

TOWNSHIP OF BIRCH RUN
SAGINAW COUNTY, MICHIGAN
ORDINANCE NO. 2021-01

SEWER USE ORDINANCE

ADOPTION: January 12, 2021
PUBLISHED: January 20, 2021
EFFECTIVE: February 19, 2021

AN ORDINANCE OF THE TOWNSHIP OF BIRCH RUN, SAGINAW COUNTY, MICHIGAN, TO PROTECT THE HEALTH, SAFETY AND GENERAL WELFARE OF BIRCH RUN TOWNSHIP THROUGH THE APPROVAL AND RATIFICATION OF THE BIRCH RUN TOWNSHIP SEWER USE ORDINANCE AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE TOWNSHIP OF BIRCH RUN, SAGINAW COUNTY, MICHIGAN, ORDAINS:

SECTION I
NAME

This Ordinance shall be known and cited as the Birch Run Township Sewer Use Ordinance.

SECTION II
PURPOSE

In the interest of maintaining public health, safety and the general welfare and the comfort and repose of Birch Run Township residents, Birch Run Township hereby provides for the regulation, approval and ratification of the Birch Run Township Sewer Use Ordinance attached hereto as **Exhibit A** and repeals all Ordinances or parts of Ordinances in conflict herewith.

SECTION III
APPROVAL AND RATIFICATION

The Township of Birch Run hereby approves and ratifies the Genesee County Sewer Use Ordinance for the Township of Birch Run (attached hereto as Exhibit A) and further relies upon and incorporates herein by reference said Exhibit A as though same were fully restated herein word-for-word.

SECTION IV
PENDING PROCEEDINGS NOT AFFECTED.

Nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION V
SEVERABILITY

Should any section, clause or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid. The Birch Run Township Board

of Trustees hereby declares that it would have enacted this Ordinance even without whatever provision may be declared invalid by a court of competent jurisdiction.

SECTION VI
REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION VII
EFFECTIVE DATE

This Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect 30 days following publication as required by law following adoption by the Township Board.

SECTION VIII
TOWNSHIP PUBLICATION

The Township Clerk is hereby ordered and directed to cause this Ordinance to be published, either in full or in the form of a legally-permitted summary, in a newspaper of general circulation within Birch Run Township.

This Ordinance is declared to have been adopted and amended by the Township Board of the Township of Birch Run, County of Saginaw, Michigan, at a regular meeting held on the 12th day of January, 2021.

YEAS: Parlberg, Sheridan, D. Trinklein Jr, C. Trinklein, Watts, Kiessling, Letterman

NAYS: None

ABSENT: None

TOWNSHIP OF BIRCH RUN:

By:

RAY LETTERMAN, Township Supervisor

By:

COREY TRINKLEIN, Township Clerk

Date of Publication: January 20th, 2021

Newspaper: Birch Run / Bridgeport Herald

CERTIFICATION

STATE OF MICHIGAN)
) SS
COUNTY OF SAGINAW)

I, the undersigned, the fully qualified and acting Clerk of the Township of Birch Run, Saginaw County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Birch Run, Michigan, held on the 12th day of January, 2021, was recorded in full in the Minutes of the Meeting of the Township Board of Trustees on said date, notice of said meeting was given and said meeting was held in compliance with Act 267, Public Acts of Michigan, 1976. The Ordinance was signed by the Supervisor and Clerk of the Township.

IN WITNESS WHEREOF, I have hereunto fixed my official signature on this 13th day of January, 2021.

Corey Trinklein, Clerk
Birch Run Township

EXHIBIT A

ORDINANCE NO. 2021-01

AN ORDINANCE TO REPEAL THE EXISTING SEWER USE ORDINANCE (“SEWER SYSTEM”) AND TO ENACT A NEW ORDINANCE TO REGULATE THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, SEWER INSTALLATIONS AND CONNECTIONS, AND DISCHARGES OF WASTEWATER AND POLLUTANTS INTO THE GENESEE COUNTY PUBLICLY OWNED TREATMENT WORKS (“POTW”); TO REQUIRE PRETREATMENT OF NONDOMESTIC WASTES BY USERS OF THE POTW, USER PERMITS, AND MONITORING AND REPORTING OF USERS; AND TO PROVIDE FOR ENFORCEMENT, PENALTIES, AND OTHER RELIEF FOR VIOLATIONS.

THE TOWNSHIP OF BIRCH RUN, MICHIGAN, ORDAINS:

Section 1. Repeal of Existing Sewer Use Ordinance. TOWNSHIP OF BIRCH RUN Sewer Ordinance (as amended) (entitled “Sewer System”) is hereby repealed in its entirety.

Section 2. Enactment of New Sewer Use Ordinance. A new ordinance entitled “The Genesee County Sewer Use Ordinance for the Township of Birch Run” is hereby adopted to read in its entirety as follows:

THE GENESEE COUNTY SEWER USE ORDINANCE FOR THE TOWNSHIP OF BIRCH RUN

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**THE GENESSEE COUNTY SEWER USE ORDINANCE
FOR THE TOWNSHIP OF BIRCH RUN**

ARTICLE 1 – GENERAL PROVISIONS

Section 1.1. Purpose and Scope of the Sewer Use Ordinance

- A. The purposes of this Ordinance are:
1. To establish uniform requirements for discharges from the Township of Birch Run (the “Local Unit”) (including discharges by all Users located within the Local Unit) to the Genesee County Publicly Owned Treatment Works (“POTW”), and to enable the Local Unit and the County Agency (also referred to as the “GCWWS”) to comply with applicable State and Federal laws as required by the Federal Water Pollution Control Act (also known as the “Clean Water Act”), as amended, 33 USC 1251, et seq.; the General Pretreatment Regulations (40 CFR part 403); Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended (“Water Resources Protection”); and the rules, Michigan Administrative Code, R 323.2301 et seq., as amended, promulgated pursuant to Sections 3103, 3106 and 3109 of Part 31 of Act 451 of the Public Acts of Michigan of 1994, as amended.
 2. To prevent the discharge of pollutants into the POTW that do not meet applicable pretreatment standards and requirements; that would interfere with the operation of the POTW; that would pass through the POTW into the receiving waters or the atmosphere, the environment, or otherwise be incompatible with the POTW; that would inhibit or disrupt the POTW’s processing, use, or disposal of sludge; that would cause health or safety problems for POTW workers; or that would result in a violation of the POTW’s NPDES permit or of other applicable laws and regulations.
 3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the POTW.
 4. To regulate the discharge of wastewater and/or pollutants to the POTW and to enforce the requirements of this Ordinance through the issuance of permits and through other means as provided by this Ordinance.
 5. To authorize and require all inspection, monitoring, reporting and enforcement activities as necessary to ensure compliance with applicable pretreatment standards and requirements and other applicable laws and regulations.
 6. To provide for the equitable distribution and recovery of costs from Users of the POTW sufficient to administer regulatory activities and to meet the costs of the operation, maintenance, improvement and replacement of the POTW.
- B. This Ordinance applies to any person that discharges to the POTW from within the Local Unit. This Ordinance also applies to any person owning, using, constructing or maintaining

any private system or facility intended or used for the disposal of sewage or wastewater within the Local Unit.

- C. The County Agency has established and organized the Genesee County Water and Waste Services Division (“GCWWSD”) to administer, implement and enforce the provisions of Act 342 and this Ordinance.
- D. As required by Act 342, a contract or agreement between the County Agency and the Local Unit must be entered into before the Local Unit may discharge into the POTW. As a condition or requirement of the contract or agreement, the Local Unit is required to adopt, and to keep continually in force and up to date, an ordinance that, except as specifically approved in advance by the GCWWSD, must be identical to the sewer use ordinance adopted by Genesee County (as that ordinance is amended from time to time by the County upon the recommendation of the County Agency) (the “Genesee County Sewer Use Ordinance”). This Ordinance is being adopted by the Local Unit pursuant to the contract or agreement between the County Agency and the Local Unit and as required by the Genesee County Sewer Use Ordinance and other applicable state and federal laws and regulations.
- E. The Local Unit hereby designates, empowers and authorizes the County Agency, acting through the GCWWSD, to act as the agent and representative of the Local Unit for purposes of administering and enforcing this Ordinance within the Local Unit. This includes, but is not limited to, the power and authority of the GCWWSD, as deemed necessary by the GCWWSD, to immediately and independently investigate, enforce, and prosecute (administratively or judicially, and civilly or criminally) any violation of this Ordinance or of any notice, order, permit, decision or determination promulgated, issued or made by the GCWWSD under this Ordinance or the Genesee County Sewer Use Ordinance, and to otherwise implement the requirements of this Ordinance and the Genesee County Sewer Use Ordinance.
- E. It shall be unlawful for any person to discharge any wastewater or pollutant to the POTW or to any storm sewer or natural outlet within the Local Unit or in any area under the jurisdiction of the Local Unit, except in accordance with the provisions of this Ordinance and other applicable laws and regulations. If any User discharges or proposes to discharge wastewaters or pollutants that are prohibited or limited by this Ordinance, the County Agency may take any action as provided by this Ordinance or other applicable laws or regulations to assure and require compliance with the provisions of this Ordinance.

Section 1.2. Definitions

Unless the context specifically indicates otherwise, the following terms shall have the following meanings as used in this Ordinance:

“Act” means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC. 1251, et seq.

“**Act 342**” means the “County Public Improvement Act of 1939”, as amended, being MCLA 46.171 et seq., which act authorizes, in pertinent part, the establishment by the County of a system or systems of sewer, or sewage disposal improvements and services and disposal facilities and services within or between cities, villages, townships, charter townships, or any duly authorized and established combinations thereof, within or without the county, and mains, trunks, connecting lines, and disposal facilities therefore.

“**Authorized Representative.**” When used in reference to a Nondomestic User, “authorized representative” means as follows:

- A. If the User is a corporation, a responsible corporate officer. “Responsible corporate officer” means: a president, secretary, treasurer, or 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 the principal manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures of more than \$25,000,000.00 in second quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the User is a partnership or proprietorship, a general partner or proprietor, respectively.
- C. If the User is a federal, state or local governmental entity, the principal executive officer, ranking elected official, or director having responsibility for the overall operation of the discharging facility.
- D. A duly authorized representative of an individual designated in (A), (B) or (C) above, if the representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.
 - (1) To be considered “duly authorized,” the authorization must be made in writing by an individual designated in (A), (B) or (C) above. The authorization must specify either an individual or a position having responsibility for the overall operation of the facility (such as the position of plant manager, operator of a well or well field, or a position of equivalent responsibility, or having overall responsibility for the environmental matters for the company or entity). The written authorization must be submitted to the POTW Manager prior to or together with any reports to be signed by the authorized representative.
 - (2) If an authorization under (D)(1) above 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 or entity, a new written authorization must be submitted to the POTW Manager prior to or together with any reports to be signed by the newly authorized representative.

“**Best Management Practice**” or “**BMP**” means any practice, program, procedure, control, technique or measure (used singularly or in combination), that a User is required to adopt or implement to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or

other substances to the POTW, as determined necessary by the POTW Manager. BMPs include, but are not limited to: schedules of activities; pollution treatment practices or devices; prohibitions of practices; good housekeeping practices; pollution prevention, minimization and reduction measures; educational practices and programs; maintenance procedures; other management programs, practices or devices; treatment requirements; notice, reporting, and record-keeping requirements; and operating procedures and practices to control or contain site runoff, spillage or leaks, batch discharges, sludge or water disposal, or drainage from product and raw materials storage. BMPs may be structural, non-structural, or both. In determining what BMPs will be required of a User in a particular case, the POTW Manager may consider all relevant technological, economic, practical, and institutional considerations as determined relevant and appropriate by the Manager, consistent with achieving and maintaining compliance with the requirements of this Ordinance and other applicable laws and regulations.

“BOD” (denoting Biochemical Oxygen Demand) means the quantity of dissolved oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees C., expressed in milligrams per liter.

“Building Drain” means that part of the lowest horizontal piping of a drainage system of a building which receives the discharge from wastewater and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain shall be deemed to begin 5 feet outside the inner face of the building wall.

“Building Sewer” means the extension from the building drain to the public sewer or other place of disposal (such as a grinder pump). The Building Sewer shall be deemed to begin 5 feet outside the inner face of the building wall.

“Bypass” means the intentional diversion of waste streams from any portion of a User’s treatment process or facility needed for compliance with pretreatment standards or requirements.

“Categorical User” means a User subject to a categorical pretreatment standard.

“Categorical Pretreatment Standard” or **“Categorical Standard”** means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Clean Water Act, 33 USC 1317, which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

“Cesspool” means an underground pit into which domestic waste is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.

“CFR” means Code of Federal Regulations.

“Chlorine Demand” means the difference between the amount of chlorine available at the end of the contact time, expressed in mg/l.

“COD.” A measure of oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus

does not necessarily correlate with biochemical oxygen demand. Also known as oxygen consumed (OCR) and dichromate oxygen consumed (DO), respectively.

“Combined Sewer” means a public owned and maintained sewer designed and intended to receive both wastewater and storm water for discharge to the POTW.

“Compatible Pollutant” means a pollutant which, as determined by the POTW Manager, is susceptible to effective treatment by the POTW as designed, and which will not interfere with, or pass through, the POTW, and which is otherwise not incompatible with the treatment processes or in excess of the capacity at the POTW. The term “compatible” is a relative concept that must be determined on a case-by-case basis. In determining whether or not a pollutant is compatible with the POTW, the Manager may consider, without limitation, the nature and qualities of the pollutant, and the concentration, mass, and flow rate at which the pollutant is (or is proposed to be) discharged. Thus, for example, even pollutants such as BOD, fats, oils or grease, phosphorous, suspended solids, and fecal coliform bacteria, which are typically considered “compatible” may be determined incompatible, if discharged in concentrations or flows that would cause interference or pass through or exceed the POTW’s capacity. Specifically excluded from the definition of compatible pollutant are “heavy” metals, PCBs, and any pollutants that will likely contribute or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.

“Composite Sample” means a series of individual samples taken at regular intervals over a specific time period and combined into a single sample (formed either by continuous sampling or by mixing discrete samples) representative of the average stream during the sampling period. For categorical sampling, a composite sample shall consist of at least four (4) individual samples taken within a 24 hour period.

“Cooling Water” means water used for cooling purposes only, including both contact and non-contact cooling water.

“Cooling Water (contact)” means water used for cooling purposes only that may become contaminated or polluted either through the use of water treatment chemicals (such as corrosion inhibitors or biocides) or by direct contact with process materials and/or wastewater.

“Cooling Water (non-contact)” means water used for cooling purposes only that has no direct contact with any raw material, intermediate product, final product, or waste, and that does not contain a detectable level of contaminants higher than that of the intake water (for example, the water discharged from uses such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat).

“County” means Genesee County, Michigan.

“County Agency” means the public body or official as designated by the Genesee County Board of Commissioners pursuant to the provisions of Public Act 342 of the 1939 Public Acts of Michigan, being MCL 46.171 et seq., as amended (the “County Public Improvement Act”). The County Agency has established and organized the Genesee County Water and Waste Services Division (“GCWWS”) to administer, implement and enforce the provisions of Act 342 and this

Ordinance. Accordingly, for purposes of this Ordinance, “GCWWS” may also be used to refer to the “County Agency.”

“**County Capital Improvement Fee**” or “**CCIF**” refers to the charge authorized to be assessed to all new applicants for a connection permit to the POTW after May 1, 2002, which charge is used to defray the costs of new construction and expenses related thereto for increasing the capacity of the Genesee County sewage disposal, transportation, and/or treatment system components, respectively, to accommodate new Users.

“**Daily Maximum**” means the maximum discharge of pollutants or flow (expressed in terms of concentration, mass loading, pounds, gallons or other unit of measurement) that shall not be exceeded on any single calendar day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged during the day. If a composite sample is required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a single calendar day shall be based on the composite sample collected for that parameter on that calendar day. If grab samples are required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a calendar day shall be based on the average of all grab samples collected for that parameter on that calendar day. If only one grab sample is collected for a parameter on a given day, the determination whether the daily maximum limitation for that parameter has been exceeded for the day shall be based on the results of that single grab sample.

