

ORDINANCE NO. 2013 - 7

***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BELGRADE, MONTANA AMENDING THE SEWER
REGULATIONS ORDINANCE TITLE 9, CHAPTER 3,
BELGRADE CITY CODE, TO ADOPT INDUSTRIAL
WASTEWATER PROVISIONS.***

WHEREAS, the purpose of this ordinance is to amend Title 9, Chapter 3 of the Belgrade City Code of the City of Belgrade, Montana, concerning industrial wastewater discharge.

WHEREAS, the City Council of the City of Belgrade, Montana, has determined that it is in the best interests of the City of Belgrade to amend Title 9, Chapter 3 of the Belgrade City Code, to promote the health, safety and welfare of the citizens of Belgrade, as set forth in this ordinance.

BE IT ORDAINED by the City Council of the City of Belgrade, Montana, that Title 9, Chapter 3 of the Belgrade City Code of the City of Belgrade, Montana is amended as follows:

(Portions of Section 9-3-7(A) that are deleted are indicated by strikeout and portions that are added are underlined.)

9-3-7: PROHIBITED SUBSTANCES:

- A. Unpolluted Drainage: No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters into the city sanitary sewer unless specifically authorized to do so under the provisions of this ordinance. ~~Any industrial development with anticipated sewer loadings containing high suspended solids, BOD, nutrient, or heavy metal contents must have their sewer application permit reviewed by the city engineer.~~

(Sections 9-3-10 through 9-3-21 are added.)

9-3-10: INDUSTRIAL WASTEWATER CLASSIFICATION SURVEY

- A. All industrial users shall complete and file with the City a wastewater classification survey containing the following information prior to discharging into the municipal wastewater system: name and facility address; type of services rendered and products produced; principal raw materials and catalysts used; plant operational characteristics; water use information; wastewater discharge information; wastewater quantities and constituents including but not limited to high suspended solids, Biochemical Oxygen Demand (BOD) nutrient, or heavy metal contents; wastewater pretreatment; a plot plan of sewers on the user's property showing sewer and pretreatment monitoring

facility locations; details of systems to prevent and control the losses of materials through spills to the Publically Owned Treatment Works (POTW); and nondischarge wastes and their disposal.

- B. All industrial users obtaining a building permit for initial construction or for building expansion or remodel shall complete and submit the survey to the City for review prior to approval of said building or remodel permit.
- C. All industrial users shall update the wastewater classification survey on file with the City whenever significant changes are made in the wastewater discharge. Significant changes include without limitation, an increase or decrease in wastewater volume, concentration of materials or substances or changes in types of wastes that will last for a period exceeding normal wastewater production variations. The City may request a new submittal of the wastewater classification survey as deemed necessary.

9-3-11: INDUSTRIAL DISCHARGE PERMIT

A. A “significant industrial user” means:

- 1. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR ch.1, subch. N; and
- 2. Any other industrial user that discharges an average of 20,000 gallons per day or more of process wastewater to the POTW (excluding sanitary noncontact cooling and boiler wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the City 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.

B. A significant industrial user shall obtain an industrial discharge permit renewable every two years at the initial cost of \$150.00 and a renewal fee of \$75.00 if the user:

- 1. Is subject to National Categorical Pretreatment Standards; or
- 2. Is determined by the City to have significant impact, either singly or in combination with other contributing industrial users, on the quality of the POTW effluent, sludge, scum or residues, or such that interference with the treatment process or facilities would result.

C. Existing significant industrial users shall apply for a wastewater discharge permit within 60 days after the effective date of the ordinance codified in this division and proposed new significant industrial users shall apply at least 60 days prior to discharging into the wastewater utility. The application shall include a statement regarding whether or not applicable pretreatment standards are being met on a

consistent basis, and, if not, what additional operation and maintenance and/or additional pretreatment is required to meet the standards.

- D. The City Manager or his designee may at any time, and in accordance with 40 CFR 403.8(f)(6), determine that an industrial user meeting the criteria of section 9-3-11 is not a significant industrial user if the user has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- E. Industrial wastewater permits are subject to all provisions of this division and all other applicable reports, regulations, user charges and fees established by the City. Permits may contain, without limitation, the following:
1. A statement of duration;
 2. A statement of nontransferability;
 3. Effluent limits based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law;
 4. Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
 5. Schedules for installation of pretreatment equipment to bring discharge into compliance with applicable regulations;
 6. Requirements for installation and maintenance of inspection and sampling facilities;
 7. Specifications for monitoring programs that include sampling locations; frequency of sampling; number, type and standards for tests; and reporting schedules;
 8. Requirements for submission of technical reports, discharge reports and compliance progress report;
 9. Requirements for maintaining and retaining records relating to wastewater discharge as specified by the city and affording city access thereto;
 10. Requirements for notification of the City to the new introduction of wastewater constituents or any change in character of the wastewater constituents or average volume being introduced into the wastewater utility;
 11. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines; and

