2) Significant users as defined in paragraph B.(5) of this Section will be charged a base rate dependent upon the size of meter for the potable water supply, plus an amount based on consumptive or volumetric use which will include a surcharge factor to compensate for any high strength wastes, as outlined hereinafter. The volumetric and surcharge rates will be charged for every thousand gallons of metered water consumption unless discharge metering and recording equipment is installed and maintained by the user. If discharge metering is accurate and acceptable to the City, the volumetric and surcharge rates will be applied only to the metered effluent discharged into the EWWTP.

D. Fees. The City's annual budget resolution will disclose current rates, fees and charges relating to the EWWTP. Established fees shall include but not be limited to tapping or connection fees, base rates,

volumetric rates, unmetered rates, rates outside City limits, and other special fees as determined by the City council.

- (1) Wastewater base rates shall be established for each size of water meter (three-fourths, one, one and one-half, two, four, six. . . . inch) installed on the potable water supply system.
- (2) Volumetric rates or consumptive rates will be established by comparing total annual costs (including: administrative, operation and maintenance, equipment replacement, uncollectible accounts, amortizations, system replacement and a reasonable reserve account) to the total annual volume treated, giving due consideration to infiltration-inflow (I&I), thereby calculating the dollar cost per thousand gallons of treated wastewater.
- (3) Surcharge.
  - (a) Significant users must pay a surcharge for high strength wastes discharged to the EWWTP. The surcharge will be determined on an individual basis using medium or average strength domestic sewage as the guideline. Limits on constituents include:

BOD <sub>2</sub>	250 mg/L
TSS	250 mg/L
Phosphorus (total as P)	12 mg/L
COD	550 mg/L
Nitrogen (Ammonia)	25 mg/L
  - (b) The surcharge factor will be determined by dividing actual concentrations by those listed above or as otherwise directed by the City Council. A conventional surcharge factor will be determined as follows:
$$\frac{[\text{BOD}]}{205} = \frac{\text{Surcharge}}{\text{Factor}}$$
  - (c) If another constituent, say phosphorus (P), is the controlling constituent, the surcharge will be determined by:
$$\frac{P}{12} = \frac{\text{Surcharge}}{\text{Factor}}$$
  - (d) The user shall pay the highest surcharge factor determined by the above limiting constituents, which factor will never be less than one (1.0). If calculated as less than one (1.0), use 1.0.
  - (e) The volumetric charge shall be multiplied by the surcharge factor and added to the base rate to determine the total billing. The user being billed must pay the surcharge or provide, at his expense, facilities as necessary to modify the waste to the acceptable and required criteria.

E. Volumetric Structure. Efforts to assure equity for residential users will include charges for actual volume consumption during November, December and January. Actual monthly volumes used will be multiplied by the City established volumetric rate to determine the volumetric charges for each residential user. The remaining monthly billings, (February, March, April, May, June, July, August, September and October) will utilize a calculated volumetric charge, determined by averaging the volumetric charges of the three metered months of November, December and January.

- (1) Residential users who have not established a consumption history for all three metered months shall be charged an assumed usage of twelve thousand gallons per month. If requested, the City clerk has the authority to establish a lower assumed monthly usage for a particular residential user, if there is an objective basis for making such an adjustment.
- (2) Commercial and industrial users will be charged for each thousand gallons of metered use of potable water. Actual monthly volumes used will be multiplied by the City established volumetric rate to determine the volumetric charges for each commercial or industrial user. If such users are classified as "significant users" the appropriate surcharge shall be applied to their volumetric charge.
- (3) Commercial and industrial users who irrigate large areas or use considerable volume for irrigation are encouraged to install irrigation systems, separately metered and apart from the potable water supply system. The owner will bear all costs associated with such work and meter installation, and the City will establish an account whereby the irrigation system is not billed the wastewater contribution fees. No construction of any part of this separate system or renovation or change to an existing system shall commence until the owner has made application for the change. Such application shall be submitted in writing to the City building official thirty days prior to the intended construction start date. The building official will coordinate the proposed changes with City billing and administrative personnel and also water department personnel.

**§ 23-73. Industrial Wastewater Discharge Permits.**

A. Permits Required.

All Significant Industrial Users proposing to connect to, or discharge into, any part of the wastewater system shall apply for and obtain an Industrial Wastewater Discharge Permit prior to commencing or continuing discharge to the POTW. A separate permit may be required for each Industrial User, building or complex of buildings. Such Significant Industrial Users shall immediately contact the City and obtain an Industrial Waste Discharge Permit.

B. New Industrial Users: Applying for an Industrial Wastewater Discharge Permit.

Any Industrial User required to obtain an Industrial Wastewater Discharge Permit who proposes to begin or recommence discharging into the POTW must apply for and obtain such permit prior to the beginning or recommencing of such discharge. The Industrial User shall file a permit application on forms provided by the City containing the information specified in paragraph E, below. The completed application for the Industrial Wastewater Discharge Permit must be filed at least

ninety (90) days prior to the date upon which any discharge will begin or recommence.

C. Existing Industrial Users: Applying for an Industrial Wastewater Discharge Permit Re-issuance. An Industrial User with an expiring Industrial Wastewater Discharge Permit shall apply for a new permit by submitting a complete permit application at least ninety (90) days prior to the expiration of the Industrial User's existing discharge permit. The Industrial User shall file a permit application on forms provided by the City containing the information specified in paragraph E, below. An Industrial User with an existing permit that has filed a complete and timely application may continue to discharge as approved in writing by the City through an administrative extension of the existing permit if the delay in permit issuance is not due to any act or failure to act on the Industrial User's part.

D. Enforceability.

Any violation of the terms and conditions of an Industrial Wastewater Discharge Permit, failure to apply for a permit as required, or discharging without a required permit shall be deemed a violation of this Article and subjects the Industrial User to enforcement by the City. Obtaining an Industrial Discharge Permit does not relieve a permittee of its obligation to comply with all State and federal Pretreatment Standards or Requirements.

E. Permit Application Contents.

In support of the application, the Industrial User shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name of business, address of the facility, location of the discharge if different from facility address, and contact information of the Authorized Representative of the Industrial User.
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations.
  - (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production);
  - (b) The Standard Industrial Classification(s) of the operation(s) carried out by such Industrial User;
  - (c) A schematic process diagram, which indicates all process tanks, process lines, treatment systems, drains, and points of discharge to the POTW from the regulated process;
  - (d) Types of wastes generated;
  - (e) 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;
  - (f) A list of hazardous waste(s) generated and a description of the storage area and procedures for the wastes;
  - (g) Number of employees; and
  - (h) Hours of operation, and proposed or actual hours of operation.
- (4) Time and duration of discharges including the date the industrial user first began discharge or plans to discharge to the POTW.
- (5) The location for sampling the wastewater discharges from the Industrial User.
- (6) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other wastestreams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR Section 403.6(e).
- (7) Measurement of Pollutants.
  - (a) The Pretreatment Standards applicable to each regulated process;
  - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass of regulated pollutants in the discharge from each regulated process where required by the Standard or by the City;
  - (c) Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported;
  - (d) The sample shall be representative of daily operations and shall be collected in accordance with procedures set out in §23-76. Where the Standard requires compliance with a BMP or pollution prevention alternative, the Industrial User shall submit documentation as required by the City or the applicable Standards to determine compliance with the Standard; and
  - (e) Analyses must be performed in accordance with procedures set out in §23-76.
- (8) A list of hazardous waste(s) generated and a description of the storage area and procedures for the wastes.
- (9) Slug Discharge Control Plan for Significant Industrial Users as described in §23.77, D. shall be submitted. Other industrial users may be required to submit a Slug Control Plan to the City.
- (10) Compliance Schedule. If additional pretreatment and/or Operation and Maintenance (O&M) will be required to meet the Pretreatment Standards, the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

- (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 Industrial User to meet the applicable Pretreatment Standards (e.g. hiring an engineer, completing

preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No such increment shall exceed nine (9) months.

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

- (11) Certification. A statement, reviewed by an Authorized Representative of the Industrial User and certified to by a qualified professional, indicating whether 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 Industrial User to meet the Pretreatment Standards and Requirements.
- (12) Signatory Certification. All Industrial Wastewater Discharge Permit applications and certification statements must be signed by an Authorized Representative of the Industrial User and contain the applicable certification statement(s) in §23-77, G.
- (13) Any other information as may be deemed by the City Engineer to be necessary to evaluate the permit application.

F. Industrial Wastewater Discharge Permit Issuance.

- (1) Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than five (5) years at the City's discretion or may be stated to expire on a specific date.
- (2) The City shall issue an Industrial Wastewater Discharge Permit to the applicant if the City finds that all of the following conditions are met:
  - (a) The applicant has provided a timely and complete permit application to the City;
  - (b) The proposed discharge by the applicant is in compliance with the limitations established in this Article;
  - (c) The proposed operation and discharge of the applicant would permit the normal and efficient operation of the POTW; and
  - (d) The proposed discharge by the applicant would not result in a violation by the City of the terms and conditions of its WYPDES Permit or cause or contribute to Pass Through or Interference.
- (3) If the City finds that the condition set out in Subsection (2)(b) of this Section is not met, the City may, at its discretion, issue an Industrial Wastewater Discharge Permit to the applicant if the conditions set out in subsections (2)(a), (2)(c) and (2)(d) of this Section have been met and if the applicant submits, and the City approves, a compliance schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to insure compliance with applicable Pretreatment Standards. At no time shall a discharge be allowed to cause a violation of any General or Specific Prohibition established in §23-71 nor shall the final compliance date for a Categorical Pretreatment Standard be extended.

G. Denial by City to Issue a Permit

- (1) In the event the City denies an Industrial User's request for a permit to discharge, the City Engineer shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with that 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.
- (2) Upon receipt of notification of denial of permit issuance, the applicant may request reconsideration of the City's denial to issue a permit within fourteen (14) days of receipt of the City's original notification. The industrial user shall have the burden of establishing that the conditions set out in paragraph E.(2) of this Section have been met and that a permit should be issued.

H. Transferability. Industrial Wastewater Discharge Permits are issued to a specific Industrial User for a specific operation. An Industrial Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new Industrial User, different premises, or a new or changed operation without the prior written approval of the City. Any succeeding owner shall comply with the terms and conditions of the existing permit until a new permit is issued. The Permittee shall notify the City at least fourteen (14) days prior to any change of ownership.

