

**ORDINANCE 1399**

**AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING TITLE 13, CHAPTER 13.10, SECTION 13.10.030 DEFINITIONS, 13.10.040 (B)(1)&(2), PROHIBITED DISCHARGE STANDARDS, OF THE PAYETTE MUNICIPAL CODE TO UPDATE CODE AND INCORPORATE RECOMMENDATIONS FROM THE EPA RESULTING FROM NPDES PERMIT RENEWAL; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER.**

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO:

**Section 1.** Sections 13.10.030, 13.10.040 of Title 13 of the Payette Municipal Code are hereby amended as follows:

**13.10.030: DEFINITIONS:**

The definitions contained in chapter 13.08 of this code shall apply to this chapter.

The following terms shall mean:

ACT: The clean water act (33 USC 1251, et seq.), as amended.

APPLICABLE PRETREATMENT STANDARDS: For any specified pollutant, city prohibitive discharge standards, city's specific limitations on discharge, state of Idaho pretreatment standards, or the national categorical pretreatment standards (when effective) whichever standard is appropriate or most stringent.

APPROVAL AUTHORITY: The term means the Director in an NPDES State with an approved State pretreatment program and the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program.

BEST MANAGEMENT PRACTICES (BMPs): The term Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions in this ordinance. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BYPASS: The intentional diversion of waste streams from any portion of a user's treatment facility.

CATEGORICAL PRETREATMENT STANDARDS: Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with sections 307(b) and (c) of the act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR chapter 1, subchapter N.

CATEGORICAL USER: A user regulated by one or more of EPA's categorical pretreatment standards.

CITY: The city of Payette, a municipal corporation of the state of Idaho.

COMPOSITE SAMPLE: The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

COOLING WATER/NONCONTACT COOLING WATER: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

DOMESTIC USER(Residential User): Any person who contributes, causes, or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit.

**EFFLUENT LIMITATION:** Any restriction imposed by the City on quantities, discharge rates, and mass or concentration of pollutants that are discharged by users into the POTW. Also referred to as a Local Limit.

**EXISTING SOURCE:** For a categorical industrial user, an existing source is any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**EXISTING USER:** For noncategorical users an existing user is defined as any user that is discharging wastewater prior to the effective date of this ordinance.

**GRAB SAMPLE:** A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

**INDIRECT DISCHARGE:** The discharge or the introduction of nondomestic pollutants into a POTW from a source regulated under section 307 (b), (c) or (d) of the Act.

**INDIRECT DISCHARGE PERMIT (Industrial Wastewater Discharge Permit, Discharge Permit):** An authorization or equivalent control document issued by the City to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this ordinance.

**INDUSTRIAL USER OR USER:** Any nonresidential user with an indirect discharge of effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches and all constructed devices and appliance appurtenant thereto. This term includes federal, state and local facilities as part of the regulated community, since such entities are subject to federal pretreatment regulations.

**INDUSTRIAL WASTE:** Solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.

**INTERFERENCE:** A discharge which alone or in conjunction with a discharge or discharges from other sources, either: a) inhibits or disrupts the POTW, its treatment processes or operations; b) inhibits or disrupts sludge processes, use or disposal; or c) is the cause of a violation of the discharge 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 thereunder or more stringent state or local regulations: section 405 of the clean water act, the solid waste disposal act (SWDA), including title II, more commonly referred to as the resource conservation and recovery act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA, the clean air act, and the toxic substances control act.

**Maximum Allowable Industrial Loading (MAIL):** The estimated maximum loading of a pollutant that can be received at the POTW headworks from all permitted industrial users and other controlled sources without causing pass through or interference.

**MINOR INDUSTRIAL USER (MIU):** A nonresidential user with an indirect discharge to the POTW which does not meet the criteria as a significant industrial user or a significant connecting user, but whose operation and discharge may warrant inspection to ensure compliance with discharge prohibitions, pretreatment facility operation, spill prevention measures and pollution prevention assistance.

**NPDES:** National pollutant discharge elimination system permit program as administered by the USA EPA or state.

**NEW SOURCE:**

A. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, and such building, structure, facility or installation:

1. Is constructed at a site at which no other source is located; or

2. Totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3. Is constructed for production or wastewater generating processes which are substantially independent of an existing source at the same site, substantial independence being determined by factors such as: a) the extent to which the new facility is integrated with the existing plant; and b) the extent to which the new facility is engaged in the same general type of activity as the existing source.

B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection A2 or A3 of this definition, but otherwise alters, replaces or adds to existing process of production equipment.

C. For purposes of this definition, construction is deemed to commence when:

1. The owner or operator of the facility has entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation herein; or

2. When the following are begun as part of a continuous on site construction:

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

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

**NEW USER (New Discharger):** A new user is not a new source and is defined as a user that applies to the City for a new building permit or any person or business that occupies an existing building and plans to discharge wastewater to the City's collection system after the effective date of this ordinance.

**OTHER WASTES:** Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

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

**pH.** A measure of the acidity or alkalinity of a substance, expressed in standard units.

**POTW:** Any sewage treatment works owned and operated by the city and the sewers and conveyance appurtenances discharging thereto, whether or not owned by the city. The term also means the city since the U.S. environmental protection agency issues the NPDES permits to the city.