12. Other conditions as deemed necessary by the City in order to enforce the provisions of this division.

- F. The City Manager or his designee shall issue industrial discharge permits for a specified time period not to exceed two years. The industrial user shall apply for permit reissuance at least 30 days prior to the expiration of the user's existing permit. The terms and conditions for the permit may be subject to modification by the City during the term of the permit if limitations or requirements are modified, if necessary to meet requirements of the city's National Pollutant Discharge Elimination System (NPDES) discharge permit to accommodate new or increased contributions of wastewater or changes in the nature of the wastewater, or if there is other good cause. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- G. An applicant for a permit shall pay the prescribed fees.
- H. A wastewater discharge permit may not be sold, traded, assigned, transferred or sublet. Any new significant industrial user must obtain a wastewater discharge permit regardless of whether a permit previously existed for the same premises.

9-3-12: MONITORING FACILITIES

- A. All significant industrial users shall provide and operate, at their expense, monitoring equipment and facilities sufficient to allow inspection, sampling and flow measurements of the private sewer or internal drainage system.
- B. The monitoring facility shall normally be situated outside of the building on the user's premises. If the industrial user's service line ties into an existing city manhole and such manhole allows for safe sampling and isolation of the industrial user's discharge, the City may allow said manhole to serve as the industrial user's monitoring facility.
- C. Any significant industrial user or user discharging prohibited substances or specific pollutants into the POTW shall install a monitoring facility for each separate discharge. Each separate monitoring facility shall meet requirements set forth by the City with safe and independent access for city personnel at all times.
- D. There shall be ample room in or near such monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The industrial user shall maintain and operate its own monitoring facility and all sampling and measuring equipment at all times in a safe and proper operating condition at the industrial user's expense.
- E. Whether constructed on public or private property, the industrial user shall construct the sampling and monitoring equipment and facilities in accordance with monitoring

requirements and all applicable local construction standards and specifications within 60 days following written notification by the City or before final building inspection approval.

- F. All industrial users shall provide safe access to sampling and monitoring sites and pretreatment facilities at all times for authorized city personnel.
- G. The City may inspect the facilities of any industrial user to determine whether the intent of this division and all applicable requirements are being met. Owners, employees or occupants of premises where wastewater is discharged shall allow city representatives or agents ready access at all reasonable times to all parts of the premises where wastewater is created or discharged, including industrial process areas, for the purpose of inspection, sampling, records examination and copying, or performance evaluation. Where an industrial user has security measures in force which require proper identification and clearance before entry into industrial user's premises, the industrial user shall make necessary arrangements with the security personnel so that upon presentation of suitable identification, personnel authorized by the city, the state, or United States Environmental Protection Agency will be permitted to enter without delay for the purpose of performing their specific responsibilities under this article.

9-3-13: SAMPLING, ANALYSIS AND INSPECTION

- A. All industrial users shall obtain the City's approval for all sampling and measuring equipment prior to its installation or use. All measuring, test and analyses and all sampling that the industrial user is required to make shall be done at the user's own expense.
- B. All industrial users shall make all measurements, tests, sampling and analyses required by this division in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. The City may direct an industrial user to deliver a split sample to a designated laboratory for analytical verification.
- C. The City shall determine the frequency of sampling, measuring and analyses and include them as conditions of the user's industrial discharge permit. The City may impose mass limitations on industrial users that use flow equalization to meet applicable standards or requirements or in other cases where imposition of mass limitations are appropriate.
- D. The City may place upon the industrial user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations at the user's expense.

- E. Sampling and analysis may be performed by the City in lieu of the industrial user at the user's expense. Where the City itself collects all the information required for the report, the industrial user may be excused from submitting duplicate test data results.
- F. The City may randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by the industrial users, occasional and continuing noncompliance with pretreatment standards at the user's expense.
- G. The City shall inspect and sample the effluent from each significant industrial user at least once a year at the user's expense.
- H. The City will bill each industrial user for the cost of inspection, measuring, testing, sampling, analysis, and monitoring that the City performs, and the user shall pay such bill within thirty days.