I. Industrial Wastewater Discharge Permit Conditions

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

- (1) A statement that indicates the permit's issuance date, expiration date and effective date;
- (2) A statement on permit transferability;
- (3) The unit charge or schedule of user charges and fees for the wastewater to be discharged into a public sewer;
- (4) Limits on the average and/or maximum wastewater constituents and characteristics including, but not limited to, effluent limits, including Best Management Practices, based upon applicable Pretreatment Standards;
- (5) Limits on average and maximum rate and time of discharge or requirements for flow;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

- (7) Self-monitoring, sampling, reporting, notification and record-keeping requirements including, but not limited to, identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on federal, state and local law;
- (8) Best Management Practices (BMPs) to control specific pollutants as necessary to meet the objectives of this Article;
- (9) Compliance Schedules;
- (10) Requirements for notification of the City of any new introduction of wastewater constituents or any significant change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (11) Requirements to control and report any slug discharges and notify the City immediately of any changes at its facility affecting potential for a Spill or Slug Discharge and to notify the POTW immediately in the event of a slug, spill or accidental discharge to the POTW;
- (12) Statements of applicable administrative, civil and criminal penalties for the violation of Pretreatment Standards and Requirements, the permit, this Article, and any applicable compliance schedule;
- (13) Requirements to reapply for a new permit prior to expiration of the existing permit;
- (14) Additional monitoring to be reported;
- (15) 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;
- (16) Closure requirements for permitted facilities undergoing partial or complete closure activities to ensure closure activities are completed and wastes have been properly disposed and remaining access to sanitary and storm sewers are protected;
- (17) Other conditions as deemed appropriate by the City or the City Engineer to ensure compliance with the Article.

J.

#### Industrial Wastewater Discharge Permit Modification

The Industrial User shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. The notification of an Industrial Wastewater Discharge Permit Modification does not stay any wastewater discharge permit condition. The City may modify an Industrial Discharge Permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;
- (2) To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of the Industrial 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, City personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the Industrial Discharge Permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the Industrial Discharge Permit application or in any required reporting;
- (7) To reflect a transfer of the facility ownership and/or operation to a new owner/operator;
- (8) To correct typographical or other errors in the Industrial Wastewater Discharge Permit.
- (9) Upon request of the Permittee, provided such request does not result in a violation of any applicable Pretreatment Standards or Requirements, or this Article. The filing of a request by the Permittee for a permit modification does not stay any permit condition.

J.

#### Industrial Wastewater Discharge Permit Revocation

A violation of the conditions of a permit or of this Article or of applicable State and federal regulations shall be reason for revocation of such permit by the City. Upon revocation of the permit, any wastewater discharge from the affected Industrial User shall be considered prohibited and in violation of this Article. Grounds for revocation of a permit include, but are not limited to, the following:

- (1) Failure of an Industrial User to accurately disclose or report the wastewater constituents and characteristics of any discharge;
- (2) Failure of the Industrial User to report significant changes in operations or wastewater constituents and characteristics as required;
- (3) Refusal of access to the Industrial User's premises for the purpose of inspection or monitoring;
- (4) Falsification of records, reports or monitoring results;
- (5) Tampering with monitoring equipment;
- (6) Misrepresentation or failure to fully disclose all relevant facts in the Industrial Wastewater Discharge Permit application;
- (7) Failure to pay fines or penalties;
- (8) Failure to pay sewer charges, surcharges, or pretreatment programs fees;
- (9) Failure to meet compliance schedules;
- (10) Failure to provide advance notice of the transfer of business ownership of a permitted facility.
- (11) Failure to provide required reports or other permit required reports or notifications within

- the timeframe required by the City; or
- (12) Violation of any Pretreatment Standard or Requirement, or any terms of the Industrial Wastewater Discharge Permit or this Article.

**L. Special agreements and contracts.**

No statement contained in this Article shall be construed as prohibiting special written agreements between the POTW and any Industrial User allowing industrial waste or wastewater of unusual strength or character to be discharged to the POTW, provided said Industrial User compensates the POTW for any additional costs of treatment. Such agreement, however, shall not allow or cause:

- (1) Any adverse effect to the POTW;
- (2) A violation of the POTW CPDS permit;
- (3) A violation of a General or Specific Prohibition;
- (4) A Maximum Allowable Industrial Load (MAIL) to be exceeded;
- (5) A violation of State or federal law or regulation; or
- (6) Provide any waiver to applicable Categorical Standards.

**§ 23-74. Recordkeeping**

A. All Industrial Users shall retain, and make available for inspection and copying, all records, reports, monitoring or other data, applications, permits and all other information and documentation required by this Article including documentation associated with Best Management Practices.

B. Industrial users shall retain such records and shall keep such records available for inspection for at least three (3) years. This recordkeeping period shall be extended automatically for the duration of any litigation concerning the Industrial User's compliance with any provision of this Article, or when the Industrial User has been specifically and expressly notified of a longer records retention period by the City Engineer.

C. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

**§ 23-75. Confidential Information - Disclosure of Information and Availability to the Public.**

A. All records, reports, data or other information supplied by any person or Industrial User as a result of any disclosure required by this Article or information and data from inspections shall be available for public inspection except as otherwise provided in this Section, 40 CFR Section 403.14 and the Wyoming Open Records Act (Wyo. Stat. § 16-4-201 et seq.).

B. These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include, but shall not be limited to, processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted by the Industrial User which is desired to be considered a trade secret shall have the words, "Confidential Business Information," stamped on each page containing such information. The Industrial User must demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Industrial User.

Information designated as a trade secret pursuant to this Section shall remain confidential and shall not be subject to public inspection. Such information shall be available only to officers, employees or authorized representatives of the City charged with implementing and enforcing the provisions of this Article and properly identified representatives of the U.S. Environmental Protection Agency and the Wyoming Department of Environmental Quality.

Effluent data from any Industrial User whether obtained by self-monitoring, monitoring by the City or monitoring by any state or federal agency, shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.

**§ 23-76. Sample Collection and Analytical Methods**

**A. Sample Collection.**

Compliance determinations with respect to prohibitions and limitations in this Article may be made on the basis of either grab or composite samples of wastewater as specified by the City. Such samples shall be taken at a point or points which the City determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty-four (24) hour period, or over a longer or shorter time span, as determined by the City to meet specific circumstances.

**B. Sample Type.**

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, and based on data that is representative of conditions occurring during the reporting period.

- (1) Except as indicated in subparagraphs (2) below, the Industrial User must collect representative wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is required by the City. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the permitted discharge.
- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (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 or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composited samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab

samples may be required to show compliance with instantaneous local limits, including pH.

C. Analytical Requirements.

All pollutant analysis, including sampling techniques, to be submitted as part of an Industrial Discharge Permit application, report, permit or other analyses required under this Article shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, 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, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the City or other parties approved by the EPA.

D. Records shall include for all samples:

- (1) The date, exact place, method, and time of sampling and the name of the person(s) taking the samples;
- (2) The date(s) analyses were performed;
- (3) Who performed the analyses;
- (4) The analytical techniques/methods used, including method detection limits and QA/QC sample results;
- (5) Calibration and maintenance records;
- (6) All chain-of-custody records; and
- (7) The results of such analyses.

**§ 23-77. Reporting and Notification Requirements**

A. Reports for Categorical Industrial Users

Categorical Industrial Users are required to submit a Baseline Monitoring Report and a 90-Day Compliance Report by the deadlines established in 40 CFR Section 403.12(b) and (d). The Categorical Industrial User shall submit a copy of all such reports required by 40 CFR Part 403 to the City at the same time submitted to EPA.

Periodic Compliance Reports – All Significant Industrial Users.

- (1) Any Significant Industrial User or other Industrial User required by the City, subject to a federal, state, or City Pretreatment Standard or Requirement must submit reports at a frequency required by the Industrial Wastewater Discharge Permit indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards including the average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practices (BMPs) or pollution prevention alternatives, the Industrial User must submit documentation required by the City or the Pretreatment Standard necessary to determine compliance status of the Industrial User. All periodic compliance reports must be signed and certified in accordance with §23-77.G.
- (2) All wastewater samples must be representative of the Industrial User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that the sample results are unrepresentative of its discharge.
- (3) If an Industrial User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City, using the methods and procedures prescribed in §23-76, the results of this monitoring shall be included in the report.

C. 24 Hour Notice and 30 Day Re-sampling.

If sampling performed by an Industrial User indicates a violation of this Article or the Industrial Wastewater Discharge Permit, the Industrial User shall notify the City within twenty-four (24) hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation.

D. Slug Discharge Control Plan.

- (1) Each Industrial User shall provide protection from accidental and slug discharges of pollutants regulated under this Article. Facilities to prevent the discharge of spills or slug loads shall be provided and maintained at the Industrial User's expense.
- (2) Each Significant Industrial User shall develop, submit for approval, and implement a Slug Discharge Control Plan. The Slug Control Plan shall contain all of the information specified at 40 CFR Section 403.8(f)(2)(vi).
- (3) The Industrial User shall permanently post a notice on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who work in any area where an accidental or slug discharge may occur or originate are advised of the emergency notification procedures.

E. Reports of Potential Problems – Slug and Spills.

- (1) In the case of any changes at its facility affecting potential for a Slug Discharge as defined in §23-69 or any actual discharge that may cause potential problems for the POTW or otherwise trigger the reporting requirements under §23-77, I., the Industrial User shall immediately telephone and notify the City of the incident. This notification shall include:
  - (a) Name of the facility
  - (b) Location of the facility
  - (c) Name of the caller

- (d) Date and time of discharge
  - (e) Date and time discharge was halted
  - (f) Location of the discharge
  - (g) Estimated volume of discharge
  - (h) Estimated concentration of pollutants in discharge
  - (i) Corrective actions taken to halt the discharge
  - (j) Method of disposal, if applicable
- (2) Within five (5) working days following such discharge, the Industrial User shall, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, penalties, or other liability which may be imposed pursuant to this Article.
- F. Reports for Non-Significant Industrial Users.  
If the City deems it necessary to assure compliance with provisions of this Article, any Industrial User of the POTW may be required to submit an Industrial Discharge Permit Application, questionnaire or other reports and notifications in a format and timeframe as specified by the City.
- G. Signatory Certification.  
All reports and other submittals required to be submitted to the City shall include the following statement and signatory requirements.
  - (1) The Authorized Representative of the Industrial User signing any application, questionnaire, any report or other information required to be submitted to the City must sign and attach the following certification statement with each such report or information submitted to the City.  
"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 ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or the 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 a fine and imprisonment for knowing violations."
  - (2) If the Authorized Representative 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 and meeting the definition in §23-69 must be submitted to the City prior to or together with any reports to be signed by an Authorized Representative.
- H. Compliance Schedules.  
Should any schedule of compliance be established in accordance with the requirements of this Article, the following conditions shall apply to such schedule:
  - (1) 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 Industrial User to meet the applicable Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);
  - (2) No increment referred to above shall exceed nine (9) months;
  - (3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the City 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 Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the City.
- I. Change in Discharge or Operations.
  - (1) Every permitted Industrial User shall file a notification with the City a minimum of fourteen (14) days prior to any planned significant change in operations or wastewater characteristics. A significant change shall be a change equal to or greater than twenty percent (20%) in the mass of a pollutant or volume of flow discharged to the POTW from what was reported over the last six months. In addition, this notification shall include changes to:
    - (a) Adding or removing processing, manufacturing or other production operations.
    - (b) New pollutants used which may be discharged.
    - (c) Changes in the listed or characteristic hazardous waste for which the Industrial User has submitted or is required to submit information to the City under this Article and 40 CFR Section 403.12 (p) as amended.
  - (2) Known or anticipated facility closure. The Industrial User is required to notify the City at least thirty (30) days prior to facility shutdown or closure which might alter the character, nature, quality, or volume of its wastewater.
- J. Notification of the Discharge of Hazardous Waste.
  - (1) Any Industrial User shall notify the City, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification to the City shall be made within the appropriate time frames specified in §23-77 paragraphs C, E and I or within twenty-four (24) hours of becoming aware of the discharge, whichever is shorter.

Such notification must include:

- (a) The name of the hazardous waste as set forth at 40 CFR Part 261;
  - (b) The EPA hazardous waste number;
  - (c) The type of discharge (continuous, batch, or other);
  - (d) An identification of the hazardous constituents contained in the wastes;
  - (e) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
  - (f) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;
  - (g) Certification that the Industrial User 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; and
  - (h) Signatory certification as required by §23-77, G.
- (2) Any Industrial User shall notify the EPA Regional Waste Management Division Manager, and state hazardous waste authorities, in writing, of the discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261 and meets the reporting criteria specified at 40 CFR 403.12(p). Notification to the State and EPA is the responsibility of the Industrial User and shall be made as required under 40 CFR Section 403.12(p). The Industrial User shall copy the City on all notifications made to the State and EPA.

K. Requests for Information

- (1) A permittee shall furnish to the City, within the timeframe set by the City Engineer, any information which the City may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating an industrial wastewater discharge permit, or to determine compliance with the industrial wastewater discharge permit or this Article. A permittee shall also, upon request, provide to the City, within the timeframe required by the City Engineer, copies of any records that are required by the industrial wastewater discharge permit or this Article.
- (2) When requested by the City, any Industrial User shall submit information to the City Engineer regarding industrial processes, nature and characteristics of wastes and wastewaters generated at the industrial facility, method of disposal of wastes, or other information required by the City Engineer to meet the responsibilities under this Article, State law, and 40 CFR Part 403. Failure to provide information within the timeframe specified shall be a violation of this Article.

**§ 23-78. Right of Entry**

A. Whenever it shall be necessary for the purposes of this Article, the City may enter upon any Industrial User's facility, property, or premises subject to this Article for the purposes of:

- (1) Performing all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by an Industrial User. Compliance monitoring and inspection shall be conducted at a frequency as determined by the City and may be announced or unannounced;
- (2) Examining and copying any records required to be kept under the provisions of this Article or of any other local, state or federal regulation;
- (3) The City may use a camera to photograph any areas of the facility as deemed necessary for carrying out the duties of the industrial pretreatment program including, but not limited to, documentation of the industrial user's compliance status and for reinforcement of required written reports. The industrial user shall be allowed to review copies of photographs for confidentiality claims.
- (4) Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation;
- (5) Sampling any discharge of wastewater into POTW; and/or
- (6) Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under this Article, could originate, be stored, or be discharged to the POTW.

B. The occupant of such property or premises shall render all proper assistance in such activities. Where an Industrial User has security measures in place which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements with its security personnel so that authorized representatives of the City will be permitted to enter without delay to perform their specified functions.

C. The City Engineer and other duly authorized agents and employees of the City are entitled to enter all private properties through which the City or any connecting jurisdiction holds an easement.

D. Failure to allow entry or unreasonable delays: In the event the City or other duly authorized representative of the City is refused admission or unreasonably delayed is a violation and may result in enforcement action as allowed for under this Article including revocation of the Industrial Wastewater Discharge Permit.

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 Industrial User at the written or verbal request of the City Engineer and shall not be replaced. The costs of clearing such access shall be borne by the User.

F. Search Warrants

If the City Engineer has been refused access to a building, structure, or property, or any part thereof, 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 and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the City may seek issuance of a search warrant from a court of competent jurisdiction.

**§ 23-79. Program Cost Recovery.**

The City may recover the costs incurred by implementing the pretreatment program established by this Article and adopt charges and fees, including, but not limited to the following:

- A. Fees for monitoring, inspection and surveillance activities;
- B. Fees for reviewing accidental discharge procedures and construction;
- C. Fees for permit applications;
- D. Fees for filing appeals and other legal expenses;
- E. Such other fees as the City may deem necessary to administer and enforce the requirements contained herein.

**§ 23-80. Compliance and Enforcement.**

- A. Enforcement Response Plan.

The City may adopt policies and procedures as set forth in the City's Enforcement Response Plan for carrying out the provisions of this Article, provided that such policies and procedures are not in conflict with this Article or any applicable state or federal law or regulation.

- B. Administrative Enforcement Actions.

- (1) Notice of Violation (NOV)

When the City finds that an Industrial User has violated, or continues to violate, any provision of this Article, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon the Industrial User a written Notice of Violation. Within five (5) working days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction of prevention thereof, to include specific required actions, shall be submitted by the Industrial User to the City. Submission of such a plan in no way relieves the Industrial User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

- (2) Suspension of Service

**Endangerment to Health or Welfare of the Community:** The City, through other than a formal notice to the affected Industrial User, may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW of the City or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.

**Endangerment to Environment or Treatment Works:** The City, after written notice to the discharger may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW, wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.

Any person notified of a suspension of the wastewater treatment service and/or the Industrial Wastewater Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The City may reinstate the Industrial Wastewater Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge.

A detailed written statement submitted by the Industrial User describing the causes of the harmful contribution and the measure taken to prevent any future occurrence shall be provided to the City within five (5) days of the date of occurrence. Suspension of Service shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

- (3) Administrative Compliance Order

When the City finds that an Industrial User has violated, or continues to violate, any provision of this Article, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an order to the Industrial User responsible for the discharge directing that the Industrial User come into compliance within a specific time. If the Industrial User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the Industrial User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

- (4) Consent Order

The City may enter into a Consent Order, assurances of compliance, or other similar documents establishing an agreement with any Industrial User responsible for noncompliance. Such documents shall include specific actions to be taken by the Industrial User to correct the noncompliance within a time period specified by the

document. A consent order may include penalties, supplemental environmental projects, or other conditions and requirements as agreed to by the City and the Industrial User.