“**Days**” means, for purposes of computing a period of time prescribed or allowed by this Ordinance, consecutive calendar days.

“**Debt Service Charges**” means the charges levied to customers of the wastewater system, which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system.

“**Dilute**” means to weaken, thin down or reduce the concentration of pollutants in wastewater.

“**Discharge**” means the introduction of waste, wastewater, effluent or pollutants into the POTW, whether intentional or unintentional, and whether directly (such as through an approved sewer connection or other approved discharge point as authorized by this Ordinance) or indirectly (including, but not limited to, sources such as inflow and infiltration).

“**Domestic Septage**” means liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar storage or treatment works that receives only domestic waste. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar facility that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant waste.

“Domestic Treatment Plant Septage” means biosolids generated during the treatment of domestic waste in a treatment works and transported to a receiving facility or managed in accordance with a residual’s management program approved by the MDEQ.

“Domestic User” means a User that discharges only segregated normal strength domestic waste into the POTW.

“Domestic Waste” means wastewater (or water-carried waste) of human origin generated by personal activities from toilet, kitchen, laundry, or bathing facilities, or by other similar facilities used for household or residential dwelling purposes (“sanitary sewage”). Domestic waste shall not include any waste resulting from industrial or commercial processes, including, without limitation, any hazardous or toxic pollutants. Wastes emanating from sources other than residential dwelling units which are to be considered domestic wastes shall be of the same nature and strength and have the same flow rate characteristics.

“Dwelling Unit.” For purposes of assigning Residential Equivalent Units, a “dwelling” unit shall contain, at a minimum, sleeping facilities, a toilet, a bath or shower, and a kitchen.

“Effluent” means wastewater or other liquid, partially or completely treated, flowing from a reservoir, basin treatment process or treatment plant.

“Excessive” means at such a flow, rate, magnitude or amount that, in the judgment of the POTW Manager, it may cause damage to any facility or the POTW; may be harmful to the wastewater treatment processes; may adversely affect the management or operation of the POTW or POTW sludge management or disposal; may cause pass through or interference; may violate any pretreatment standard or requirement; may adversely affect the quality of the receiving waters or the ambient air quality; may endanger worker health and safety; may constitute a public nuisance; may be inconsistent with the requirements, purposes or objectives of this Ordinance; or may otherwise adversely impact the public health, safety or welfare or the environment.

“EPA” means the United States Environmental Protection Agency.

“Existing Source” means any source of discharge that is not a new source as defined by this Ordinance.

“Fats” or “FOG” means fats, oil or grease consisting of any hydrocarbons, fatty acids, soaps, fats, waxes, oils, or any other non-volatile material of animal, vegetable or mineral origin that is extractable by solvents in accordance with standard methods.

“Food Establishment Septage” means material pumped from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant wastes and which is blended into a uniform mixture, consisting of not more than 1 part of that restaurant-derived material per 3 parts of domestic septage, prior to land application or disposed of at a receiving facility.

“Garbage” means solid wastes from the preparation, cooking, serving, or dispensing of food, from the handling, storage, processing or sale of produce, or from the canning or packaging of food. It is composed largely of putrescible organic matter and its natural or added moisture content.

“GCWWS” means the Genesee County Water and Waste Services Division (see “County Agency”).

“General User Permit” means a permit issued to any User other than a significant industrial User as provided by this Ordinance to control discharges to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

“Genesee County Sewer Use Ordinance” means Ordinance No. 0605 adopted by the Genesee County Board of Commissioners on November 21, 2006, as amended from time to time.

“Grab Sample” means an individual sample that is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

“Grinder Pump” means, in a grinder pump system, the device to which the building sewer connects and which grinds and pumps the sewage to the public sewer for transportation to the POTW.

“Grinder Pump System” means the publicly owned grinder pump, controls and pressure discharge pipe, including all control boards, controls, floats, pumps, storage tanks and appurtenances thereto which provides the connection between the privately owned building sewer and the public sewer system.

“Hazardous Waste” means any substance discharged or proposed to be discharged into the POTW, that (1) if otherwise disposed of would be a hazardous waste under 40 CFR part 261 or under the rules promulgated under the state hazardous waste management act (Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended); or (2) is otherwise a waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed, as determined by the POTW.

“Holding Tank Waste” means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

“Incompatible Pollutant” means any pollutant that is not a compatible pollutant.

“Industrial User” means any Nondomestic User that, by any means, contributes, causes or permits the contribution, introduction or discharge of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether directly or indirectly.

“Industrial User Permit” means a permit issued to a significant industrial User, or to such other User as determined appropriate by the POTW Manager, as provided by this Ordinance to control discharges to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

“Infiltration” means any waters entering the POTW from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

“Inflow” means any waters entering the POTW from sources such as, but not limited to, building downspouts; roof leaders; cellar, yard, and area drains; foundation and footing drains; cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers and combined sewers; catch basins; storm waters; surface runoff; street wash waters; or drainage.

“Inspector” means any person (and the person’s authorized representatives) designated by the POTW and/or the Local Unit to observe the construction of and connection of building sewers to the public sewer system, to ensure conformance with the sewer connection requirements of this Ordinance, and to otherwise act as provided by this Ordinance.

“Inspection Fee” means the amount charged to each applicant by the Local Unit and/or the POTW at the time an application is made to the Local Unit and/or the POTW solely for permission to connect to the public sewer. This sewer connection inspection fee includes, but is not limited to, covering the routine cost of inspecting and approving the physical connection of a building sewer and service connection to the public sewer, and the issuance of a sewer connection permit.

“Instantaneous Maximum Concentration” means the maximum concentration of a pollutant allowed to be discharged at any instant in time (independent of the flow rate or duration of the sampling event). If the concentration determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample exceeds the instantaneous maximum concentration, the instantaneous maximum concentration shall be deemed to have been exceeded. Any discharge of a pollutant at or above a specified instantaneous maximum concentration is a violation of this Ordinance.

“Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources:

- A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or
- B. 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) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations 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 Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

“Lateral Sewer” means that portion of the sewer system located under the street or within the public right-of-way from the property line to the trunk line and which collects sewage from a particular property for transfer to the trunk line.

“Local Limits” means a specific enforceable prohibition, standard or requirement (numerical or non-numerical) on discharges by Nondomestic Users established by the POTW to meet the purposes and objectives of this Ordinance and to comply with applicable state and federal laws and regulations.

“Local Unit” means the Township of Birch Run, Michigan, acting by and through its duly authorized agents, deputies and representatives.

“May” is permissive.

“MAC” means the Michigan Administrative Code.

“MDEQ” means the Michigan Department of Environmental Quality.

“Medical Waste” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, or dialysis wastes, and includes any medical or infectious wastes as defined by the Michigan Department of Environmental Quality.

“mg/l” means milligrams per liter.

“Monthly Average” means the sum of the concentrations (or mass loadings, expressed in terms of pounds per day, or such other unit of measurement) of a pollutant divided by the number of samples taken during a calendar month. The concentrations (or loadings) that are added are single numbers for single calendar days for all days during the calendar month for which analyses are obtained (whether by the User or the POTW), but the concentrations (or loadings) may be based upon a sample or samples taken over either all or part of that day and upon single or multiple analyses for that day, as determined by the POTW Manager. If no samples are taken during particular months because less than monthly sampling is required for a pollutant parameter (e.g., a specified quarterly monitoring period), the monthly average for each month within the specified monitoring period shall be deemed to be the sum of concentrations (or loadings) for the monitoring period divided by number of samples taken during the monitoring period.

“Multiple-Family Residential Dwelling” means any structure used for residential dwelling purposes, other than a single-family detached dwelling.

“NAICS” or **“North American Industrial Classification System”** means the system of classification for business establishments adopted by the U.S. Office of Management and Budget, as amended.

“Natural Outlet” means any naturally formed outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

“New Source” means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section provided that:

- A. The building, structure, facility or installation is constructed at a site at which no other source is located; or
- B. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- C. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

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 paragraphs (B) or (C) of this Section, above, but otherwise alters, replaces, or adds to existing process or production equipment. Commencement of construction of a new source shall be determined in a manner consistent with 40 CFR 403.3(k)(3).

“Non-contact Cooling Water.” See “cooling water (non-contact).

“Nondomestic User” means any User other than a Domestic User (i.e., any User that discharges anything other than segregated normal strength domestic waste into the POTW).

“Nondomestic Waste” means any wastewater (or water- or liquid-carried waste) other than domestic waste.

“Normal Strength Domestic Waste” means a domestic waste flow for which the levels of pollutants (including, without limitation, BOD, TSS, ammonia nitrogen, or phosphorous) are below the surcharge levels for any parameter as established by this Ordinance. Further, to be considered normal strength, the wastewater must have a pH between 6.5 and 8.5, must not exceed any local limit, and must not contain a concentration of other constituents that would interfere with POTW treatment processes.

“NPDES Permit” means a permit issued pursuant to Section 402 of the Act.

“Operation and Maintenance Costs” means all costs, direct and indirect (other than debt service), necessary to ensure adequate wastewater treatment on a continuing basis, to keep odors under control, to conform with all related federal, state and local requirements, and to assure

optimal long-term facility management. Operation & Maintenance costs include depreciation and replacement costs.

“**Outfall**” means the point (or points) of discharge by a User to the POTW, approved by the POTW and specified in a User Permit.

“**Pass Through**” means a discharge that exits the POTW into waters of the State (or waters of the United States) in quantities or concentrations that, 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 or of any requirement of applicable local, state or federal laws and regulations (including an increase in the magnitude or duration of a violation), or otherwise detrimentally impacts the receiving stream.

“**Person**” means any individual, partnership, co-partnership, firm, company, association, society, corporation, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

“**pH**” means the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

“**Pollutant**” includes, but is not limited to, any of the following:

- A. Any material that is discharged into water or other liquid, including, but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste.
- B. Properties of materials or characteristics of wastewater, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, and odor.
- C. Substances regulated by categorical standards.
- D. Substances discharged to the POTW that are required to be monitored by a User under this Ordinance, that are limited in the POTW’s NPDES permit, or that are required to be identified in the POTW’s application for an NPDES permit.
- E. Substances for which control measures on Users are necessary to avoid restricting the POTW’s residuals management program; to avoid operational problems at the POTW; or to avoid POTW worker health and safety problems.

“**POTW**” (**Publicly Owned Treatment Works**). The complete sewage disposal, transportation and treatment system of Genesee County, Michigan, as defined by the Act, the County Public Improvement Act, and this Ordinance, including any devices, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, sewage or sludge, as well as sewers (including all main, lateral and intercepting sewers), pipes and other conveyances used to collect

or convey wastewater or sewage to the treatment works, as now or hereafter added to, extended or improved. The term “POTW” shall also include any sewers that convey wastewaters to the POTW from persons who are, by contract or agreement with the County Agency, Users of the POTW. References in this Ordinance to approvals, determinations, reviews, etc., “by the POTW” shall mean by the County Agency, the POTW Manager, or their authorized representatives. The term “POTW” may also be used to refer to the GCWWSO (acting through the County Agency) as the entity that has jurisdiction over the discharges to, and discharges from, the POTW (the “control authority”), as appropriate to the context in which the term is used.

“POTW Board of Appeals” means the three-person panel selected by the County Agency to hear an appeal from any person aggrieved by a decision of the POTW Manager and to make a recommendation to the County Agency as to an appropriate disposition of the appeal.

“POTW Treatment Plant.” The portion of the POTW that is designed to provide treatment (including recycling or reclamation) of wastewater.

“POTW Manager” or **“Manager”** means the person designated by the County Agency as being responsible to administer the POTW’s Industrial Pretreatment Program, and who is charged with certain duties and responsibilities as provided by this Ordinance. References to “POTW Manager” or “Manager” shall include the Manager’s authorized representatives.

“Premises” means a lot, tract, or parcel of land, or a building or structure, having any connection, directly or indirectly, to the POTW, or from which there is a discharge to the POTW.

“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or other means, except for the use of dilution (unless expressly authorized by any applicable pretreatment standard or requirement and the POTW Manager). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings, subject to applicable requirements of local, state and federal laws and regulations.

“Pretreatment Requirement” means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on a Nondomestic User.

“Pretreatment Standard” means any regulation containing pollutant discharge limits promulgated in accordance with Section 307(b) and (c) of the Act or Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., including general and specific prohibitive discharge limits and local limits established in this Ordinance pursuant to MAC R 323.2303, and categorical standards.

“Private Wastewater Disposal System” means a cesspool, septic tank, or similar device which discharges to a suitable drainage field.

“Process Wastewater” means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

“Properly Shredded Garbage or Other Solid Material” means garbage or other solid material that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the POTW (or so as to otherwise not result in interference), with no particle greater than 1/2 inch in any dimension.

“Public Sewer” means a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

“Reasonable Potential.” As used in this Ordinance, a determination of “reasonable potential” by the POTW Manager means a determination made by the Manager that a certain condition, state, result or circumstance exists, or is likely to exist, based upon the quantitative or qualitative factors or information deemed by the Manager to be relevant and appropriate to the determination, consistent with the purposes and objectives of this Ordinance.

“Replacement” means the replacement in whole or in part of any equipment, appurtenances, accessories or facilities in the POTW to ensure continuous treatment of wastewater in accordance with the POTW’s NPDES Permit and other applicable local, state and federal laws and regulations.

“Replacement Costs” means expenditures and costs for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which the system was designed and constructed.

“Residential Dwelling” means any structure designed for habitation, including but not limited to houses, mobile homes, apartment buildings, condominiums, and townhouses.

“Residential Equivalent Unit” or **“REU”** means a standard basis of measuring the relative quantity of sewage, including the benefits derived from the disposal thereof, arising from the occupancy of a single-family detached residential dwelling (but such term shall not necessarily be related to actual use arising from any particular dwelling). The relative relationships between the various Users of the system shall be as determined by the County Agency. The assignment of REUs to a particular User shall be determined from time to time by the County Agency, based upon the use to which the User’s property is put. The assignment of REUs for any use shall, in the sole discretion of the County Agency, be based upon the most similar use and shall be enumerated in a document established, maintained, and, amended, as necessary by the County Agency; a copy of which shall be made available for inspection and copying upon request.

“Sanitary Sewage.” See “domestic waste.”

“Sanitary Sewer” means a sewer intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, and to which storm, surface and ground waters are not intentionally admitted.

“Sanitary Sewer Cleanout Septage” means sanitary sewage or cleanout residue removed from a separate sanitary sewer collection system that is not land applied and that is transported by a vehicle licensed under Part 117 of Act 451 of the Public Acts of Michigan of 1994 (MCL §§ 324.11701 et seq., as amended; “Septage Waste Servicers”) elsewhere within the same system or to a receiving facility that is approved by MDEQ.

“Seepage Pit” means a cistern or underground enclosure constructed of concrete blocks, bricks or similar material loosely laid with open joints so as to allow the overflow or effluent to be absorbed directly into the surrounding soil.

“Septage Waste” means the fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin which is removed from a wastewater system. Septage waste consists only of food establishment septage, domestic septage, domestic treatment plant septage, or sanitary sewer cleanout septage, or any combination of these.

“Septic Tank” means a watertight receptacle receiving sewage and having an inlet and outlet designed to permit the separation of suspended solids from sewage and to permit such retained solids to undergo decomposition therein.

“Service Connection” means the portion of the public sewer which extends either to or onto the parcel of land adjacent to the path of the public sewer, and includes the sewer main, tee/wye, valve, check valve, connector pipes, the sewer lead, the grinder pump system, electrical controls and connections at the electric meter (but not including the meter) and appurtenances, but not including the building sewer.

“Severe Property Damage” means substantial physical damage to property, or damage to 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 an economic loss caused by delays in production.

“Sewage.” See “wastewater.”

“Sewer” means any pipe, tile, tube or conduit for carrying wastewater or drainage water.

“Sewer Lead” means that portion of the service connection which connects to the sewer main located in the public right-of-way and extends to the property line.

“Sewer Service Charge” means the sum of the applicable connection fee, inspection fee, User charge, surcharges and debt service charges.