9-3-14: REPORTING AND COMPLIANCE REQUIREMENTS

- A. All significant industrial users required to meet categorical pretreatment standards must submit the reports required in 40 CFR 403.12. All reports shall be based on sampling and analysis performed during the period covered by the report, and performed in accordance with the techniques described in 40 CFR part 136 and amendments thereto. All reports shall be signed by an authorized representative of the industrial user and certified by a qualified professional. All industrial users that have permits or that have the potential to discharge prohibited substances or specific pollutants that may cause a significant impact on the POTW shall submit to the City semiannual compliance reports at the times designated on the permit, and containing information and data as required by the permit, including but not limited to the following:
 - 1. The name and address of the industrial user including the name of the operator and owners;
 - 2. Any environmental control permits held by or for the industrial user;
 - 3. A brief description of the nature and average rate of production by the industrial user;
 - 4. A brief description of the Standard Industrial Classification of the operation carried out by the industrial user;
 - 5. Building plans or details that indicate all points of discharge to the city sewer system from the regulated process;

6. The measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

a. Regulated process streams; and

b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e). All flows shall be measured unless cost or feasibility justify allowing a verifiable estimate of the flow;

7. Nature and concentration of pollutants or materials prohibited in the discharge;

8. A statement indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the requirements; and

9. If additional pretreatment and/or operation and maintenance will be required to meet the requirements, the industrial user shall supply the shortest schedule by which the industrial user will provide such additional pretreatment and/or operation and maintenance.

B. An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

1. Chronic violation of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

2. Technical review criteria (TRC) violation, defined here as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

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

4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

5. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;

6. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

7. Failure to accurately report noncompliance; and

8. Any other violation or group of violations which the City determines will adversely affect the operation or implementation of the local pretreatment program.

C. The City may publish an annual public notification, in the largest daily newspaper published in the municipality or County in which the POTW is located, of industrial users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements.

D. All industrial users shall notify the POTW, EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification shall be conducted in accordance with the provisions of 40 CFR 403.12(p).

E. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).

F. Any industrial user submitting information to the City pursuant to this division may claim it to be confidential if it demonstrates to the satisfaction of the City Manager or his designee that release of such information would divulge information processes, or methods of production entitled to protection as the user's trade secrets.

1. The user must assert such claim at the time of submission by stamping the words "confidential business information" on each page containing such information. If no such claim is made at the time of submission, the City may make information available to the public without further notice.

2. Such confidential business information shall not be made available to the public, but the City may use the information for determining compliance with this division.

3. Effluent or discharge data is not confidential.

4. The City may provide confidential business information to governmental agencies upon written request for uses directly related to enforcement of this division, but, the city shall not transmit the confidential information to any government agency until the City has received written approval from the user.

G. No person shall make any false statement, representation or certification, knowing it to be false, in any application, record, plan, data or document filed or required to be maintained pursuant to this division.

H. No person shall falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this division.

I. The City Manager or his designee shall have access to records and wastewater testing facilities during normal working hours of the user.

9-3-15: AFFIRMATIVE DEFENSES

A. An industrial user shall have an affirmative defense in any action brought against it alleging a violation of the general and specific prohibitions established in section 9-3-7 where the user can demonstrate that:

1. It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass-through or interference; and

2. A local limit designed to prevent pass-through and/or interference, as the case may be, was developed by the City for each pollutant in the industrial user's discharge that caused pass-through or interference, and the user was in compliance with each such local limit directly prior to and during the pass-through or interference; or

3. If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed for the pollutant that caused the pass-through or interference, the industrial user's discharge directly prior to and during the pass-through or interference did not change substantially in nature or constituents from the industrial user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

9-3-16: UPSETS

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

1. An upset occurred and the industrial user can identify the cause of the upset;
 2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
 3. The industrial user has submitted the following information to the POTW and the city within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- B. In any enforcement proceeding, the industrial user seeking to establish an affirmative defense for the occurrence of an upset shall have the burden of proof.

9-3-17: BYPASS

- A. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections B and C of this section.
- B. The industrial user shall provide notice of bypass, to the City, as follows:
1. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, if possible at least ten days before the date of the bypass.
 2. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

The City may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- C. Bypass is prohibited, and the City may take enforcement action against an industrial user for bypass, unless:
1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage; and
 2. There were no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 3. The industrial user submitted notices as required under subsection B of this section.
- D. The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three conditions listed in subsection C of this section.

9-3-18: SUSPENSION AND REVOCATION OF PERMIT

- A. The City may suspend or revoke any industrial discharge permit and terminate the wastewater service if the permittee:
1. Discharges wastewater which presents imminent or substantial endangerment to the environment and/or public health, safety and welfare;
 2. Discharges wastewater which causes interference with the POTW or causes the City to violate any conditions of its NPDES permit;
 3. Violates any condition stated in the permit or provisions of this division;
 4. Fails to report an accidental discharge of a toxic substance;
 5. Increases the use of process water or attempts to dilute the discharge for the sole purpose of achieving compliance with any limitations;
 6. Falsifies any report of the wastewater constituents and characteristics;