(5) Cease and Desist Order

(a) When the City Engineer finds that an industrial user is violating this Division, a wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or Requirement, or that the industrial user's past compliance history indicates that violations are likely to recur, the City Engineer may issue an order to the user directing it to cease and desist all such violations and directing the industrial 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 against the industrial user.

(6) Administrative Fines

(a) When the City finds that an Industrial User has violated, or continues to violate, any provision of this Article, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such Industrial User in an amount not to exceed one thousand dollar (\$1,000) per day per violation. 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) A lien against the Industrial User's property shall be sought for unpaid charges, fines, and penalties.

(c) Industrial users desiring to appeal such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Such notice or appeal shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and request for reconsideration.

(d) Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the Industrial User.

C. Judicial Enforcement Remedies.

(1) Injunctive Relief

When the City finds that an Industrial User has violated, or continues to violate, any provision of this Article, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition the District Court of the Third Judicial District, Uinta County for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Industrial Wastewater Discharge Permit, order, or other requirement imposed by this Article on activities of an Industrial User. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the Industrial User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

(2) Civil Penalties

(a) An Industrial User who has violated, or continues to violate, any provision of this Article, an Industrial 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 not to exceed one thousand dollars (\$1,000) per day per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.

(b) The City 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 of the violation, any economic benefit gained through the Industrial User's violation, corrective actions by the Industrial User, the compliance history of the Industrial User, and any other factor as justice requires.

(d) Actions for civil penalties shall be civil actions brought in the name of the City in the District Court of the Third Judicial District, Uinta County. The City must prove alleged violations by a preponderance of the evidence.

(e) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

(3) Civil/Administrative Fine Pass Through

In the event that an Industrial User discharges such pollutants which cause the City to violate any condition of its WYPDES Permit and the City is fined by the EPA or the State for such violation, then such Industrial User shall be fully liable for the total amount of the fine assessed against the City by the EPA and/or the State.

(4) Criminal prosecution

The City may refer violations that warrant criminal prosecution to the U.S. Attorney General's

Office, State Attorney General or USEPA Criminal Investigation Division or other appropriate agency. This referral shall not preclude the City from taking a parallel administrative or civil enforcement action.

D. Remedies Nonexclusive

The remedies provided for in this Article are not exclusive of any other remedies that the City may have under the provisions of Wyoming law. The City may take any, all, or any combination of these actions against a noncompliant Industrial User. Enforcement of pretreatment violations will generally be in accordance with the Enforcement Response Plan. However, the City may take other action against any Industrial User when the circumstances warrant and may take more than one enforcement action against any noncompliant Industrial User.

**§ 23-81. Severability and conflict.**

A. Severability. If any provision, paragraph, word or section of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

B. Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Article, are repealed to the extent of such inconsistency or conflict.

PASSED AND APPROVED on First Reading this 7<sup>th</sup> day of May, 2013.

PASSED AND APPROVED on Second Reading this 21<sup>st</sup> day of May, 2013.

PASSED AND APPROVED on Third and Final Reading this 4<sup>th</sup> day of May, 2013.

CITY OF EVANSTON, WYOMING

\_\_\_\_\_  
Joy Bell, Mayor

ATTEST:

\_\_\_\_\_  
James H. Davis, City Clerk

The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

**Ordinance 13-03**

**Councilmember Schuler moved, Councilmember Lynch seconded, to pass Ordinance 13-03 on third and final reading.**

Ordinance 13-03: AN ORDINANCE APPROVING AND AUTHORIZING THE FINAL PLAT FOR THE RIDGECREST 4<sup>TH</sup> ADDITION, LOCATED IN THE CITY OF EVANSTON, WYOMING, BEING MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the subdivider, Yellow Creek Ranch Company, Inc., a Wyoming corporation, has made application to the governing body of the City of Evanston, Wyoming for approval and authorization of the proposed subdivision entitled the Ridgcrest 4th Addition, located within the City of Evanston, Wyoming; and

WHEREAS, the City of Evanston finds that all of the requirements of Section 22, "Subdivision Regulations" of the Code of the City of Evanston, have been complied with, including notice of hearings and hearings thereof;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EVANSTON, WYOMING, THAT:

Section 1. The final plat of the Ridgcrest 4th Addition is hereby approved, accepted and authorized and described in particularity as follows, to-wit:

The "Ridgcrest 4<sup>th</sup> Addition", is a subdivision of part of the E ½ SW ¼ of Section 29, T15N, R120W, 6<sup>TH</sup> P.M., in the City of Evanston, Uinta County, Wyoming, said "Ridgcrest 4<sup>th</sup> Addition" being more particularly described as follows:

**COMMENCING** at the South one-quarter corner of said Section 29, running thence S 89°59'24" W, 390.70 feet along the South line thereof; thence N 0°00'36" W, 374.31 feet to the **POINT OF BEGINNING**, said point of beginning also being the Northeast corner of the Ridgcrest 3<sup>rd</sup> Addition to the City of Evanston;

thence N 64°02'49" W, 370.99 feet along the North line thereof;

thence N 7°29'44" E, 106.69 feet;

thence N 44°13'28" E, 120.96 feet;

thence N 5°14'12" W, 133.90 feet;

thence N 16°43'44" E, 24.33 feet;

thence S 72°58'40" E, 206.39 feet;

thence S 70°12'13" E, 60.46 feet;

thence S 72°58'40" E, 112.92 feet to the Westerly line of Twin Ridge Subdivision No. 1;

thence S 17°01'20" W, 223.66 feet along said Westerly line to the Northwest corner of Ridgcrest Subdivision No. 1

thence S 17°01'20" W, 192.05 feet along the Westerly line thereof to the **POINT OF BEGINNING**.