“Shall” is mandatory

“SIC” or **“Standard Industrial Classification Code”** means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

“Significant Industrial User” or **“SIU”** means any Nondomestic User:

- A. Subject to categorical pretreatment standards; or
- B. Any other Nondomestic User that:
 - (1) discharges to the POTW an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater);
 - (2) contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (3) is otherwise designated by the POTW as a significant industrial User on the basis that the User has a reasonable potential to adversely affect the operation of the POTW, to violate any pretreatment standard or requirement, or because the POTW determines that an Industrial User Permit for the User's discharge is required to meet the purposes and objectives of this Ordinance.

The POTW Manager may determine that a User that meets the criteria of Subsections (B)(1) and (B)(2) of this definition above is not currently a significant industrial User, if the Manager finds that the User has no reasonable potential to adversely affect the operation of the POTW, to violate any pretreatment standard or requirement, or that a Industrial User Permit is not required to meet the purposes and objectives of this Ordinance. A determination that a User is not a significant industrial User (or that a permit is therefore not required) shall not be binding and may be reversed by the Manager at any time based on changed circumstances, new information, or as otherwise determined necessary by the Manager to meet the purposes and objectives of this Ordinance.

“Single-Family Detached Residential Dwelling” means a stand-alone structure in which only 1 family is intended to reside and that is not attached to any other residential dwelling unit.

“Sludge” means accumulated solid material separated from liquid waste as a result of the wastewater treatment process.

“Slug” means any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

“State” means the State of Michigan. The term shall include, where applicable, any administrative agency of the State having jurisdiction in the subject matter of this Ordinance, including (but not limited to) the Michigan Department of Environmental Quality (DEQ).

“Storm Sewer” or **“Storm Drain”** means a sewer or drain, either natural or artificial, intended to carry storm water, snowmelt, and surface runoff and drainage, but not wastewater.

“Storm Water” means any flow (such as storm water runoff, snow melt runoff, and surface runoff and drainage) occurring during or following, and resulting from, any form of natural precipitation, and is that portion of flow in excess of that which infiltrates into the soil of the drainage area.

“Surcharge” means the additional charges made by the POTW for the treatment of wastewater containing pollutants in excess of specified concentrations, loadings or other applicable limits, or for other purposes specified by this Ordinance.

“Suspended Solids” (SS) or “Total Suspended Solids” (TSS) means solids that float on the surface of, or are suspended in, water, wastewater, or other liquids and which can be removed by laboratory filtering or other standard methods.

“Township” means the Township of Birch Run, Michigan, acting by and through its duly authorized agents, deputies and representatives.

“Toxic Pollutant” means any pollutant or combination of pollutants that is or can potentially be harmful to the public health, the POTW, or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as provided by local, state or federal laws, rules or regulations.

“Trucked or Hauled Waste or Pollutants.” Any waste proposed to be discharged to the POTW from a mobile source, including, without limitation, holding tank waste.

“Trunk Line” means the main sewer line located under any street or within any public right-of-way which collects and transmits the sewage of the various properties served by the sewer system.

“ug/l” means micrograms per liter.

“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

“User” means any person who contributes, causes or permits the contribution, introduction or discharge of wastewater into the POTW, whether intentional or unintentional, and whether directly or indirectly.

“User Debt Retirement Charge” means the charge levied on all Users of the POTW for the cost of any bond debt of which debt repayment is to be met from the revenues of such works.

“User Operating & Maintenance Charge” means the charge levied on all Users of the POTW for the cost of operation and maintenance, including replacement and depreciation of such treatment works.

“User Permit” means an Industrial User Permit or a General User Permit.

“Wastewater” means the liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions (including, without limitation, contaminated groundwater and landfill leachate), whether treated or untreated, that is contributed,

introduced or discharged into the POTW. The term includes any water that has in any way been used and degraded or physically or chemically altered.

“**Watercourse**” means a channel in which a flow of water occurs, either continuously or intermittently.

“**Waters of the State**” means all rivers, 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 of Michigan or any portion thereof, and as otherwise specified by applicable laws and regulations.

“**Waters of the United States**” means all waters as defined by 40 CFR 122.2 and as otherwise specified by applicable laws and regulations.

“**Wye Branch**” means a local service connection to the sewer that is made at an angle similar to a “Wye” so that a sewer cleaning rod will not come into the sewer at a right angle and penetrate the far side, but will travel down the course of the sewer.

ARTICLE 2 – USE OF PUBLIC SEWERS REQUIRED

Section 2.1. Unlawful Deposition

It shall be unlawful for any person to place, deposit or permit to be deposited, any human or animal excrement, garbage or other waste ordinarily regarded as wastewater, upon or below, the surface of public or private property within the jurisdiction of the Local Unit, except by discharging such wastewater into an approved connection to a public sanitary sewer where available or an approved private wastewater disposal system.

Section 2.2. Discharge Prohibited Without Required Approvals, Permits, and Treatment

Except as otherwise expressly permitted by local, state and federal laws and regulations, and subject to obtaining all required permits and approvals from governmental agencies (including, without limitation, the Local Unit, the County Agency, the Michigan Department of Environmental Quality, and the U.S. EPA) and providing any required treatment, it shall be unlawful to discharge, or permit or cause to be discharged, either directly or indirectly:

- A. Polluted water, sewage or wastewater to any natural outlet within the Local Unit, to any waters of the State (or waters of the United States), or to any public sewer; or
- B. Unpolluted water of any kind, including, without limitation, storm water, surface water, groundwater, roof runoff, artesian well water, drainage water (surface or subsurface), industrial non-contact cooling water, air-conditioning water, swimming pool water, or industrial process waters to any sanitary sewer. Unpolluted water may be discharged only to a sewer that is specifically designated as a combined sewer or storm sewer or to a natural outlet, and only if all applicable permits and approvals have first been obtained from the

POTW and other governmental bodies or agencies and only if not prohibited by applicable local, state or federal laws or regulations. If any person drains any unpolluted water from his property by means of conductors, eaves troughs, roof downspouts or otherwise, into a combined sewer, storm sewer, or natural outlet in violation of applicable laws or regulations or without securing the prior approval of the POTW, or into a sanitary sewer, the POTW shall order its disconnection at the property owner's expense, and if the property owner refuses to obey the order of the POTW, then the POTW shall disconnect the connection and the costs shall be charged to the property owner.

Section 2.3. Unlawful Construction

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of sewage.

Section 2.4. Required Connection To Available Sanitary Sewer

The owner of any house, building, structure, premises, or property used for human occupancy, employment, recreation or other purposes, situated within the County and/or the Local Unit, and abutting on any street, alley or right-of-way, in which there is located, or may in the future be located, a public sewer or combined sewer within 300 feet of the property line, is hereby required, at the owner's expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this Ordinance, when given official notice to do so, provided that such connection shall not be required to be made less than 6 months after the sewer is made available for connection thereto nor more than 18 months.

Section 2.5. Waste Discharge Prohibited Except Through Approved Sewer Connection

All discharges to a sewer shall be through an approved sewer connection or at another discharge point expressly approved by the POTW in accordance with this Ordinance. No person shall discharge any waste or other substances into a manhole, catch basin or inlet.

ARTICLE 3 – PRIVATE WASTEWATER DISPOSAL

Section 3.1. Private Treatment and Disposal Requirements

If a public sanitary or combined sewer is not available under the provisions of Article 2, the building sewer shall be connected to a private sewage disposal system complying with all requirements of the Genesee County Health Department.

Section 3.2. Public Sewer Becomes Available

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article 2, a direct connection shall be made to the public sewer in compliance with this Ordinance; and any septic tanks, cesspools and similar sewage disposal facilities shall be abandoned and filled with suitable material.

Section 3.3. Operation and Maintenance of Private Facilities

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Local Unit and/or the County Agency.

Section 3.4. Statement Regarding Public Health Requirements

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Michigan Department of Public Health or other governmental agencies.

Section 3.5. Private Wastewater Disposal Requirements

The type, capacities, location and layout of a private wastewater disposal system shall comply with all local, county, state, and federal requirements. No permit shall be issued for any private wastewater disposal systems employing subsurface soil absorption facilities where the area of the lot is less than determined necessary by the Local Unit and County or State health officials, as applicable. No septic tank, cesspool, subsurface disposal facility or other private sanitary sewer system shall be permitted to discharge to any public sewer or natural outlet.

ARTICLE 4 – CONDITIONS OF SERVICE

Section 4.1. Sewer Maintenance

At the time of original construction of the public sewer, the POTW shall install that portion of the building sewer from the public sewer to the lot or easement line off all occupied premises. The POTW shall maintain, at its expense, the public sewer. Those customers making connections at the time of original construction of the public sewer shall install, at their expense, that portion of the building sewer from said lot or easement line to their premises. The customer shall maintain, at his expense, the building sewer.

Section 4.2. Customer Connection Requirements

Those customers making connections subsequent to the time of original construction of the public sewer shall install, at their expense, that portion of the building sewer from the public sewer to the lot or easement line in addition to that portion of the building sewer from said lot or easement line to their premises.

Section 4.3. Disruption of Service

Neither the POTW nor the Local Unit shall be held responsible for claims made against it by reason of the breaking of any mains or service laterals, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

Section 4.4. Service Inspections

The premises receiving sanitary sewer service shall, at all reasonable hours, be subject to inspection by duly authorized personnel of the POTW and/or the Local Unit.

ARTICLE 5 – BUILDING SEWERS AND CONNECTIONS

Section 5.1. Building Sewer Connection Permits

There shall be three classes of building sewer connection permits: (1) Residential, (2) Commercial, and (3) Industrial. In any case, the owner or the owner's agent shall make application on a special form furnished by the POTW. The connection permit application shall be supplemented by any plans, specifications or other information considered necessary and appropriate in the judgment of the POTW. The established CCIF and applicable local connection fees shall be paid to the POTW and the Local Unit, respectively, at the time the application is filed. Agents of the POTW, the Local Unit, Michigan Department of Environmental Quality, or U.S. Environmental Protection Agency shall have the right to enter all properties for the purpose of inspecting and copying all records which are required to be kept pursuant to this Ordinance.

Section 5.2. Connection Costs

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for the owner shall indemnify the POTW and the Local Unit from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 5.3. Multiple Buildings

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only by special permission granted by the Inspector.

Section 5.4. Existing Building Sewers

Old building sewers or portions thereof may be used in connection with new buildings only when they are found, on examination and testing by the Inspector, to meet all requirements of this Ordinance.

Section 5.5. Pipe Materials

The building sewer shall be constructed of either of the following types of pipe meeting the current ASTM specifications:

- A. Plastic (PVC) ASTM D 3034-SDR 26

C. Ductile Iron, ANSI/AWWA C151/A2.51-02

If installed in filled or unstable ground, the building sewer shall be of Ductile Iron as specified above, except that other types of pipe may be used if laid on a suitable improved bed or cradle as approved by the Inspector.

Section 5.6. Pipe Joints and Connections

All building sewer joints and connections shall be made gas tight and watertight and shall conform to the requirements of the current building and plumbing codes. The joints shall be of rubber ring, flexible compression type, similar and equal to joints specified for pipe. The joints and connections shall conform to the manufacturer's recommendations.

Section 5.7. Pipe Size and Slope

The size and slope of the building sewer shall be subject to the approval of the Inspector, but in no event shall the diameter be less than four inches. Minimum grade shall be as follows:

Residential Installation

6-inch pipe – 1/8" per foot or 1" per 8 feet (1%)

4-inch pipe – 1/4" per foot or 2" per 8 feet (2%)

Commercial Installation

6-inch pipe – .72" per 8 feet (.75%) or 1.5" per 16 feet

Section 5.8. Building Sewer Location

Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three feet of, any bearing wall that might thereby be weakened. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Inspector. Pipe laying and backfill shall be performed in accordance with current ASTM specifications, except that no backfill shall be placed until the work has been inspected by the Inspector.

Section 5.9. Low Building Sewers

In all buildings in which any building sewer is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by artificial means and discharged to the building sewer, subject to approval by the Inspector.

Section 5.10. Wye Branch Connection Designation

The connection of the building sewer into the public sewer shall be made at the wye branch designated for the property if such branch is available at a suitable location. Any connection not made at the designated wye branch in the main sewer shall be made only as directed by the Inspector.

Section 5.11. Building Sewer Inspection

The applicant for the building sewer shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector.

Section 5.12. Protection and Restoration

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the GCWWSD and the Local Unit.

Section 5.13. Capacity Required

No connection to a public sewer will be required or allowed unless there is capacity available (in both wastewater volume and strength) in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat and dispose of BOD, TSS, or similar materials as required by applicable local, state or federal laws, rules or regulations, as determined by the POTW.

Section 5.14. Pretreatment Of Any Discharge May Be Required

Pretreatment of any discharge to the public sewer, including, but not limited to, grease, oil, and sand interceptors, shall be provided when, in the opinion of the POTW Manager, they are necessary.

Section 5.15. Grease, Oil and Sand Interceptors

A grease, oil and sand interceptor (trap) shall be installed and maintained in continuously efficient operating condition at the expense of the property owner when, in the determination of the POTW Manager, an interceptor is necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable waste, sand, or other harmful ingredient. An interceptor shall be required for every restaurant, fast food outlet, automotive repair shop or garage, car wash, or any other type of establishment or use as determined necessary by the POTW Manager. An interceptor shall not be required for a single-family detached residential or multiple-family residential dwelling unit when used solely for residential living purposes. All interceptors shall be of a type and capacity approved by the POTW Manager, and shall be located so as to be readily and easily accessible for cleaning and inspection. Interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall be of

substantial construction, watertight, and equipped with easily removable covers which when in place shall be gas-tight and water-tight.

ARTICLE 6 – REGULATION OF DISCHARGES TO THE POTW

Section 6.1. Discharge Prohibitions

The general discharge prohibitions under Section 6.1(A) and the specific discharge prohibitions under Section 6.1(B) apply to every User whether or not the User is subject to any other national, state or local pretreatment standards or requirements, and whether or not the discharge is made pursuant to a User Permit issued pursuant to this Ordinance.

- A. General Prohibitions. No User shall contribute or cause to be contributed, directly or indirectly to the POTW, any pollutant or wastewater that will pass through or interfere with the operation or performance of the POTW.
- B. Specific Prohibitions. No User shall discharge or contribute to the POTW, directly or indirectly, any of the pollutants, substances, or wastewater as provided by this Subsection. This Subsection sets forth the minimum requirements for a User’s discharges to the POTW. Additional or more restrictive requirements may be required of particular Users by a User Permit, or as otherwise authorized or required by this Ordinance or other applicable laws and regulations.

(1) Pollutants in concentrations that exceed the daily maximum or monthly average concentrations listed below in this Subsection:

(a) Discharges to Anthony Ragnone Treatment Plant:

<u>Parameter</u>	<u>IMC (mg/l)¹</u>	<u>Daily Max. (mg/l)¹</u>	<u>Monthly Avg. (mg/l)¹</u>
Arsenic	---	0.62	---
Cadmium	---	0.11	---
Chromium (T)	---	4.1	---
Copper	---	1.0	---
Cyanides (T)	0.22	---	---
Lead	---	1.8	---
Mercury	---	NQ ²	---
Molybdenum	---	1.7	---
Nickel	---	1.6	---
Selenium	---	0.23	---
Silver	---	0.16	---
Zinc	---	1.14	---
Acetone	60	---	---
Methyl Ethyl Ketone	105	---	---
Ammonia Nitrogen (NH ₃ as N)	---	100 ³	---
BOD ₅	---	1000 ⁴	---
Phosphorous (T)	---	100 ⁵	---
TSS	---	1000 ⁶	---

FOG --- 100⁷ ---

Notes for Section 6.1(B)(1)(a) follow Section 6.1(B)(1)(c), below.