7. Tampers with, disrupts or damages monitoring and sampling equipment or facilities;
 8. Refuses reasonable access to the industrial user's premises for the purpose of inspection or monitoring; or
 9. Fails to pay fees or charges.
- B. In the event of any violation of this division, the City Manager or his designee shall revoke the industrial discharge permit for the remainder of its term or suspend it for a shorter period based on the severity of the disqualification, its effect on public health, safety and welfare, and the time during which the disqualification can be remedied if at all.
- C. No user will be permitted to discharge into the POTW any wastewater which is in violation of this division. Any user may have their wastewater service suspended or terminated by the City Manager or his designee.
- D. Any person notified of a revocation or suspension of such person's wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of failure of the person to comply voluntarily with the suspension order, the City shall sever the sewer connection or take such steps as deemed necessary to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City Manager or his designee within 15 days of the date of occurrence.
- E. Any user, whose permit is revoked or suspended, may request a hearing before the city council to show cause why the proposed enforcement action should not have been taken.
1. The city council will cause the user to be notified of the time and place set for the hearing. Notice will be served personally or by registered or certified mail at least ten days prior to the hearing.
 2. The city council's designated representative will conduct the hearing by accepting testimony and evidence relevant to the matter involved in the hearing. Testimony shall be taken under oath and transcribed so that it may be made available to any party at the hearing or the public.

3. The city council will, within ten days after the hearing, issue its final determination to the user.

F. The user shall pay all costs and expenses associated with any such suspension and restoration of service.

9-3-19: NUISANCE, INJUNCTIVE RELIEF AVAILABLE

A. Any discharge into the POTW in violation of this division or any rule, regulation, limitation, permit condition or order in force pursuant thereto, is declared to be a nuisance.

B. If any person discharges into the POTW in violation of this division or any rule, regulation, limitation, permit condition or order in force pursuant thereto, the city attorney may, in addition to any other remedies, commence an action for equitable or legal relief, or both, including a petition in a court of competent jurisdiction for a temporary restraining order, and preliminary and permanent injunctions to prohibit the continuation of any violation of this division.

C. Any person who violates any provision of this division or any rule, regulation, limitation, permit condition or order in force pursuant thereto, shall be liable for any loss, damage or expense to the City or others arising out of, resulting from or occurring in connection with said violation, including but not limited to injury to or death of any person, damage to property, enforcement of this division, attorneys' fees or increased costs for managing effluent, sludge or operating POTW.

D. Any person who discharges into the POTW in violation of any provision of this division or any rule, regulation, limitation, permit condition or order in force pursuant thereto, shall be liable for any expense arising out of, resulting from or occurring in connection with said discharge if the City is found to violate any condition of its NPDES permit, including but not limited to fines assessed against the city, enforcement of this division, attorney's fees, sampling or analytical testing.

9-3-20: CRIMINAL PENALTIES

Any person who purposely, knowingly or negligently violates any provision of this division, or any rule, regulation, limitation, permit condition or order in force pursuant thereto, shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation per day or imprisonment for not more than six months, or both.

9-3-21: CIVIL PENALTIES

Any person who violates any provision of this division, or any rule, regulation, limitation, permit condition or order in force pursuant thereto, shall be subject to a civil penalty in an amount of not less than \$200.00 or more than \$500.00 for each violation, and a separate violation shall be deemed committed on each day during or on which a violation occurs or continues.

PROVISIONALLY PASSED AND ADOPTED by the City Council of Belgrade, Montana, at a regular session thereof held on the 1st day of July 2013.



A handwritten signature in cursive script, reading "Russell C. Nelson", written over a horizontal line.

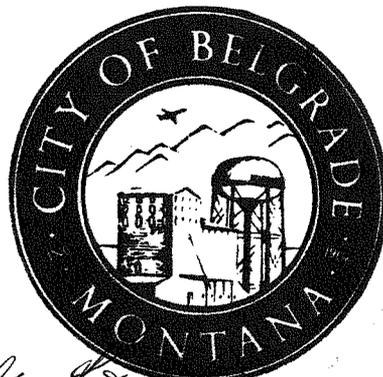
Russell C. Nelson, Mayor

Attest:

A handwritten signature in cursive script, reading "Phyllis Wernikowski", written over a horizontal line.

Phyllis Wernikowski
Director of Finance and Records

FINALLY PASSED, ADOPTED AND APPROVED by the City Council of Belgrade, Montana, on second reading at a regular session held on the 5th day of August, 2013.



A handwritten signature in cursive script, reading "Russell C. Nelson", written over a horizontal line.

Russell C. Nelson, Mayor

Attest:

A handwritten signature in cursive script, reading "Phyllis Wernikowski", written over a horizontal line.

Phyllis Wernikowski
Director of Finance and Records