Said "Ridgcrest 4<sup>th</sup> Addition" containing 3.240 acres, more or less.

Section 2. The Mayor and City Clerk of the City of Evanston are hereby authorized and directed to enforce the mandates of Chapter 22 of the Code of the City of Evanston, referring to the payment of necessary fees and land dedication requirements by the subdivider and the filing of the final plat with the County Clerk of Uinta County, Wyoming as by law required.

PASSED AND APPROVED on First Reading this 7<sup>th</sup> day May, 2013.  
PASSED AND APPROVED on Second Reading this 21<sup>st</sup> day of May, 2013.  
PASSED AND APPROVED on Third and Final Reading this 4<sup>th</sup> day of June, 2013.

CITY OF EVANSTON, WYOMING

Joy Bell, Mayor

ATTEST:

James H Davis, City Clerk

The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

**Resolution 13-30**

**Councilmember Perkes introduced Resolution 13-30. Councilmember Perkes moved, Councilmember Welling seconded, to adopt Resolution 13-30.**

Resolution 13-30: A RESOLUTION AUTHORIZING ADJUSTMENT TO THE BUDGET OF THE CITY OF EVANSTON, WYOMING FOR THE FISCAL YEAR ENDING JUNE 30, 2013 AND ALLOCATING SUCH FUNDS AND EXPENDITURES AMONG THE FUNDS AND DEPARTMENTS AS SPECIFIED HEREIN.

WHEREAS, the City of Evanston, Wyoming has previously adopted a budget for the fiscal year ending June 30, 2013 which budget estimated revenues and appropriated said revenues to the funds and departments of the City; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EVANSTON, WYOMING THAT:

Section 1. The following funds and departments shall have their appropriations revised for the fiscal year as shown:

Departments		<u>Adjustments</u>	
GENERAL FUND			
For:	Daniels Grant	\$	75,000
	CLG Training Grant	\$	4,606
	11 <sup>th</sup> Street Sidewalk	\$	5,500
	Technical Assistance-Main Street	\$	37,895
From:	Grant Revenue	\$	79,606
	General Fund	\$	43,395
WASTEWATER FUND			
For:	Wastewater Plant Upgrades	\$	40,000
From:	Wastewater Fund	\$	40,000
WATER FUND			
For:	Transfer to General Fund	\$	200,000
From:	Water Fund	\$	200,000
<u>SUMMARY OF ADJUSTMENTS</u>			
		Increase <u>(Decrease)</u>	From <u>Revenue</u>
General Fund	\$	43,395	\$ 43,395
Grants	\$	79,606	\$ 79,606
Wastewater Fund	\$	40,000	\$ 40,000
Water Fund	\$	200,000	\$ 200,000
<b>TOTAL</b>	<b>\$</b>	<b>363,001</b>	<b>\$ 363,001</b>

Section 1. The terms and conditions of the original budget shall remain as passed unless otherwise amended.

PASSED, APPROVED AND ADOPTED the 4<sup>th</sup> day of June, 2013.

Joy Bell, Mayor

ATTEST:

James H. Davis, City Clerk

The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

**Budget Transfer/Parks & Recreation**

**Councilmember Rex moved, Councilmember Meyer seconded, to approve a budget transfer of \$10,000 within the Parks and Recreation Capital Outlay Budget, from the Anderson Park Irrigation System to the Bear River Greenway Trail Improvements.**

**Councilmember Meyer moved, Councilmember Perkes seconded, to amend the motion to also include the transfer of \$4,000 within the Parks and Recreation Capital Outlay Budget, from the Anderson Park Irrigation System to Heavy Equipment.** The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

**Budget Transfer/Water Fund**

**Councilmember Welling moved, Councilmember Meyer seconded, to approve a budget transfer of \$55,000 within the Water Capital Outlay Budget from Water Plant Fence and \$100,000 from the Birch/AshLine Replacement to Plant Upgrades.** The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

**Award Bid/Golf Course Asphalt Cart Path Project**

**Councilmember Lynch moved, Councilmember Perkes seconded, to award the bid for the Purple Sage Golf Course Asphalt Cart Path Project to Advanced Paving and Construction, the apparent low bidder meeting all City Specifications, in the amount of \$70,707.00.** The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

**Resolution 13-31**

**Councilmember Schuler introduced Resolution 13-31. Councilmember Schuler moved, Councilmember Meyer seconded, to adopt Resolution 13-31.**

Resolution 13-31: RESOLUTION OF THE CITY OF EVANSTON, WYOMING, AUTHORIZING THE EXECUTION OF A CONTRACT WITH ADVANCED PAVING AND CONSTRUCTION, FOR THE GOLF COURSE ASPHALT CART PATH PROJECT.

WHEREAS, the City of Evanston has a need to asphalt some of the cart paths in the Purple Sage Municipal Golf Course; and

WHEREAS, the City has solicited bids from contractors to provide the material and perform the work to asphalt some of the cat paths; and

WHEREAS, Advanced Paving and Construction has submitted the lowest bid to do the work for the Golf Course Asphalt Cart Path Project;

NOW, THEREFORE, BE IT RESOLVED B THE GOVERNING BODY OF THE CITY OF EVANSTON, WYOMING THAT:

Section 1: The Mayor is hereby authorized to execute, and the City Clerk attest, on behalf of the City of Evanston, the Contract between the City of Evanston, as Owner, and Advanced Paving and Construction as Contractor, a copy of which is attached, for the completion of all work for the Golf Course Asphalt Cart Path Project.