(b) Discharges to District 3 (Linden) Wastewater Treatment Plant:

<u>Parameter</u>	<u>IMC (mg/l)¹</u>	<u>Daily Max. (mg/l)¹</u>	<u>Monthly Avg. (mg/l)¹</u>
Arsenic	---	0.24	---
Cadmium	---	0.11	---
Chromium (T)	---	4.1	---
Copper	---	0.63	---
Cyanides (T)	0.22	---	---
Lead	---	1.8	---
Mercury	---	NQ ²	---
Molybdenum	---	0.32	---
Nickel	---	1.6	---
Selenium	---	0.23	---
Silver	---	0.11	---
Zinc	---	1.14	---
Acetone	60	---	---
Methyl Ethyl Ketone	105	---	---
Ammonia Nitrogen (NH ₃ as N)	---	100 ³	---
BOD ₅	---	1000 ⁴	---
Phosphorous	---	100 ⁵	---
TSS	---	1000 ⁶	---
FOG	---	100 ⁷	---

Notes for Section 6.1(B)(1)(b) follow Section 6.1(B)(1)(c), below.

(c) Discharges to District 7 (Argentine) Wastewater Sewage Lagoon:

<u>Parameter</u>	<u>IMC (mg/l)¹</u>	<u>Daily Max. (mg/l)¹</u>	<u>Monthly Avg. (mg/l)¹</u>
Arsenic	---	0.14	---
Cadmium	---	0.11	---
Chromium (T)	---	4.1	---
Copper	---	0.63	---
Cyanides (T)	0.22	---	---
Lead	---	0.33	---
Mercury	---	NQ ²	---
Molybdenum	---	0.18	---
Nickel	---	1.3	---
Selenium	---	0.23	---
Silver	---	0.11	---
Zinc	---	1.14	---
Acetone	60	---	---
Methyl Ethyl Ketone	105	---	---
Ammonia Nitrogen (NH ₃ as N)	---	43 ³	---

BOD5	---	860 ⁴	---
Phosphorous	---	23 ⁵	---
TSS	---	540 ⁶	---
FOG	---	100 ⁷	---

Notes applicable to Sections 6.1(B)(1)(a), (b) and (c), above, are as follows:

IMC = Instantaneous Maximum Concentration.

T = Total

- 1 Discharges which contain more than one pollutant which may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the POTW. The more restrictive discharge limits will be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge, including, without limitation, the specific compounds, if any, listed in Section 6.1.B of this Ordinance.*
- 2 NQ = Non-quantifiable concentration, defined as at or above the quantification level of 0.2 ug/l using U.S. EPA Method 245.1 (or at or above other quantification levels applicable under alternative test methods required by the POTW or by other applicable laws or regulations). Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a User's discharge shall be in accordance with U.S. EPA method 245.1, unless the POTW Manager requires U.S. EPA Method 1631 (or other appropriate method). The quantification level shall be 0.2 ug/l for Method 245.1 or 0.5 ng/l for Method 1631, unless higher levels are approved by the POTW Manager because of sample matrix interference.*
- 3. Any discharge of ammonia nitrogen in excess of 20 mg/l shall be subject to surcharge as provided by this Ordinance.*
- 4. Any discharge of BOD in excess of 250 mg/l shall be subject to surcharge as provided by this Ordinance.*
- 5. Any discharge of phosphorous (T) in excess of 20 mg/l shall be subject to surcharge as provided by this Ordinance.*
- 6. Any discharge of TSS in excess of 300 mg/l shall be subject to surcharge as provided by this Ordinance.*
- 7. Any discharge of FOG in excess of 100 mg/l shall be subject to surcharge as provided by this Ordinance.*

The IMC, daily maximum, and monthly average limits listed above in this Section 6.1(B)(1) (or as listed elsewhere in this Ordinance or in any User Permit or Order) for each pollutant parameter are the concentrations which may not be exceeded and at which enforcement begins. The surcharge threshold concentrations as specified in notes 3 through 7 (above) are the concentrations above which surcharges may be imposed. Discharges exceeding the surcharge thresholds, but which are less than the IMC, daily maximum, and monthly average limits (and which do not violate any other applicable prohibitions, limitations, standards, or requirements), are not violations of this Ordinance, but are subject to surcharges as provided by this Ordinance. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements constitute a violation of this Ordinance, subject to applicable fines, penalties and other enforcement actions. In no event shall the imposition of a surcharge for a discharge which does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Ordinance.

(2) For any discharge that would otherwise be prohibited by Section 6.1(B)(1), above, the POTW may impose a Specific Alternative Limit (SAL) for all or any portion of the discharge (or for all or any pollutant parameter thereof) pursuant to a User Permit or by POTW order. Each SAL must be approved in advance by the POTW Manager. The following conditions and requirements shall apply to all SALs:

- (a) The POTW shall not be required to approve or require a SAL, but may do so at its sole discretion. The POTW may terminate or modify the SAL, and/or require compliance with different or additional discharge standards or requirements as determined necessary or appropriate at any time.

A SAL shall not create any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, nor any violation of local, state or federal laws or regulations.

A SAL may include any terms, conditions or requirements determined necessary and appropriate by the POTW Manager, including, but not limited to, terms, conditions and requirements regarding sampling, analysis, fees, reimbursement, surety, indemnification, and insurance.

- (d) The POTW shall establish each SAL based on an allocation of the amount of remaining available loading from the POTW's Maximum Allowable Industrial Loading (MAIL) for a given pollutant at the time when the SAL is approved and assigned. Each SAL may also be subject to a maximum (not-to-exceed) concentration as determined necessary by the POTW to protect the receiving sewer, the POTW, public health and safety, the environment, or to otherwise achieve the purposes, objectives and requirements of this Ordinance. The MAILs and not-to-exceed concentrations for pollutants of concern are set forth in Section 6.1(B)(2) (f) and (g), below. All SAL allocations shall be in the amounts, and subject to the terms, conditions and requirements, as deemed necessary and appropriate by the POTW.

- (e) Violation of any SAL (or of any of the terms, conditions or requirements of a SAL) shall be a violation of this Ordinance and subject to applicable fines, penalties, and other enforcement actions.

- (f) The total mass of a pollutant of concern allocated to septage wastes, trucked wastes, and all other Nondomestic Users (and taking into account all SALs that have been assigned by the POTW at the time), shall not exceed the following MAILs in the aggregate:

- (i) Anthony Ragnone Treatment Plant:

<u>Parameter</u>	<u>Daily Max. (lbs./day)</u>
Arsenic	6.64
Cadmium	5.00
Chromium (T)	213
Copper	38.2
Cyanides (T)	3.84
Lead	56.1
Mercury	*
Molybdenum	13.3
Nickel	39.1
Selenium	2.27
Silver	4.91
Zinc	95.1
Acetone	1230
Methyl Ethyl Ketone	2500
Ammonia Nitrogen (NH ₃ as N)	1720
BOD ₅	17700
Phosphorous (T)	1540
TSS	17200
FOG	1100

Notes: The notes for Section 6.1(B)(2)(f)(i) follow Section 6.1(B)(2)(f)(iii), below.

(ii) District 3 (Linden) Wastewater Treatment Plant:

<u>Parameter</u>	<u>Daily Max. (lbs./day)</u>
Arsenic	0.321
Cadmium	0.309
Chromium (T)	7.26
Copper	1.80
Cyanides (T)	0.529
Lead	3.42
Mercury	*
Molybdenum	0.406
Nickel	2.36
Selenium	0.316
Silver	0.124
Zinc	13.2
Acetone	224
Methyl Ethyl Ketone	293
Ammonia Nitrogen (NH ₃ as N)	1480

BOD ₅	6880
Phosphorous	231
TSS	10200
FOG	1750

Notes: The notes for Section 6.1(B)(2)(f)(ii) follow Section 6.1(B)(2)(f)(iii), below.

(iii) District 7 (Argentine) Wastewater Sewage Lagoon:

<u>Parameter</u>	<u>Daily Max. (lbs./day)</u>
Arsenic	0.0247
Cadmium	0.0377
Chromium (T)	1.99
Copper	1.24
Cyanides (T)	0.174
Lead	0.0581
Mercury	*
Molybdenum	0.0318
Nickel	0.236
Selenium	0.125
Silver	0.751
Zinc	3.32
Acetone	121
Methyl Ethyl Ketone	108
Ammonia Nitrogen (NH ₃ as N)	17.6
BOD ₅	230
Phosphorous	6.18
TSS	143
FOG	78.2

Notes for Sections 6.1(B)(2)(f)(i), (ii), and (iii), above, are as follows:

T = Total

* The mercury MAIL shall be determined by the MDEQ's Level Currently Achievable (LCA) for mercury currently in effect, as follows:

<u>LCA, mg/L</u>	<u>MAIL, lb/day</u>
0.000010	3.01x10 ⁻²
0.000005	1.29x10 ⁻²
0.0000025	4.34x10 ⁻³
0.0000013	2.16x10 ⁻⁴

The LCA is established by the MDEQ as part of its U.S. EPA-approved Mercury Permitting Strategy. However, the POTW Manager, at the POTW Manager's

discretion, may apply a lower MAIL such as in association with the County’s Mercury Minimization Program.

- (g) SALs shall not exceed Federal standards applicable to categorical industries; nor shall any SAL exceed the following maximum concentrations, and subject to any other local, state and federal standards and requirements:

<u>Parameter</u>	<u>IMC (mg/L)¹</u>
Arsenic	---
Cadmium	---
Chromium (T)	---
Copper	---
Cyanides (T)	2.0
Lead	---
Mercury	0.020
Molybdenum	---
Nickel	---
Selenium	---
Silver	---
Zinc	---
Acetone	1300
Methyl Ethyl Ketone	270
Ammonia Nitrogen (NH ₃ as N)	--- ²
BOD ₅	--- ²
Phosphorous (T)	--- ²
TSS	--- ²
FOG	500 ²

Notes:

T = Total

IMC = Instantaneous Maximum Concentration.

1 Discharges which contain two or more pollutants that contribute to fire/explosion potential or fume toxicity may be subject to more restrictive IMCs, as determined to be necessary by the POTW Manager. The corresponding concentrations will be calculated based on the additive effects of all compounds identified or reasonably expected to be present in the discharge.

2 Subject to application of applicable surcharge thresholds and payment of surcharges as provided by Section 6.1(B)(1).

- (3) Pollutants in concentrations that exceed the instantaneous maximum, daily maximum or monthly average concentrations listed below in this Subsection:

Parameter:

PCBs: The instantaneous maximum concentration, daily maximum and monthly average discharge limit for PCBs is non-detect. Except as otherwise required by the POTW Manager, compliance with this limit shall be determined as follows:

A compliance limit of “non-detect” shall be used for instantaneous maximum concentration, daily maximum and monthly average. Any discharge of PCBs at or above the quantification level is a specific violation of this Ordinance.

PCB sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a User’s discharge shall be in accordance with U.S. EPA method 608. The quantification level shall be 0.1 ug/l, unless higher levels are determined appropriate by the POTW Manager because of sample matrix interference. Total PCBs shall be defined as the sum of the Aroclors 1016, 1221, 1232, 1242, 1248, 1254 and 1260. In addition, any detected Aroclor-specific measurements shall be reported.

- (4) Any liquid, solid, gas or other pollutant (including, but not limited to, gasoline, benzene, naphtha, fuel or fuel oil) which by reason of its nature or quantity is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to persons, the POTW, or to the operation of the sewerage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F or 60° C using test methods specified in 40 CFR 261.21.
- (5) Pollutants that may cause corrosive structural damage to the POTW, or that due to their corrosive properties are capable of causing injury to persons or POTW personnel or harm to fish, animals or the environment. Discharges that have a pH lower than 6.5 or greater than 9.5 shall not be discharged.
- (6) Any solid, insoluble or viscous substance in concentrations or quantities which may cause obstruction to the flow in the POTW, may create an encumbrance to the POTW operations, or which otherwise may result in interference, including, but not limited to, grease, animal entrails or tissues, bones, hair, hides or fleshings, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes or tumbling and deburring stones.
- (7) Any pollutant, including, but not limited to, oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration that may cause pass through or interference with the POTW or constitute a slug load, or is otherwise discharged to the POTW in excessive amounts.
- (8) Wastewater (or vapor) having a temperature that will inhibit biological activity in the POTW resulting in interference, or heat in such quantities that the temperature at the POTW treatment plant exceeds 104° Fahrenheit (40° C). No discharge to the POTW shall have a temperature less than 32° Fahrenheit (0° C) or greater than 150° Fahrenheit (65.7° C), unless approved in advance by the POTW Manager.

- (9) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (10) Pollutants that 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. This prohibition includes, but is not limited to, wastewaters which contain liquids, solids or gases that cause gases, vapors or fumes from the discharge to exceed 10% of the immediately dangerous to life and health (IDLH) concentration. Discharges which contain more than one pollutant which may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the POTW. The more restrictive discharge limits shall be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge.
- (11) Trucked or hauled pollutants, except those introduced into the system at discharge points designated by the POTW, subject to the prior approval of the POTW Manager and prior issuance of a User Permit.
 - (a) The POTW Manager shall determine whether to allow the discharge of trucked or hauled pollutants based on the particular nature, character or quantity of the proposed discharge in accordance with the discharge prohibitions, limitations and requirements provided by this Article.
 - (b) The POTW Manager may impose any conditions on the discharge determined necessary to ensure compliance with this Article, including, without limitation, conditions regarding the time, place, and manner of discharge, restrictions on the quantity and quality of the discharge, and sampling requirements.
 - (c) The discharge shall not commence without prior notice to, and authorization from, the POTW Manager, and a representative of the POTW shall be present at all times during the discharge.
 - (d) All trucked or hauled wastes to be discharged to the POTW must be accompanied by a completed waste manifest form signed by the permittee and the hauler as provided by the minimum requirements of this Section. The permittee shall certify in writing on the manifest as to the source of all wastes in the load proposed to be discharged and that the wastes have been pretreated as required by applicable pretreatment standards and requirements. The hauler shall certify in writing on the manifest that no wastes other than those listed on the manifest have been accepted by the hauler. The manifest must be reviewed by the POTW Manager prior to commencing discharge of the load. Failure to accurately record every load, falsification of data, or failure to transmit the form to the POTW Manager for review prior to discharge shall constitute a violation of the permit and

may result in revocation of the permit and/or the imposition of fines and penalties as provided by this Article.

- (e) The permittee's discharge of hauled wastes shall be subject to sampling by the POTW at any time, including, without limitation, prior to and during discharge. The POTW Manager may require the permittee to refrain from, or suspend, discharging until the sample analysis is complete.
 - (f) Trucked or hauled pollutants will be accepted only if transported to the POTW in compliance with state and federal hazardous waste and liquid industrial waste laws.
 - (g) Each discharge of trucked or hauled pollutants will be accepted only after payment to the POTW of a trucked or hauled pollutant discharge fee to cover the POTW's administrative expenses and any additional treatment, handling or inspection expenses incurred by the POTW in connection with the discharge. The fee shall be established, paid, and collected as provided for IPP fees by Article 21. This discharge fee shall be in addition to any sewer rates, fees, charges, or surcharges otherwise required by this Ordinance.
 - (h) Prior to accepting a proposed discharge of trucked or hauled pollutants, the POTW may be required to evaluate the capacity of the POTW to accept such wastes by means, including, but not limited to, a headworks analysis or treatability study, as determined necessary by the POTW. All such evaluation and analysis shall be at the sole cost of the User proposing the discharge and shall be paid in full by the User whether or not the discharge of the trucked or hauled pollutants is ultimately approved by the POTW. The POTW may require the User to post a deposit or other form of surety, as determined sufficient and appropriate by the POTW, to ensure payment by the User of all such costs.
- (12) Wastewater with objectionable color or light absorbency characteristics that may interfere with treatment processes or analytical determinations, including, without limitation, dye wastes and vegetable tanning solutions.
 - (13) Any garbage or other solid material that has not been properly shredded.
 - (14) Solvent extractables, including, without limitation, oil, grease, wax, or fat, whether emulsified or not, in excess of applicable local limits; or other substances that may solidify or become viscous (with a viscosity of 110% of water) at temperatures between 32° Fahrenheit and 150° Fahrenheit in amounts that may cause obstruction to the flow in sewers or other interference with the operation of the POTW.
 - (15) Soluble substances in a concentration that may increase the viscosity to greater than 10% over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.

- (16) Any substance which exerts or causes a high or unusual concentration of inert suspended solids, including, but not limited to, lime slurries, diatomaceous earth and lime residues.
- (17) Any wastewater which contains suspended solids of such character, quantity or concentration that special attention is required, or additional expense incurred, to process such materials at the POTW.
- (18) Any substance which exerts or causes a high or unusual concentration of dissolved solids, including, but not limited to, sodium chloride or sodium sulfate.
- (19) Noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (20) Any radioactive wastes or isotopes of a half-life or concentration that may exceed limits established by applicable state or federal laws, rules or regulations.
- (21) Any pollutant that results in excess foaming during the treatment process. Excess foaming is any foam that, in the opinion of the POTW Manager, may interfere with the treatment process.
- (22) Wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.
- (23) Any hazardous waste as defined by this Ordinance.
- (24) Any medical or infectious wastes, as defined by the Michigan Department of Environmental Quality.
- (25) Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal, or otherwise interfere with the reclamation, reuse, or disposal process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; under the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; or any more stringent state or local regulations, as applicable.

- (26) Any unpolluted water, non-contact cooling water, storm water, surface water, groundwater, roof runoff or subsurface drainage (except to a storm sewer or a combined sewer as authorized by this Ordinance and other applicable laws and regulations and subject to the prior approval of the POTW Manager).
- (27) Any contaminated groundwater or landfill leachate determined by the POTW to have a reasonable potential to adversely affect the operation of the POTW, to result in pass through or interference, or to violate any pretreatment standard or requirement.
- (28) Any substance that will cause the POTW to violate its NPDES permit, the receiving water quality standards, or associated local, state or federal laws, rules or regulations.
- (29) Any substance which causes a high chlorine demand, including, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulfate.
- (30) Any wastewater which exceeds applicable categorical pretreatment standards, requirements or limits prescribed by local, state or federal laws, rules or regulations.
- (31) Any compatible or incompatible pollutant in excess of the allowed limits as determined by applicable local, state or federal laws, rules or regulations.
- (32) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any person's wastewater or air pollutants.
- (33) Residue (total on evaporation) in an amount that will cause obstruction to the flow in the POTW resulting in interference.
- (34) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment to only such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (35) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to:
 - (a) create a chemical reaction with any materials of construction to impair the strength or durability of sewer structures;
 - (b) cause a mechanical action that will damage or destroy sewer structures;
 - (c) impede or restrict the hydraulic capacity of the POTW;
 - (d) interfere with normal inspection or maintenance of sewer structures;

- (e) place unusual demands upon the wastewater treatment equipment or processes by biological, chemical or physical means; or
 - (f) cause a hazard to human life or create a public nuisance.
- C. Pollutant Reduction Plans. If determined necessary by the POTW Manager to prevent interference or pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the POTW's NPDES permit, or to otherwise meet the purposes and objectives of this Ordinance, any User determined by the POTW Manager to have a reasonable potential to discharge any regulated pollutant (including, but not limited to, mercury or PCBs) to the POTW may be required to develop, submit for approval, and implement a Reduction Plan ("RP") for the pollutant, as provided by this Section. The RP may be imposed as a condition to a User Permit, or may be required independently and even if a User Permit has not been issued to the User.
 - (1) At a minimum, the RP shall contain such requirements and conditions, as determined necessary by the POTW Manager to ensure that the pollutant reduction efforts will be effective in achieving the goals of this Ordinance (including, but not limited to, requirements and conditions regarding User source identification; best management practices; schedules of compliance; monitoring, sampling and analysis; reporting; treatment system for removal of the pollutant from the discharged wastewater; written procedures for disposal of contaminated wastes and wastewater; employee training, and on-going employee training requirements regarding pollutant related issues; elimination, if feasible, of any purchased materials containing the pollutant; and any other elements determined necessary and appropriate under the circumstances by the POTW Manager).
 - (2) The goal of an RP shall be to maintain the amount of one or more pollutants or substances at or below the applicable discharge limits or levels, or such other goals as required by the POTW. The POTW Manager may, in the POTW Manager's discretion, consider cost-effectiveness during the development and implementation of an RP.
 - (3) The POTW Manager may require any User to submit an RP that describes the control strategy designed to proceed toward achievement of the specified goal and shall at a minimum include, but shall not be limited to, all of the following as determined necessary by the POTW Manager on a case-by-case basis:
 - a. Periodic monitoring for the pollutant in the User's discharge.
 - b. Periodic monitoring of the potential sources of the pollutant in the User's discharge.
 - c. A commitment by the User that reasonable control measures and/or best management practices will be implemented when sources of the pollutant are discovered. Factors to be considered by the POTW may include the following:

- (i) Significance of sources.
 - (ii) Economic considerations.
 - (iii) Technical and treatability considerations.
 - (iv) Such other factors as determined appropriate by the POTW Manager.
- d. An annual status report. The report shall be sent by the User to the POTW and shall include, at a minimum, all of the following:
 - (i) All RP monitoring results for the previous year.
 - (ii) A list of potential sources of the pollutant in the User's discharge.
 - (iii) A summary of all actions taken by the User to reduce or eliminate the identified sources of the pollutant or substance.
- (4) As determined necessary by the POTW Manager, the Manager may require a User to develop, submit and implement an RP for any pollutant or substance regulated by this Ordinance. The POTW Manager may also modify an approved RP at any time as determined necessary by the POTW Manager to meet the goals and objectives of this Ordinance.
- (5) Failure to submit an approvable RP within the specified deadlines or to fully and timely comply with any condition or requirement of an approved RP shall constitute a violation of this Ordinance, subject to the fine, penalty, and other enforcement provisions of this Ordinance.
- (6) Holding enforcement action in abeyance. If the effluent sample analysis results of a User's discharge exceeds the applicable discharge limit, detection level, or quantification level for a pollutant, the POTW Manager may, in the POTW Manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance, subject to the terms, conditions, and requirements of this subsection 6.1(C)(6), as follows:
 - a. If an approved RP is already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is already in place, then the POTW Manager may, in the POTW Manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance for the period that the sample represents if the RP (and all terms, conditions and requirements thereof) is being fully and continually performed in good faith by the User, as determined by the POTW Manager, and subject to all of the requirements and conditions of subsection 6.1(C)(6)(c).
 - b. If an approved RP is not already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification

level for a pollutant for which an approved RP is not already in place, then the POTW Manager may, in the POTW Manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement regarding the prohibited discharge in abeyance, subject to all of the requirements and conditions of subsection 6.1(C)(6)(c), and provided further as follows: The User with the non-compliant discharge shall develop and implement an RP approved by the POTW Manager to minimize the User's discharges of the pollutant in question to the POTW. The RP shall meet all of the requirements of this Section 6.1(C).

- c. The following requirements and conditions shall apply to any situation under this subsection 6.1(C)(6) in which an enforcement action is held in abeyance as provided by this subsection (regardless of whether or not an RP was in place at the time of the non-compliance):
- (i) The User with the non-compliant discharge shall have a POTW-accessible point for monitoring all discharges from the User to the POTW, as approved by the POTW. All costs and expenses for and related to the installation and maintenance of this monitoring point and any required sampling devices shall be paid for solely by the User.
 - (ii) The User with the non-compliant discharge shall routinely self-monitor its discharges to the POTW for the pollutant in question using the sampling methods, procedures, preservation and handling, and analytical protocol required by the POTW Manager and at the frequency specified by the POTW Manager. All costs and expenses of this sampling and analysis shall be paid for solely by the User.
 - (iii) The POTW may collect any additional samples of the User's discharge as determined necessary by the POTW Manager, all costs and expenses to be paid for by the User.
 - (iv) If the User complies with all of the requirements and conditions for the RP as specified by the POTW Manager, and if the POTW Manager determines that all reasonable and cost-effective actions based on the economic, technical, and treatability considerations, including, but not limited to, all elements of the User's RP, have been, and continue to be, fully and satisfactorily implemented by the User, then the POTW may, in its discretion, hold enforcement action in abeyance and allow the User to continue the non-compliant discharge.
 - (v) Notwithstanding any provision of this subsection 6.1(C)(6) to the contrary, and regardless of whether a User fully complies with all requirements and conditions of this Section and/or of an approved RP, the POTW Manager shall have the unconditional right to

prohibit and terminate any non-compliant discharge at any time and without prior notice, and to take any enforcement action in response thereto, including any enforcement action that had previously been held in abeyance under this subsection 6.1(C)(6).

- (vi) Notwithstanding any provision of this subsection 6.1(C)(6) to the contrary, the POTW Manager shall not hold an enforcement action in abeyance as provided by this subsection unless the POTW Manager has first obtained approval from the MDEQ to do so for the specific pollutant parameter in question; provided that such prior approval shall not be required for discharges of mercury or PCBs.

Section 6.2. Pretreatment Standards and Requirements

- A. Compliance with applicable standards and requirements. The national categorical pretreatment standards as established for specific industries under 40 CFR chapter I, subchapter N are hereby made a part of the requirements of this Ordinance in accordance with federal and state laws and regulations, and are incorporated by reference as if fully set forth in this Ordinance. A User shall comply with all categorical pretreatment standards and any other pretreatment requirements established under the Act that are applicable to that User. A User shall also comply with all other applicable pretreatment standards and requirements established under this Ordinance or under state and federal laws and regulations.
- B. Deadlines for compliance. Compliance by existing sources with categorical pretreatment standards shall be within 3 years of the date the standard is effective unless a shorter compliance time is specified by 40 CFR chapter I, subchapter N. Existing sources that become industrial Users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial Users except where such sources meet the definition of “new source.” New sources shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards and requirements.
- C. Alternative categorical limits. Categorical pretreatment standards shall apply to a User subject to categorical standards, unless an enforceable alternative limit to the corresponding national categorical standards is derived using any of the methods specified in MAC R 323.2313 (regarding removal credits, fundamentally different factor variances, net/gross calculations, equivalent mass per day limitations, and combined wastestream formula alternative limitations). The use of any alternative categorical limit shall be subject to the prior approval of the POTW Manager. If local limits are more stringent than derived alternative categorical limits, the local limits shall control.
- D. Compliance with other applicable laws and regulations. Users of the POTW shall comply with all local, state and federal laws and regulations that may apply to their discharges to the POTW, including, but not limited to, Article II, Air Pollution Control, Part 55 of Act

451 of the Public Acts of Michigan of 1994 (the Natural Resources and Environmental Protection Act).

Section 6.3. Right of Revision

The POTW reserves the right to establish more restrictive prohibitions, limitations and requirements for discharges to the POTW to prevent interference or pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the POTW's NPDES permit, or as otherwise determined necessary by the POTW Manager.

Section 6.4. POTW's Right To Refuse or Condition Discharge

The POTW may refuse to accept, or may condition its acceptance of, all or any portion of any proposed or existing discharge to the POTW from any person, regardless of whether or not a User Permit has been issued for the discharge, if the POTW Manager determines that the discharge has a reasonable potential to: adversely affect the operation of the POTW; result in pass through or interference; violate any pretreatment standard or requirement; cause the POTW to violate its NPDES permit; or if the impacts of the discharge on the POTW or the POTW's discharge are uncertain or unknown (because, for example, no local limits or headworks analysis has been conducted for particular pollutants in the discharge). If the POTW Manager denies any person permission to commence or continue all or any portion of a discharge to the POTW, the person shall refrain from commencing to discharge or shall immediately terminate the discharge to the POTW and shall not thereafter recommence discharge without written authorization from the POTW Manager. Similarly, if the POTW Manager denies any person permission to commence or continue all or any portion of a discharge to the POTW except subject to conditions determined necessary and appropriate by the POTW Manager, the person shall refrain from commencing or continuing the discharge except in full compliance with those conditions. This includes, but is not limited to, the POTW's right to revise or revoke User Permits; and to require a Local Unit to revise the Local Unit's ordinance consistent with any revisions made by the County to this Ordinance, as a condition to discharge.

Section 6.5. Most Restrictive Standards and Requirements Apply

Notwithstanding any provision of this Ordinance to the contrary, the most stringent or restrictive standard or requirement applicable to a User's discharge shall control, whether established by this Ordinance, by any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Ordinance, by state laws or regulations, including the POTW's NPDES permit, or by federal laws or regulations. Further, if state or federal laws or regulations provide for standards and requirements not covered by this Ordinance that are otherwise applicable to a User's discharge, those standards and requirements shall apply to the User in addition to those required by this Ordinance, and the most restrictive of those additional standards or requirements shall control and shall be complied with by the User within the time period required by the law or regulation.

Section 6.6. Dilution Prohibited as Substitute for Treatment

Unless expressly authorized to do so by an applicable pretreatment standard or requirement and subject to the prior approval of the POTW Manager, no User shall ever increase the use of process water, mix separate wastestreams, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a federal, state or local standard, requirement or limitation. The POTW may impose mass limitations on Nondomestic Users that are using dilution to meet applicable pretreatment standards or requirements and in other cases where the imposition of mass limitations is appropriate. Combining a User's wastestream or modulating the release of pollutants upstream of the sampling point prior to the point of discharge into the public sewer shall not be construed as dilution, except as otherwise restricted by National Categorical Pretreatment Standards or requirements. No User intending to use dilution as a substitute for treatment shall do so without the prior approval of the POTW Manager consistent with the requirements of this Section.

ARTICLE 7 – USER PERMITS

Section 7.1. User Permit Required

- A. Industrial User Permits. It is unlawful for any significant industrial User (SIU), or any other User as determined necessary by the POTW Manager to carry out the purposes of this Ordinance, to discharge to the POTW without an Industrial User Permit as provided by this Article.
- B. General User Permits. The POTW Manager may require any User other than a SIU to obtain a General User Permit to discharge to the POTW, subject to such terms and conditions as are determined necessary and appropriate by the POTW to achieve the purposes, policies and objectives of this Ordinance.
- (1) A General User Permit may contain, but shall not be required to contain, any of the terms and conditions that would apply to an Industrial User Permit issued to a SIU as provided by this Article to comply with the general and specific discharge prohibitions of this Ordinance, including, but not limited to, discharge limitations, and requirements regarding sampling and monitoring; pretreatment; pollution prevention, minimization or reductions plans; accidental discharge, spill prevention, and containment requirements; flow equalization; and implementation of best management practices or a best management practices plan.
 - (2) To the extent determined appropriate by the POTW Manager on a case-by-case basis, a General User Permit issued under this Subsection shall be subject to provisions otherwise applicable to permits for SIUs. However, all General User Permits shall be non-transferable, and are subject to the permit fee and permit appeals provisions of this Ordinance.
 - (3) It is unlawful for any User required by the POTW Manager to obtain a General User Permit to discharge to the POTW without a General User Permit as provided by this Article.

- (4) Failure to comply with a General User Permit issued under this Subsection constitutes a violation of this Ordinance.
- (5) In no case shall a General User Permit be construed to authorize the illegal discharge or otherwise excuse a violation of this Ordinance.
- C. Any violation of the terms or conditions of a User Permit is a violation of this Ordinance, subject to the fine, penalty, and other enforcement provisions of this Ordinance. Obtaining a User Permit shall not relieve a User of its obligation to obtain other permits or approvals that may be required by other local, state or federal laws or regulations.
- D. The issuance of a User Permit shall not convey to a User any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, nor any violation of local, state or federal laws or regulations.

Section 7.2. Determination of User status

- A. The POTW may require any User to submit information to the POTW for its use in determining whether the User's status, including, but not limited to, whether the User is a SIU, as well as to determine changes or the absence or inadequacy of changes in a User's facilities.
- B. The POTW shall notify a Nondomestic User of the POTW's belief that the User is, or may be, a SIU. Upon such notification, the User must complete and submit an application for an Industrial User Permit on a form furnished by the POTW. The failure of the POTW to so notify a Nondomestic User shall not relieve any SIU of the duty to obtain a permit as required by this Ordinance.
- C. Upon determination that User Permit is required, no connection to the POTW shall be made and no discharge thereto shall occur until a permit is duly issued; provided, however, that the POTW may at its discretion issue a written authorization in place of a permit, which authorization shall be valid for a period not to exceed 60 days.