**POLLUTANT:** Any substance discharged into a POTW or its collection system which is prohibited or limited by ~~subsections 13.10.040-A, B and~~ sections 13.10.050, 13.10.060 and 13.10.070 of this chapter. This term includes dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural wastes.

**PRETREATMENT:** The reduction of the amounts 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 a POTW.

**PRETREATMENT REQUIREMENT:** Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

**PRETREATMENT STANDARDS OR STANDARDS:** Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, local limits and/or BMPs established by the City.

**PROHIBITED DISCHARGES (Prohibited Discharge Standards):** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections ~~8-14-04 and 8-14-09~~ 13.10.040 of this ordinance.

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

**SEPTIC TANK WASTE (Septage).** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**SEWAGE:** Water carried human wastes or a combination of water carried wastes from residences, business buildings, institutions and industrial establishments.

**SEWER:** Any pipe, conduit, ditch or other device used to collect and transport sewage from the generating source.

**SHALL:** "Shall" is mandatory.

**SIGNIFICANT CONNECTING USER (SCU):** Any private, public or quasi-public reservation, compound, district, government installation, industrial, commercial or domestic complex which indirectly discharges to the POTW at single or multiple connection points to the city's sewer collection system wastewater mixed with nondomestic wastewater. Upon determination by the wastewater treatment plant superintendent, city clerk or designee that an SCU, as a result of the discharge of toxic pollutants or high strength sewage as measured by BOD and TSS, causes or has the potential to cause interference with the operation and maintenance of the POTW, including its wastewater collection system, causes or has the potential to cause pass-through of pollutants to the receiving waters, or causes or has the potential to cause interference with the treatment, disposal or beneficial reuse of the POTW's sludge, or that contributes greater than five percent (5%) of the total flow entering the POTW, the city may issue an indirect discharge permit to the SCU. Issuance of an indirect discharge permit may not be necessary if the SCU is regulated by an EPA approved pretreatment program.

**SIGNIFICANT INDUSTRIAL USER (SIU):**

A. All industrial users of the POTW subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter 1, subchapter N.

B. Any other industrial user that discharges an average of twenty five thousand (25,000) gpd (gallons per day) or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater; contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity to the treatment facility receiving the waste; or is designated as such by the city as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential, either singly or in combination with other contributing industries, for adversely affecting the POTW's wastewater collection and treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system or for violating any pretreatment standard or requirement.

SIGNIFICANT NONCOMPLIANCE: For the purposes of this ordinance, significant noncompliance shall mean:

1. Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined or described in this ordinance;
2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for the same pollutant parameter during a six-month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined or described in this ordinance multiplied by the applicable factor [1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH]; ~~Page 8 of 33 SUPPLEMENT NO. 56~~
3. Any other violation of a Pretreatment Standard or Requirement, including instantaneous limits or narrative Standard, that the City believes has caused, alone or in combination with other discharges, interference, pass through, or endangered the health and safety of City personnel or the general public;
4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an indirect discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s), including a violation of BMPs, which the City determines will adversely [affect the operation or implementation of the City's Pretreatment Program.](#)

SLUG LOAD: Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in [subsections 13.10.040A, B,](#) and [y sections 13.10.050, 13.10.060 and 13.10.070](#) of this chapter or any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

TOXIC POLLUTANTS: Pollutants or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under section 307 (33 USC 1317) of the act.

UPSET: An exceptional incident in which a user unintentionally and temporarily is in a state of noncompliance with the standards as set forth in subsections [13.10.040A, B,](#) and sections [13.10.050,](#) [13.10.060,](#) [13.10.070](#) and [13.10.080](#) of this chapter due to factors beyond the reasonable control of the user, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation thereof.

USER: See definition of Industrial User Or User.

WASTEWATER: Industrial waste, sewage or any other waste, including that which may be combined with any groundwater, surface water or stormwater, that may be discharged to the POTW.

Whenever a reference is made to a rule, regulation, statute, code section, treatise, book, publication, manual, standard, CFR, ordinance or any other regulatory requirement, that reference shall be to the most updated or most recently amended version thereof.

**13.10.040 B (1) & (2) PROHIBITED DISCHARGE STANDARDS:**

B. Specific Prohibitions: No user shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater collection system or treatment facilities:

1. Any wastewater having a pH less than ~~six~~ five (6 5) or more than nine (9) or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system.
2. Any toxic and non toxic pollutants including oxygen demanding pollutants (BOD, etc.) in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals or to exceed the limitation set forth in national categorical pretreatment standards.

**Section 2.** This Ordinance may be published in summary form allowed by Idaho Code.

**Section 3.** This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

**Section 4.** Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

**Section 5.** If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

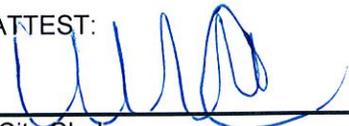
PASSED and APPROVED by the Mayor and City Council of the  
City of Payette, Idaho this 23<sup>rd</sup> day of December, 2015.

CITY OF PAYETTE, IDAHO

BY  \_\_\_\_\_

Jeffrey T. Williams, Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk