

Chapter 4.10

PHOSPHATE BAN

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4.10.010 Legislative intent and purpose. Set forth regulations prohibitions and requirements pertaining to phosphorus compounds for direct and indirect discharges into the Town wastewater collection and treatment system enabling the Town to better attempt to comply with the Montana Pollution Discharge Elimination System Permit.

Generally protect the health, safety and welfare of residents of the Town and downstream users of the Clark Fork River with respect to quality of water available to them.

4.10.020 Definitions.

Chemical water conditioner means a water softening chemical or other substance containing phosphorus which is intended to treat water for use in machines for washing laundry.

Commercial establishment means any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, or commercial or charitable activity including but not limited to laundries, hotels, motels, and food or restaurant establishments.

Household cleaning product means any products including but not limited to soaps, detergents, laundry bleaches and laundry additives used for domestic or commercial cleaning purposes, including but not limited to the cleaning of fabrics, dishes, food utensils and household and commercial premises. Household cleaning product does not mean foods, drugs, cosmetics or personal care items such as toothpaste, shampoo or hand soap.

Person means any individual, proprietor of a commercial establishment corporation, municipality, the state or any department, agency, or subdivision of the state, and any partnership, unincorporated association, or other legal entity.

Phosphorus means elemental phosphorus.

Trace Quantity means an incidental amount of phosphorus which is not part of the household cleaning product formulation, and is present only as a consequence of manufacturing, and does not exceed 0.5% of the content of the product by weight expressed as elemental phosphorus.

4.10.030 Application. The provisions of this chapter shall apply to persons engaged in the sale of or commercial distribution of products that have as their substantive content prohibited phosphorus compounds within the Town of Superior.

4.10.040 Prohibited phosphorus compounds. No household or commercial cleaning product shall be distributed, sold, offered, or exposed for sale within the Town of Superior limits if it contains phosphorus in concentrations in excess of a trace quantity, except as provided in this chapter, except that no dish washing detergent may be distributed, sold, offered, or exposed for sale if it contains phosphorus in excess of 8.7% by weight expressed as elemental phosphorus.

No chemical water conditioner or softener which contains more than 20% phosphorus by weight may be distributed, sold, offered or exposed for sale within the Town limits.

4.10.050 Exceptions. The following cleaning agents and other products containing phosphorus are except from the provisions of this chapter.

Those used in food or beverage processing

Those used for industrial processes or for cleaning food and beverage processing equipment, medical or surgical equipment, or dairy equipment; and

Those existing stocks of phosphorus cleaning products and water conditioners which are offered for sale within the Town of Superior limits, for a period of six months after adoption of this ordinance.

4.10.060 Labeling. None of the products listed below shall be offered for sale unless the item is clearly labeled with the percent elemental phosphorus content to the nearest one-tenth of one percent accuracy, except that products which contain a trace quantity may be labeled "contains no phosphorus" "M" "contains no phosphates", or similar labeling which makes a clear statement that phosphorus is not present in the product.

Products requiring labeling:

Powdered or liquid laundry detergents and soaps Powdered laundry bleaches

Powdered laundry chemical water conditioners Powdered laundry pre-soak products

Powdered and liquid automatic dishwasher detergents and soaps

4.10.070 Penalty. A person involved in the sale or commercial distribution of any phosphorus compound prohibited by this chapter who is unaware of the provisions of the chapter, shall for a FIRST offense of this chapter be notified of such noncompliance by the Town Clerk and shall be given 10 days from receipt of such notice to comply with the provisions of this chapter. Failure to comply with this chapter following this 10-day period shall be a misdemeanor. A minimum fine of \$50.00 shall be imposed for each violation of this chapter. The maximum penalty that may be imposed shall be \$500.00 and no imprisonment may be imposed. Each day a violation exists shall constitute a separate and independent violation of this chapter.

4.10.080 Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.