Section 7.3. Permit Application Deadlines

Each User must file an application for a User Permit on the form provided by the POTW within the following deadlines:

- A. Existing SIUs: Any SIU discharging into the POTW as of the effective date of this Ordinance shall submit a completed permit application form to the POTW as provided by this Article within 60 days of being so directed and provided a form by the POTW.
- B. Proposed New SIUs: Any SIU proposing to commence (or recommence) discharging into the POTW after the effective date of this Ordinance shall, at least 90 days prior to the

anticipated date on which discharging will commence, request a permit application form and submit the completed application to the POTW.

- C. Categorical Users Subject to New Standard: A User which becomes subject to a new or revised national categorical pretreatment standard, and which has not previously submitted an application for a permit as required herein, shall apply to the POTW for an Industrial User Permit within 90 days after the promulgation of the applicable national categorical pretreatment standard. The POTW may also initiate this action; however, the failure of the POTW so to do shall not relieve a User of its obligation to obtain a permit.
- D. Other Users: Any other User directed by the POTW to complete and submit a User Permit application shall do so within 60 days of being so directed by the POTW and provided a form by the POTW.

Section 7.4. Permit Application Requirements

All Users shall submit the information required by this Section on the User Permit application form supplied by the POTW (or attached thereto) at a level of detail and in units and terms as determined necessary by the POTW to adequately evaluate the application, accompanied by payment of a permit application review fee. A separate application and supporting documentation shall be submitted for each separate location for which a User Permit is required.

- A. The name, address, and location of the facility or premises from which discharge will be made, including the names of the owner(s) and operator(s) of the facility or premises.
- B. Corporate or individual name, federal employer identification number, address and telephone number of the applicant.
- C. Whether the User is a corporation, partnership, proprietorship, or other type of entity, and the name of the person(s) responsible for discharges by the User.
- D. Name and title of the local authorized representative of the User who will have the authority to bind the applicant financially and legally, and who is authorized by the applicant as its agent to accept service of legal process, and the address and telephone number of such representative.
- E. The Standard Industrial Classification (SIC) numbers of all processes at the location for which application is made, according to the Standard Industrial Classification Manual, as amended (or, if applicable, the North American Industrial Classification System (NAICS) designation).
- F. Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application, including, but not limited to, any pollutants that are limited or regulated by any federal, state, or local standards or requirements. The information provided for such parameters shall include all of the following:
 - (1) Pollutants having numeric or narrative limitations as provided by this Ordinance.

- (2) Pollutants limited by National Categorical Pretreatment Standards regulations for similar industries.
 - (3) For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided.
 - (4) For industries subject to National Categorical Pretreatment Standards or requirements, the data required shall be separately shown for each categorical process wastestream.
 - (5) Combined wastestreams proposed to be regulated by the combined wastestream formula shall be specified.
- G. For purposes of information required by the application, sampling and analysis shall be performed in accordance with the following: Procedures established by EPA pursuant to Section 304 (g) of the Act and as contained in 40 CFR 136, as amended. If 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures in EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments or revisions thereto, or where appropriate and applicable, in accordance with any other sampling and analytic procedures approved by EPA.
- H. A listing and description of the following: plant activities, plant facilities, and plant processes on the premises for which the permit is being applied for. Processes which are subject to National Categorical Pretreatment Standards or requirements shall be so designated, and identification of which pollutants are associated with each process shall be stated.
- I. A listing of raw materials and chemicals that are either used in the manufacturing process or could yield the pollutants referred to in this Section. Any User claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity.
- J. A statement containing information on the spill containment and prevention of Accidental/Spill Discharges program for each of the pollutants referred to in this Section. The information provided shall include the following:
- (1) The approximate average and maximum quantities of such substances kept on the premises in the form of the following: (a) raw materials; (b) chemicals; and/or (c) wastes therefrom; and
 - (2) The containment capacity for each of the above items.

The following requirements apply for purposes of the spill containment and prevention statement required by this Subsection:

For raw materials, chemical solutions or waste materials that do not contain any substance on the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, only substances which are in a form which could readily be carried into the sewerage system and which constitute a concentration of 5% or greater on a dry weight basis in the raw material, chemical solution or waste material are required to be included in the statement. Volumes of less than 55 gallons or the equivalent need not be included unless lesser quantities could cause interference or pass through to the sewerage system.

For raw materials, chemical solutions or waste materials that contain any amount of any substance on the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, the statement shall include the name of the substance and the expected concentration so that the POTW Manager can determine whether or not it may constitute a threat to the POTW if a spill occurs.

- K. The name and address of each laboratory performing analytical work for the User submitting the application.
- L. A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the 7 days of the week.
- M. Average and maximum 24 hour wastewater flow rates, including daily, monthly and seasonal variations, if any; and a list of each national categorical process wastestream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW, and list showing each combined wastestream.
- N. A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW;
- O. A flow schematic drawing showing which connections receive each national categorical process wastestream or other process wastestreams, and which connections receive storm water, sanitary water or cooling water;
- P. A schematic drawing showing which sewers handle each combined wastestream.
- Q. Each product produced by type, amount, process or processes and the rate of production as pertains to processes subject to production-based limits under national categorical standards or requirements shall be specified.
- R. Actual or proposed hours of operation of each pretreatment system for each production process.
- S. A description and schematic drawing showing each pretreatment facility, identifying whether each such facility is of the batch type or continuous process type.

- T. If other than potable water is used, identification of the User's source of intake water together with the types of usage and disposal method of each water source and the estimated wastewater volume from each source.
- U. A statement regarding whether the requirements of this Ordinance and the national categorical pretreatment standards and requirements are being met on a consistent basis; and if not, what additional operation and maintenance work and/or additional construction is required for the User to comply with applicable standards and requirements.
- V. A list of all environmental permits (and, if requested by the POTW Manager, a copy of any environmental permit) held by the User applicable to the premises for which the User Permit is being sought.
- W. Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the User to meet all applicable federal, state and local pretreatment standards and requirements. If additional O&M or additional pretreatment will be required to meet the applicable standards and requirements, then the User shall indicate the shortest time schedule necessary to accomplish installation or adoption of the additional O&M and/or pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
- (1) The schedule shall contain progress increments 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 User to meet the applicable pretreatment standards (including, without limitation, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to above shall exceed 9 months, nor shall the total compliance period exceed 18 months.
 - (2) No later than 14 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the POTW including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the User to return to the established schedule. In no event shall more than nine months elapse between submission of the progress reports to the POTW.
- X. Any other information determined necessary by the POTW to adequately evaluate the application. To the extent that actual data is not available for a new source, the applicant shall supply estimated or expected information.
- Y. All applications shall be signed and certified by an "authorized representative" of the User as defined by this Ordinance.

Section 7.5. Permit Issuance, Denial, or Determination that Permit not Required

- A. The POTW shall evaluate the application information furnished by a User and may require additional information as necessary to complete and properly review the application. No action shall be taken by the POTW on an application (and the 120-day review period as provided by this subsection shall not begin to run) until the application is determined to be complete by the POTW Manager. Within 120 days after the submission of a complete application (unless the POTW and the applicant agree to extend this time period), the POTW shall either issue a User Permit subject to terms and conditions provided by this Ordinance, deny the application, or determine that a permit is not required as provided by this Ordinance.
- B. A User Permit may be denied by the POTW:
- (1) If the POTW determines that the proposed discharge, or continued discharge, will not comply with all applicable standards and requirements of this Ordinance;
 - (2) If the User refuses, fails or declines to accept the terms and conditions of a permit as proposed to be issued by the POTW;
 - (3) For any reason that would support a suspension or revocation of the permit as provided by this Ordinance
 - (4) If the POTW determines that the POTW cannot adequately or reasonably treat the User's discharge (due to insufficient capacity, the quality or quantity of the pollutants, available POTW resources etc.);
 - (5) If the POTW is not satisfied that the User has not taken all reasonable steps to prevent, minimize or reduce pollutants in the User's discharge;
 - (6) To prevent the discharge of pollutants into the POTW, singly or in combination with other pollutants, for which there is a reasonable potential, as determined by the POTW Manager, to:
 - (a) Not meet applicable pretreatment standards and requirements;
 - (b) Interfere with the operation of the POTW;
 - (c) Pass through the POTW into the receiving waters or the atmosphere;
 - (d) Inhibit or disrupt the POTW's processing, use, or disposal of sludge;
 - (e) Cause health or safety problems for POTW workers; or
 - (f) Result in a violation of the POTW's NPDES permit or of other applicable laws and regulations;

- (7) If the POTW determines that there is not, or will not be, sufficient capacity available (in both wastewater volume and strength) for a proposed discharge in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat and dispose of BOD, TSS, or similar materials as required by applicable local, state or federal laws, rules or regulations; or
- (8) For any other reason determined by the POTW Manager as necessary and appropriate to protect the POTW or to meet the purposes and intent of this Ordinance.

Section 7.6. Permit Conditions

- A. User Permits shall be subject to all provisions of this Ordinance and all other applicable regulations, User charges, and fees established by the POTW. Further, User Permits incorporate by reference all provisions, regulations and requirements of the Ordinance without setting them forth in full therein.
- B. Industrial User Permits shall at a minimum include all of the conditions required by MAC 323.2306(a)(iii). In addition, User Permits shall include any conditions determined reasonably necessary by the POTW Manager to prevent pass through or interference, to protect the quality of the receiving waters, to protect worker health and safety, to facilitate POTW sludge management and disposal, to protect ambient air quality, to protect against damage to the POTW, or to otherwise achieve the objectives of this Ordinance, including, but not limited to, the following:
 - (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
 - (2) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.
 - (3) Requirements for installation of pretreatment technology or construction of appropriate containment devices, or similar requirements designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (4) Development and implementation of spill control plans or other special conditions, including additional management practices necessary to adequately prevent accidental or unanticipated discharges.
 - (5) Requirements for installation, maintenance, repair, calibration and operation of inspection and sampling facilities and discharge flow monitors.
 - (6) Specifications for monitoring programs which shall include, but are not limited to, sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

- (7) Compliance schedules.
- (8) Requirements for submission of technical reports or discharge reports.
- (9) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the POTW and affording the POTW access to those records.
- (10) Requirements for notifying the POTW if self-monitoring indicates a violation as provided by Section 8.4 of this Ordinance, and for repeat sampling and analysis as provided by Section 9.6 of this Ordinance.
- (11) Requirements for notification of any new introductions of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW, including listed or characteristic hazardous waste for which the User has submitted initial notification under MAC R 323.2310(15).
- (12) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.
- (13) Requirements for notification of accidental or slug discharges, or discharges that exceed a discharge prohibition.
- (14) Requirements for notification and need for prior approval from the POTW Manager for any proposed change in a sampling location.
- (15) A statement regarding limitations on transferability of the permit.
- (16) A statement of the duration of the permit.
- (17) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable pretreatment standards and requirements, including those that become effective during the term of the permit.
- (18) Requirements for a written certification signed by the permittee that acknowledges that the permittee has read and fully understands all terms and conditions of the permit; and acknowledges that the permittee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the permit as approved.
- (19) A statement of applicable civil and criminal penalties for violation of discharge limitations, pretreatment standards and requirements, and compliance schedules.
- (20) Requirements regarding development by a User of a pollutant prevention, minimization or reduction plan (e.g., for mercury or PCBs) or requirements regarding use of best management practices to control, contain, treat, prevent, or

reduce the discharge of wastewater, pollutants or other substances to the POTW, or otherwise meet the purposes, policies and objectives of this Ordinance.

- (21) Other conditions as determined necessary by the POTW Manager to ensure compliance with this Ordinance and other applicable laws, rules and regulations.

If the POTW determines that a User is discharging substances of a quality, in a quantity, or in a location that may cause problems to the POTW or the receiving stream, the POTW has the authority to develop and enforce effluent limits applicable to the User's discharge.

Section 7.7. Permit Modifications

A User Permit may be modified by the POTW at any time and for any reason determined necessary by the POTW Manager to assure compliance with the requirements of this Ordinance and other applicable laws and regulations, including, without limitation, any of the following reasons:

- A. To incorporate any new or revised federal, state or local pretreatment standards or requirements, or other applicable requirement of law or regulation.
- B. Material or substantial changes or additions to the permittee's operations, processes, or the character or quality of discharge that were not considered in drafting or issuing the existing permit. It shall be the duty of a User to request an application form and to apply for a modification of the permit within 30 days of any such change(s). The POTW may modify a permit on its own initiative based on its findings or upon reasonable cause to believe that any such change(s) has occurred or threatens to occur.
- C. A change in any condition in the permittee's discharge, facility, production or operations, or in the POTW, that requires either a temporary or permanent reduction or elimination of the permittee's discharge to assure compliance with applicable laws, regulations or the POTW's NPDES permit.
- D. Information indicating that the permitted discharge poses a threat to collection or treatment systems; the POTW's processing, use, or disposal of sludge; POTW personnel; or the receiving waters.
- E. Violation of any terms or conditions of the User's permit.
- F. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required report or notice.
- G. Revision of, or a grant of a variance from, applicable categorical standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the permit.
- I. To reflect transfer of the facility ownership and/or operation to a new owner or operator.

- J. To add or revise a compliance schedule for the permittee.
- K. To reflect changes or revisions in the POTW's NPDES permit.
- L. To ensure POTW compliance with applicable sludge management requirements promulgated by EPA.
- M. To incorporate any new or revised requirements resulting from reevaluation of the POTW's local limits.
- N. To incorporate a request for modification by the permittee, as determined appropriate by the POTW and provided the request does not create a violation of any applicable requirement, standard, law, rule or regulation.

The permittee shall be informed of any changes in the permit at least 30 days prior to the effective date of the change, unless a shorter time is determined necessary by the POTW to meet applicable laws, to protect human health or the environment, or to facilitate an enforcement action.

Section 7.8. Permit Duration

- A. Industrial User Permits shall be issued for a specified time period, not to exceed 5 years, subject to modification, reissuance, suspension or revocation as provided by this Article. At the discretion of the POTW, an Industrial User Permit may be issued for a period less than 5 years and may be stated to expire on a specific date.
- B. General User Permits may be issued for any time period determined appropriate by the POTW Manager, subject to modification, reissuance, suspension or revocation as provided by this Article.

Section 7.9. Permit Reissuance

- A. To apply for reissuance of an existing User Permit, a User must submit a complete permit application to the POTW accompanied by payment of an application fee at least 90 days prior to the expiration of the User's existing permit. The application shall be submitted in a form prescribed by the POTW. It shall be the responsibility of the User to make a timely application for reissuance.
- B. All User Permits issued to a particular User are void upon the issuance of a new User Permit to that User.

Section 7.10. Continuation of Expired Permits

An expired User Permit will continue to be effective until the permit is reissued only if: (a) the User has submitted a complete permit application at least 90 days prior to the expiration date of the User's existing permit; and (b) the failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the User. In all other cases, discharge to the POTW following expiration of a permit is unlawful.

Section 7.11. Permit Suspension and Revocation

User Permits may be suspended or permanently revoked by the POTW for any reason determined necessary by the POTW to assure compliance with the requirements of this Ordinance, the POTW's NPDES permit, or other applicable laws and regulations, including, without limitation, any of the following reasons:

- A. Falsifying self-monitoring reports.
- B. Tampering with monitoring equipment.
- C. Failure to allow timely and reasonable access to the permittee's premises and records by representatives of the POTW for purposes authorized by this Ordinance, including, without limitation, inspection or monitoring.
- D. Failure to meet effluent limitations.
- E. Failure to pay fines or penalties.
- F. Failure to pay sewer charges.
- G. Failure to pay permit fees.
- H. Failure to meet compliance schedules.
- I. Failure to comply with any term or condition of the permit, an order, the requirements of this Ordinance, or any final judicial order entered with respect thereto.
- J. Failure to comply with any reporting or notice requirement.
- K. Failure to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresentation of any relevant fact at any time.
- L. Failure to complete a wastewater survey or the User Permit application.
- M. As determined by the POTW, the discharge permitted by the permit has a reasonable potential to endanger human health or the environment and the threat can be abated only by suspension or revocation of the permit.

Upon suspension or revocation of a permit, a User shall immediately terminate its discharge to the POTW and shall not thereafter recommence discharge without further authorization from the POTW Manager as provided by this Ordinance. The POTW may reissue a revoked permit upon a showing satisfactory to the POTW Manager that the permittee has corrected the violation or condition that led to the revocation. A person who has had a permit revoked may apply for a new permit.