PASSED, APPROVED AND ADOPTED the 4<sup>th</sup> day of June, 2013.

\_\_\_\_\_  
Joy Bell, Mayor

ATTEST:  
  
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James H. Davis, City Clerk

The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

**Resolution 13-32**

**Councilmember Perkes introduced Resolution 13-32. Councilmember Perkes moved, Councilmember Welling seconded, to adopt Resolution 13-32.**

Resolution 13-32: A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF EVANSTON AUTHORIZING THE ACCEPTANCE OF A QUOTE BY DAVE NORRIS CONSTRUCTION TO INSTALL ASPHALT ON THE BEAR RIVER WALKWAY.

WHEREAS, the City of Evanston has need to repair and replace asphalt on the Bear River Walkway; and

WHEREAS, Dave Norris Construction has submitted the lowest quote to provide the work;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Evanston, Wyoming, as follows:

Section 1. The City of Evanston hereby accepts the quote from Dave Norris Construction, a copy of which is attached hereto, to repair and replace asphalt on the Bear River Walkway.

Section 2. The City of Evanston is authorized to issue a Purchase Order on behalf of the City for payment for the work when it is completed.

PASSED, APPROVED AND ADOPTED the 4<sup>th</sup> day of June, 2013.

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Joy Bell, Mayor

ATTEST:

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James H. Davis, City Clerk

The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

#### **Award Bid/Refuse Collection Truck**

**Councilmember Meyer moved, Councilmember Rex seconded, to award the bid for One (1) 2013 Automated Side-Loading Refuse Collection Truck and Body to Jack's Trucking & Equipment, the apparent low bidder meeting all City specifications, in the amount of \$232,109.00.** The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

#### **Resolution 13-33**

**Councilmember Perkes introduced Resolution 13-33. Councilmember Perkes moved, Councilmember Meyer seconded, to adopt Resolution 13-33.**

Resolution 13-33: RESOLUTION OF THE CITY OF EVANSTON, WYOMING, AUTHORIZING THE RATIFYING THE EXECUTION OF A COOPERATIVE AGREEMENT FOR PURCHASING A SALT AND SAND MIXTURE FOR ROADS WITH THE WYOMING DEPARTMENT OF TRANSPORTATION.

WHEREAS, the City of Evanston and the Wyoming Department of Transportation have determined that it is to their mutual benefit to cooperate in the purchase of salt and sand mixture to be used on the roads; and

WHEREAS, the City of Evanston and the Wyoming Department of Transportation have set forth an agreement, a copy of which is attached hereto, to provide the purchase of the salt and sand mixture;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EVANSTON, WYOMING THAT:

Section 1: The City of Evanston is authorized to execute a Cooperative Agreement for the Purchasing of a Salt and Sand Mixture for Roads with the Wyoming Department of Transportation, a copy of which is attached hereto.

Section 2: The Mayor's execution of the Cooperative Agreement is hereby approved and ratified.

PASSED, APPROVED AND ADOPTED the 4<sup>th</sup> day of June, 2013.

\_\_\_\_\_  
Joy Bell, Mayor

ATTEST:

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James H. Davis, City Clerk

The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

#### **Resolution 13-34**

**Councilmember Schuler introduced Resolution 13-34. Councilmember Schuler moved, Councilmember Meyer seconded, to adopt Resolution 13-34.**

Resolution 13-34: A RESOLUTION AUTHORIZING THE EXECUTION OF A SUBDIVIDER CONTRACT WITH YELLOW CREEK RANCH COMPANY, INC. TO CONSTRUCT THE IMPROVEMENTS FOR THE RIDGECREST 4<sup>TH</sup> ADDITION, A SUBDIVISION IN THE CITY OF EVANSTON, WYOMING.

WHEREAS, pursuant to Chapter 22 of Evanston City Code all subdividers must construct certain improvements such as streets, sewers, water lines and other public facilities; and

WHEREAS, Chapter 22, of the Evanston City Code requires the Subdivider to reimburse the City of Evanston for the actual cost of repairs to the improvements for one (1) year from the date of acceptance of the final plat or completion of the Improvements, whichever is later, and;

WHEREAS, Chapter 22 of the Evanston City Code also provides for security for the City to assure the above described Improvements shall be completed, by requiring the Subdivider to deposit with the City

a guarantee in the amount of not more than 150 percent of the estimated cost of the improvements; and

WHEREAS, the City and Yellow Creek Ranch Company, Inc. have negotiated an agreement to install the required improvements and provide a guarantee for their completion;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Evanston, Wyoming as follows:

Section 1. The City of Evanston is authorize to enter into a Subdividers Agreement with Yellow Creek Ranch Company, Inc., a Wyoming Corporation, for the Ridgecrest 4<sup>th</sup> Addition, a copy of which is attached hereto.

Section 2. The Mayor is authorized to sign and the City Clerk attest said Agreement on behalf of the City.

PASSED, APPROVED AND ADOPTED the 4<sup>th</sup> day of June, 2013.

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Joy Bell, Mayor

ATTEST:

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James H. Davis, City Clerk

The motion passed unanimously with 7 yes votes: Bell, Lynch, Rex, Perkes, Welling, Meyer, Schuler.

#### **Comments/Remarks**

Paul Knopf stated that he was happy to report that over 40 of the community garden plots have been adopted and he thanked all those who worked so hard to make this first year such a success.

#### **Adjournment**

With no further business to be conducted at this time Mayor Bell adjourned the meeting at 6:36 p.m.

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Joy Bell, Mayor

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James H. Davis, City Clerk