Section 7.12. Limitations on Permit Transfer

- A. A User Permit is issued to a specific User for discharge from a specific facility and operation and shall not be assigned or transferred or sold to a new or different owner, operator, User, discharger, facility or premises, or to a new or changed facility or operation, without the prior written approval of the POTW. If the transfer of a permit is approved, any succeeding transferee permittee must also comply with the terms and conditions of the existing permit. The POTW shall approve the transfer of a permit only if all of the following conditions are met:
- (1) The transferor (permittee) shall give at least 30 days advance notice to the POTW of the proposed transfer of the permit (unless a shorter notice period is approved by the POTW in advance). The notice shall include a written certification signed by the proposed transferee that (a) states that the transferee has no present intent to change the facility's operations and processes; (b) identifies the specific date on which the transfer is to occur; (c) acknowledges that the transferee has read and fully understands all terms and conditions of the permit; and (d) acknowledges that the transferee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the existing permit if the transfer is approved.
 - (2) As of the date of the proposed transfer, there are no unpaid charges, fines, penalties or fees of any kind due to the POTW and/or the Local Unit from the transferor or the transferee related to use of the POTW.
 - (3) Except as to the identity of the new discharger (the transferee), the application materials for the permit to be transferred as originally filed by the transferor, as well as the terms and conditions of the permit itself, are completely accurate with respect to, and fully applicable to, the discharge, facilities, and activities of the transferee.
- B. If the transfer of a permit is approved, the POTW shall make the necessary minor modifications to the permit to show the transferee as the permittee, and a copy of the permit shall be provided to the transferee for signature and certification by the transferee as provided by Section 8.10 of this Ordinance. The transferor (permittee) shall remain liable for any discharges to the POTW from the facility (along with any other persons actually discharging from the facility to the POTW) until a transfer of the permit has been approved as provided by this Section.
- C. This Section is not intended to, and shall not be construed to, limit in any way the transfer of ownership of the property involved.
- D. Any attempt to transfer a User Permit that does not comply with the requirements of this Section renders the permit void as of the date of the invalid transfer.

Section 7.13. Duty to Provide Information

Users shall furnish to the POTW any available information that the POTW requests to determine whether cause exists for modifying, revoking and reissuing, or terminating a User Permit, to determine compliance with a permit, to determine whether a permit is required, or as otherwise determined necessary by the POTW. Users shall also, upon request, furnish to the POTW copies of any records required to be kept by a permit. The information and records requested by the POTW shall be provided by the User to the POTW within 24 hours of the request, unless an alternative time frame is specified by the POTW when making the request or unless the POTW allows additional time for the User to submit the requested information based on a showing by the User of good cause for any delay. The User's failure to submit the requested information to the POTW within 24 hours (or within any alternate time period approved by the POTW as provided by this Section) shall constitute a violation of this Ordinance.

Section 7.14. Permit Appeals

Except as otherwise provided by this Section, an appeal to the POTW Board of Appeals of any final decision made by the POTW Manager in connection with issuing or implementing a User Permit shall be governed by Article 18 of this Ordinance. An appealing party must specify in its notice of appeal the action of the POTW being appealed and the grounds for the appeal. If a particular permit provision is objected to, the notice of appeal must specify the reasons for the objection, and the alternative provision, if any, sought to be placed in the permit. The effectiveness of a permit or any final decision made by the POTW Manager shall not be stayed pending a decision by the POTW Board of Appeals. If, after considering the record on appeal including any statements provided by the POTW in response to the appeal, the POTW Board of Appeals determines that a permit or any provision of a permit should be reconsidered, the Board shall remand the matter to the POTW Manager for further action as determined appropriate by the Board. Specific provisions of a permit that are remanded by the POTW Board of Appeals for reconsideration by the POTW Manager shall be stayed pending further final action taken by the POTW Manager as required by the decision of the Board. A decision of the POTW Board of Appeals not to remand any matter shall be considered final administrative action for purposes of judicial review.

Section 7.15. Permits Not Stayed

Except as otherwise expressly provided by Section 7.14, no action taken or request filed by any permittee shall operate to stay the effect of any permit or of any provision, term or condition of any permit, including, without limitation, a request for permit modification, reissuance, or transfer, or a notification of planned changes or anticipated noncompliance.

Section 7.16. Permit Fees

User Permit fees shall be established, paid and collected as provided by this Article and Article 21.

ARTICLE 8 – REPORTING AND NOTICE REQUIREMENTS

All Nondomestic Users (and any other User as required by the POTW Manager) shall comply with the minimum reporting and notice requirements provided by this Article, as follows:

Section 8.1. Reports By Nondomestic Users Regarding Categorical Pretreatment Standards and Requirements

- A. Baseline Monitoring Reports. Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under MAC R 323.2311(2) whichever is later, an existing Nondomestic User subject to the categorical pretreatment standards and that currently discharges or is scheduled to discharge to the POTW shall submit a report to the POTW as required by MAC R 323.2310(2). At least 90 days prior to commencement of discharge, new sources, and sources that become Nondomestic Users subsequent to the promulgation of an applicable categorical pretreatment standard shall submit the reports to the POTW as required by MAC R 323.2310(2). Any changes to the information required to be submitted by a Nondomestic User pursuant to MAC R 323.2310(2)(a) through (e) shall be submitted by the User to the POTW within 60 days of when the User becomes aware of the change.
- B. Reports on Compliance with Categorical Pretreatment Standard Deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standard or, in the case of a new source, following commencement of the discharge to the POTW, any Nondomestic User subject to categorical pretreatment standards and requirements shall submit the reports to the POTW required by MAC R 323.2310(3).
- C. Periodic Reports on Continued Compliance. Any Nondomestic User subject to a categorical pretreatment standard, after the compliance date of the categorical pretreatment standard, or, in the case of a new source, after commencement of the discharge into the public sewer or POTW, shall submit the periodic reports to the POTW required by MAC R 323.2310(4). These periodic reports shall be submitted at least once every 6 months (during the months of April and October unless alternate months are approved by the POTW), unless required more frequently by the applicable pretreatment standard, by the POTW, or by the State. The reports shall include a record of all average and maximum daily flows during the reporting period, except that the POTW may require more detailed reporting of flows. All flows shall be reported on the basis of actual measurement unless the POTW agrees, due to cost or nonfeasibility, to accept reports of average and maximum flows estimated using techniques approved by the POTW. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the POTW, provided there has been no change to the elements composing the combined wastestream. The results of sampling of the discharge and analysis of pollutants appearing in the report shall be cross-referenced to the related flow and mass to determine compliance with National Categorical Pretreatment Standards.

Section 8.2. Reports Required for Nondomestic Users Not Subject to Categorical Pretreatment Standards

- A. All Nondomestic Users not subject to categorical pretreatment standards shall submit to the POTW periodic reports providing information regarding the quality and quantity of wastewater and pollutants discharged into the POTW (including, without limitation, information regarding the nature, concentration (or mass), and flow of the discharge). These reports shall be based on sampling and analysis performed in the period covered by the report in accordance with the sampling, analysis and monitoring requirements provided by Article 9 of this Ordinance.
- B. For significant industrial Users, the reports shall be submitted at least once every 6 months for the preceding 6 months (during the months of April and October unless alternate months are specified by the POTW), unless required more frequently by the POTW.
- C. If required by the POTW for Nondomestic Users other than significant industrial Users, the reports shall be submitted at least once every 12 months for the preceding 12 months (during the month of October unless an alternate month is specified by the POTW), unless required more frequently by the POTW.
- D. The reports for all Nondomestic Users shall be submitted on forms provided by (or in a format required by) the POTW, and shall include, without limitation, the volume of wastewater; the concentration of pollutants; the names of all person(s) responsible for operating and maintaining any pretreatment equipment, pretreatment processes, or responsible for wastewater management at the User's facilities, with a brief description of each person's duties; information regarding materials or substances that may cause interference or pass through; and any other information deemed necessary by the POTW to assess and assure compliance with applicable discharge requirements or to safeguard the operation of the POTW.

Section 8.3. Notice by User of Potential Problems

All Nondomestic Users, whether or not subject to categorical pretreatment standards, shall notify the POTW immediately by telephone of all discharges by the User that could cause problems to the POTW, including, without limitation, accidental discharges, slug loadings, discharges of a non-routine, episodic nature, non-customary batch discharge, or discharges that exceed a discharge prohibition or limitation provided by this Ordinance. The notification shall include available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken and required, and other available information as necessary to determine what impact the discharge may have on the POTW. A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the User to prevent similar future discharges) shall also be provided by the User to be received by the POTW Manager within 5 days of the incident.

Section 8.4. Notice by User of Violation of Pretreatment Standards

If sampling performed by a Nondomestic User indicates a violation, the User shall notify the POTW within 24 hours of becoming aware of the violation (and shall comply with other applicable requirements provided by Section 9.6 regarding repeat sampling and analysis).

Section 8.5. Notice by User of Changed Discharge or Change in User Status

- A. A Nondomestic User shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in its discharge, or of any facility expansion, production increase, or process modifications that could result in a substantial change in the volume or character of pollutants in its discharge.
- B. For purposes of this Section, “promptly” means as soon as reasonably possible, but in no event less than 60 days before the change.
- C. For purposes of this Section, “substantial change” includes, without limitation, any of the following:
- (1) The discharge of any amount of a pollutant not identified in the User’s permit application or in the permit issued.
 - (2) An increase in concentration (or degree) of any pollutant that exceeds 10% of the concentration (or degree) for the pollutant as indicated in any report required under Section 8.1 or 8.2.
 - (3) An increase in discharge volume that exceeds 10% of the volume as indicated in any report required under Section 8.1 or 8.2.
 - (4) Any increase in the amount of any hazardous wastes discharged, including, without limitation, the hazardous wastes for which the User has submitted initial notification under Section 8.6 of this Ordinance.
 - (5) The discharge of any ground waters purged for a removal or remedial action.
 - (6) The discharge of any pollutants that are present in the discharge due to infiltration.
 - (7) A change in discharge that may convert a Nondomestic User into a significant industrial User, or a Nondomestic User into a categorical User.
 - (8) A change in discharge that would cause a change in the categorical standards that apply to the User.
- D. In determining whether to accept any changed discharge, or, if so, under what conditions, the POTW shall evaluate the changed discharge pursuant to the general and specific discharge prohibitions under Section 6.1 and other applicable provisions of this Ordinance.

The User may be required to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a User Permit application.

- E. No User shall implement the planned changed conditions until and unless the POTW Manager or his/her designee has responded to the User's notice.
- F. This Section shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation provided by this Ordinance or a permit.

Section 8.6. Notice By User Regarding Wastes That Are Otherwise Hazardous

Any Nondomestic User that discharges to the POTW a substance that, if disposed of other than by discharge to the POTW, would be a hazardous waste under 40 CFR part 261 or under the rules promulgated under the state hazardous waste management act (Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended) shall notify the POTW Manager, the U.S. EPA Region V Waste Management Article Director, and the Chief of the Waste Management Section of the Michigan Department of Environmental Quality, of the discharge as required by MAC R 323.2310(15).

Section 8.7. Notice by User Regarding Installation of New Pretreatment Facilities

Within 5 days after completing installation of new pretreatment facilities, the User shall notify the POTW Manager in writing of the time and date when it intends to commence operation of the new facilities, and the identity of the person who will conduct any tests to be performed. The pretreatment facilities shall not be placed in regular operation until adequate tests have been conducted to establish that the discharges will comply with the requirements of this Ordinance and other applicable laws and regulations. Upon prior written request by the POTW Manager, the User shall allow a representative of the POTW to observe the tests at the time they are conducted. The cost of the tests shall be paid by the User.

Section 8.8. Other Reports and Notices Required by this Article or by Other Applicable Laws and Regulations

Users shall comply with all other reporting or notice requirements as provided by this Ordinance, by any notice, order or permit issued under this Ordinance, or as required by any other applicable law or regulation, including, without limitation, the reporting and notice requirements in connection with accidental discharge (Article 10), upset (Article 11), bypass (Article 12), and any other reports or notice requirements determined necessary by the POTW to assess and assure compliance with the requirements of this Ordinance.

Section 8.9. Requirements Applicable to All Required Reports and Notifications

All reports and notifications submitted by a User to the POTW as required by this Ordinance (or by any order, permit or determination issued or made pursuant to this Ordinance) shall meet the following requirements:

- A. All reports required by this Ordinance shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report. The data shall be representative of conditions occurring during the applicable reporting period.
- B. If a User monitors any pollutant (or measures flow) more frequently than required by this Ordinance or a User Permit, using the monitoring, sampling and analytical procedures as required by Section 9.1, the results of all such additional monitoring shall be included in any report or notification submitted pursuant to this Ordinance.
- C. The POTW Manager may require that reports, notifications, and other required documents and data be submitted in a standardized format, as specified by the POTW Manager.
- D. If the POTW instead of a User collects all of the information, including flow data, required for a report required by Sections 8.1 or 8.2, the POTW Manager may in his or her discretion waive the requirement that the report be submitted by the User.
- E. The reports, notifications, and other documents and data required to be submitted or maintained by this Ordinance shall be subject to all of the provisions as specified by MAC R 323.2310(13).
- F. Written reports and notifications will be deemed to have been submitted to the POTW, unless otherwise specified by the POTW Manager, as follows:
1. If mailed, on the date postmarked.
 2. The date of receipt of the report shall govern for reports or notifications which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, including, but not limited to, reports or notifications that are hand-delivered, faxed, or emailed.
 3. Written reports and notifications may be submitted to the POTW by fax or email (or by any means other than mail or hand-delivery) only with the prior approval of the POTW on a case-by-case basis. The report or notification shall be sent to the fax number or email address specified by the POTW.
- G. All written reports and notifications submitted by mail or hand-delivery shall be sent or delivered to the following address:
- POTW Manager
Anthony Ragnone WWTP
9290 Farrand Road
Montrose, MI 48457
- H. Failure to provide the reports and notifications required by this Ordinance constitutes an independent violation of this Ordinance. However, compliance with applicable reporting and notification requirements shall not relieve a User of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other

damage to person or property; nor shall such report or notification relieve a User of any fines, penalties, or other liability that may be imposed by applicable laws or regulations. Further, the reporting and notification requirements required by this Ordinance shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Ordinance or other applicable laws or regulations.

Section 8.10. Signature and Certification Requirements

All written reports and notifications required by this Ordinance shall be signed and certified as follows:

A. Required Signatures. The reports and notifications shall be signed by an “authorized representative” of the User as defined in Section 1.2 of this Ordinance.

B. Required Certification. The reports and notifications shall include the following certification statement:

“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 assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those 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 fine and imprisonment for knowing violations.”

C. Exception. If the POTW elects to perform instead of the User all or any portion of the sampling or analysis otherwise required for a report or notification, the User will not be required to comply with the certification requirements for the sampling and analysis (or portion thereof) performed by the POTW.

ARTICLE 9 – SAMPLING, ANALYSIS, AND MONITORING REQUIREMENTS

This Article provides the sampling, analysis and monitoring requirements applicable to Users of the POTW. It does not apply to Domestic Users except as may be determined appropriate in a specific case by the POTW. All Users required by this Ordinance (or by any permit, order, decision or determination issued or made under this Ordinance) to sample, monitor and analyze their discharges to the POTW shall do so according to the minimum requirements provided by this Article. Additional or more restrictive sampling, analytical or monitoring requirements may be required for a particular User by a permit, order, decision or determination issued or made under this Ordinance.

Section 9.1. Sampling and Analytical Techniques and Procedures

All sampling, measurements, tests, and analyses of the characteristics of discharges to the POTW shall be performed in accordance with the procedures approved by the U.S. EPA contained in 40 CFR part 136. If, as determined by the POTW Manager, the sampling and analytical techniques

contained in 40 CFR part 136 are not available, do not apply to the discharge or pollutants in question, are not appropriate under the circumstances for application to the discharge or pollutants in question, or where one or more alternate techniques are available under 40 CFR part 136, sampling and analysis shall be performed using validated sampling and analytical methods and procedures approved or required by the POTW Manager.

Section 9.2. Sampling Frequency

Users shall sample their discharges to the POTW at a frequency necessary to assess and assure compliance with the requirements of this Ordinance, any permit or order issued pursuant to this Ordinance, all applicable pretreatment standards and requirements, other applicable state and federal laws and regulations, or as otherwise determined necessary by the POTW Manager consistent with the purposes and intent of this Ordinance. At a minimum, all significant industrial Users shall sample their effluent 2 times per year (once every 6 months) or as often as provided by their permits, whichever is more frequent, and report the results to the POTW. Each discharge point to the POTW shall be sampled and reported individually.

Section 9.3. Sample Types

Where representative samples are required to be taken, a User shall take a minimum of 4 grab samples for pH, temperature, cyanide, phenols (T), residual chlorine, oil and grease, sulfide, and volatile organics (and any other parameters designated by the POTW Manager), unless a lesser or greater number of grab samples is approved or required in advance by the POTW Manager. Grab samples may be required to show compliance with instantaneous maximum discharge limits. For all other pollutants and sampling, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques. The POTW Manager may waive flow-proportional composite sampling for any User that demonstrates to the satisfaction of the POTW Manager that flow-proportional sampling is infeasible. If flow-proportional sampling is waived, samples may instead be obtained through time-proportional composite sampling techniques, or through a minimum of 4 grab samples, if the User demonstrates to the satisfaction of the Manager that this will provide a representative sample of the effluent being discharged.

Section 9.4. Sampling Methods, Equipment and Location

A User shall use the sampling methods, sampling equipment, and sampling location specified by the User's User Permit, or, in the absence of a permit, as required by the POTW Manager.

Section 9.5. Costs of Monitoring, Sampling and Analyses

All required monitoring, taking of samples, and sample analyses, whether performed by the POTW or by a User, including, but not limited to, the costs or fees associated with inspection or surveillance, shall be at the sole cost of the User.

Section 9.6. Self-monitoring

- A. Except as otherwise provided by this Ordinance, self-monitoring shall be conducted by each Nondomestic User to ensure compliance with all applicable requirements of this Ordinance and other applicable laws and regulations.
- B. A User performing its own sampling shall submit the samples for analysis to a laboratory (which may include the User's own laboratory) approved by the POTW.
- C. A User performing its own sampling or monitoring shall record and maintain for all samples and monitoring the date, exact location (which shall match sampling locations identified in the User's User Permit, as applicable), time (including start time and stop time) and method of sampling or measurement, and the name(s) of person(s) taking the samples or measurements; sampler programming information; the sample preservation techniques or procedures used; the full chain-of-custody for each sample; the dates the analyses were performed and completed; who performed the analyses; the analytical techniques and methods used; the detection limits and/or quantification level used per parameter; quality assurance/quality control (QA/QC) procedures used and QA/QC data; and the results of the analyses.
- D. If sampling performed by a User indicates a violation, the User shall notify the POTW Manager within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within 30 days after becoming aware of the violation, except that the User shall not be required to resample if (a) the POTW performs sampling at the User at a frequency of at least once per month, or (b) the POTW performs sampling at the User between the time when the User performs its initial sampling and the time when the User receives the results of the sampling that indicates the violation.
- E. If a User uses its own laboratory for sample analysis, the POTW Manager may require the User to send split samples to an independent laboratory at a frequency specified by the Manager as a quality control check.

Section 9.7. Sampling and Analyses Performed by POTW

- A. The sampling and analysis required by this Ordinance may be performed by the POTW instead of the User, as determined necessary by the POTW Manager for purposes of this Ordinance. The POTW shall provide the User with copies of analytical results prepared by the POTW. If the results of any sampling and analysis performed by the POTW instead of the User show that a pretreatment standard has been violated, the POTW shall provide the User with copies of the analytical results within 10 days after the results are available.
- B. If the POTW performs the required sampling and analysis for a User, the User shall pay a sampling fee to the POTW to fully reimburse the POTW for the sampling, including administrative and overhead costs. The POTW may contract with an independent firm to perform the sampling and analysis and the User shall fully reimburse the POTW for amounts paid by the POTW to the independent firm.

Section 9.8. Split Samples and Sample Results

- A. If requested by the POTW, the POTW shall be provided with splits of any sample taken by a User. Splits shall be provided by the User to the POTW at no cost to the POTW.
- B. If requested by a User prior to the collection of a sample of the User's discharge, the POTW shall leave a portion of the sample of the discharge taken from any sampling point on or adjacent to the premises for the User's independent analysis.
- C. In cases of disputes arising over split samples, the portion taken and analyzed by the POTW shall be controlling unless proven invalid. The burden of proving the POTW's results invalid shall be on the User and at the User's sole cost.

Section 9.9. Maintenance, Repair and Calibration of Equipment

- A. A User who performs self-monitoring shall contract with an independent company (unless the requirement to use an independent company is waived in advance by the POTW Manager as determined appropriate by the Manager) to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the User.
- B. The maintenance, repair, and calibration shall be performed as often as necessary to ensure that monitoring data is accurate and representative, and consistent with the accepted capability of the type of equipment used, and shall be at the sole cost of the User.
- C. A User shall keep a complete and accurate written record of all calibrations, inspections and maintenance done (including, without limitation, the date and time of the activity, a description of what was done and the methods used, the names of persons conducting the activity, and any required or recommended follow-up). The record shall also include a description of all problems discovered regarding the equipment whether in response to a regularly scheduled inspection or otherwise.
- D. The POTW, in any event, may inspect and test a User's sampling and flow measurement equipment and instruments at all reasonable times.
- E. In no case shall a User's failure to keep its equipment, instruments and facilities in good working order constitute grounds for the User to claim that sample results are unrepresentative of its discharge.

Section 9.10. Required Sampling Structures and Devices

- A. The POTW may require any User to install at each discharge point a suitable control structure (such as a manhole or sampling vault) and necessary measuring and sampling devices (including automatic devices) to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW. The structure and devices shall be maintained at all times in a safe, clean and proper operating condition at the sole expense of the User.

- B. There shall be ample room in or near the control structure to allow accurate monitoring, measuring, sampling and preparation of samples for analysis, as determined necessary by the POTW Manager. At a minimum, all sewers shall have an inspection and sampling manhole or structure with an opening of no less than 24 inches in diameter and an internal diameter of no less than thirty-six 36 inches containing flow measuring, recording and sampling equipment as required by the POTW Manager to assure compliance with this Ordinance.
- C. Any temporary or permanent obstruction for safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the verbal or written request of the POTW. The costs of clearing such access shall be born by the User.
- D. The location and complexity of the required control structure or devices may vary with sampling requirements determined necessary by the POTW Manager to protect the POTW and to comply with applicable laws and regulations.
- E. The required sampling structures and devices shall be constructed and installed at the User's sole expense in accordance with plans submitted to the POTW, and in compliance with all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the POTW, or within such other shorter or longer time period specified by the POTW Manager as required by the particular circumstances to meet the requirements of this Ordinance. The structures and devices shall be operated and maintained by the User at the User's sole expense so as to be safe and accessible to POTW personnel during all reasonable times and so as to provide accurate and representative monitoring data. If a User fails to install or maintain a required structure or device, the POTW may do so and charge the costs to the User.
- F. The sampling structures and devices must be provided on the User's premises as approved by the POTW, but the POTW may, if it determines that such a location would be impractical or cause undue hardship to the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- G. Samples shall be taken at a control structure approved by the POTW. However, in the absence of a suitable control structure as required by this Section, samples shall be taken immediately downstream from pretreatment facilities if pretreatment facilities exist, or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with a regulated process wastestream prior to pretreatment, the User must measure the flows and concentrations necessary to allow use of the combined wastestream formula under MAC R 323.2311(7) or other methods required by the POTW to evaluate compliance with applicable pretreatment standards and requirements.
- H. No User shall change monitoring points without first notifying and receiving the approval of the POTW Manager. The POTW Manager shall not approve any change in a User's monitoring point or points that would allow the User to substitute dilution for adequate treatment to achieve compliance with applicable standards.

ARTICLE 10 – ACCIDENTAL DISCHARGES

Section 10.1. General

This Article sets forth minimum requirements for Nondomestic Users (and any other Users as required by the POTW Manager) to prepare for, respond to, and report, accidental discharges to the POTW. Additional or more restrictive requirements may be required for particular Users under a User Permit, a slug control plan, or by other applicable laws and regulations.

- A. Each Nondomestic User shall provide and continuously maintain protection from accidental discharge of materials or other substances regulated by this Ordinance as provided by this Article.
- B. Detailed plans showing facilities and operating procedures to provide the protections required by this Article shall be submitted to the POTW for review. All existing Users shall submit the required plans and information with their permit applications or upon request of the POTW. For new sources, facilities and operating procedures to provide the protections required by this Article shall be approved by the POTW prior to commencing discharge. No User who commences discharging to the POTW after the effective date of this Ordinance shall be permitted to introduce pollutants into the system until accidental discharge facilities and procedures as provided by this Section are in place and have been approved by the POTW.
- C. Facilities to prevent accidental discharge of regulated materials or substances shall be provided and maintained at the User's cost and expense. Review and approval by the POTW of plans and operating procedures shall not relieve the User from the responsibility to modify the User's facility as necessary to meet the requirements of this Ordinance. Compliance with the requirements of this Article shall not relieve a User of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, or for any other damage to persons or property, or for any other liability that may be imposed under this Ordinance or under other applicable laws and regulations.
- D. No change shall be made in any plan or procedure approved by the POTW as provided by this Section without the prior review and approval of the POTW.
- E. All Users shall notify the POTW in writing within 5 days of any change in the information required to be provided to the POTW as set forth below in this Section (including, without limitation, information regarding the person in charge of discharge operations, the description of chemicals stored, used or manufactured by the User, the description of User discharges, and the description of User premises).

Section 10.2. Designation of Person in Charge of Discharge Operations

Each Nondomestic User shall designate at least one person to be in charge of and responsible for the User's discharges to the POTW, including responsibility for maintaining pretreatment facilities and operations, if any, and prevention of accidental discharges ("person in charge"). The person

so designated shall be an individual or a position with knowledge of all toxic wastes or hazardous substances routinely or potentially generated by the User, and of all process alterations that could, in any manner, increase or decrease normal daily flow or waste strength to the POTW. The names of the person (or persons) designated as provided by this Section and a phone number where the person can be reached for 24-hour contact shall be submitted by each User to the POTW.

Section 10.3. Description of Chemicals Stored, Used or Manufactured by User; User Discharges; User Premises

Unless the following information has already been appropriately provided to the POTW pursuant to other requirements of this Ordinance, each Nondomestic User shall:

- A. Catalog all chemicals stored, used, or manufactured by the User at the User's premises. The list of chemicals shall include specific chemical names (not just manufacturer's codes) and shall be provided to the POTW.
- B. Provide the POTW with a written description of the User's discharge practices, including an estimate of daily average flows, waste strengths, and flow types, separated according to appropriate categories including process, cooling, sanitary, etc.
- C. Provide to the POTW a sketch of the User's plant building(s), including the location of pretreatment equipment, process and chemical storage areas, floor drains located near process and storage areas, manhole or other control structures, and sewer locations at the User's point of discharge into the POTW.

Section 10.4. Segregation of Wastewaters Requiring Pretreatment

Nondomestic Users shall segregate wastewaters requiring pretreatment (including, without limitation, spent concentrates, toxics, and high strength organic wastes) as necessary to prevent pollutants from interfering with or passing through the POTW. All sludges generated by pretreatment shall be used and disposed of only as permitted by applicable local, state and federal laws and regulations.

Section 10.5. Secondary Containment Requirements

- A. Each Nondomestic User must provide and maintain at the User's sole expense secondary spill containment structures (including diking, curbing or other appropriate structures) adequate to protect all floor drains from accidental spills and discharges to the POTW of any pollutants or discharges regulated by this Ordinance.
- B. The containment or curbing shall be sufficient to hold not less than 150% of the total process area tank volume and not less than 150% of liquid polluting material stored or used, unless a lesser containment area or alternate control measures are approved in advance by the POTW Manager.
- C. The containment area shall be constructed so that no liquid polluting material can escape from the area by gravity through the building sewers, drains, or otherwise directly or

indirectly into the POTW. All floor drains found within the containment area must be plugged and sealed.

- D. Spill troughs and sumps within process areas must discharge to appropriate pretreatment tanks.
- E. Emergency containment shall also be provided for storage tanks that may be serviced by commercial haulers and for chemical storage areas.
- F. Solid pollutants shall be located in security areas designed to prevent the loss of the materials to the POTW.
- G. Detailed plans showing facilities and operating procedures to provide the protection required by this Section shall be submitted to the POTW Manager for review, and shall be approved by the Manager before construction. Construction of approved containment for existing sources shall be completed within the time period specified by the POTW Manager.
- H. No new source shall be permitted to discharge to the POTW until emergency containment facilities have been approved and constructed as required by this Section.
- I. The POTW Manager may order a User to take interim measures for emergency containment as determined necessary by the Manager under the circumstances.

Section 10.6. Submission of Pollution Incident Prevention Plan

- A. Each User required to develop a pollution incident prevention (“PIP”) plan as provided by Part 5 of the Michigan Water Resources Commission Rules, 1979 ACR 323.1151 et seq., as amended (promulgated pursuant to Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended), shall submit a copy of that plan to the POTW Manager.
- B. The PIP Plan shall be submitted to the Manager within 60 days of the effective date of this Ordinance for an existing source, or 30 days prior to the date of discharge for a new source.

Section 10.7. Posting of Accidental Discharge Information

All Nondomestic Users shall post a clearly legible set of instructions in the area where the User manages wastewater so that the applicable reporting and notice requirements are made known and are available to the User’s employees. In addition, all Nondomestic Users shall instruct their employees on the applicable reporting and notice requirements of this Section.

Section 10.8. Notice of Accidental Discharge

- A. In the case of an accidental discharge, a User shall immediately notify the POTW of the incident by telephone.

- B. The notification shall include the name of the person placing the call, the name of the User, and all available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken and required, and other available information as necessary to determine what impact the discharge may have on the POTW.
- C. A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the User to prevent similar future discharges) shall also be provided by the User to the POTW Manager within 5 days of the incident.

Section 10.9. Slug Control Plan

- A. Each significant industrial User shall prepare and implement an individualized slug control plan. Existing significant industrial Users shall submit a slug control plan to the POTW for approval within 90 days of the effective date of this Ordinance. New sources that are significant industrial Users shall submit a slug control plan to the POTW for approval before beginning to discharge. Upon written notice from the POTW, Nondomestic Users that are not significant industrial Users may also be required to prepare and implement a slug control plan, and the plan shall be submitted to the POTW for approval as specified in the notice. All slug control plans shall contain at least the following elements:
 - (1) A description of discharge practices, including non-routine batch discharges;
 - (2) A description of stored chemicals;
 - (3) The procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this Article, and procedures for follow-up written notification within 5 days of the discharge;
 - (4) The procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.
- B. If a User has submitted to the POTW plans or documents pursuant to other requirements of local, state or federal laws and regulations which meet all applicable requirements of Subsection 10.9.A., the POTW may in its discretion determine that the User has satisfied the slug plan submission requirements of this Section.

ARTICLE 11 – UPSET AND ADDITIONAL AFFIRMATIVE DEFENSES

Section 11.1. Upset

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if all of the requirements of Section 11.1.A, below, are met. However, in the event of an upset, the User may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Ordinance. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

- A. Conditions Necessary to Demonstrate Upset. A User seeking to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, all of the following:
- (1) An upset occurred and the User can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - (3) The User has submitted the following information to the POTW within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission containing the same information must be provided within 5 days of becoming aware of the upset):
 - (a) A description of the discharge and cause of non-compliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) The steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- B. User Responsibility in Case of Upset. The User shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable limits upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Section 11.2. Additional Affirmative Defenses

A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions under Section 6.1.A and specific prohibitions under Sections 6.1.B.(5), (6), (7) or (8) if the User can demonstrate that all of the conditions necessary to establish the defense under MAC R 323.2303(3)(a) and (b) are met. However, even if the affirmative defense is established, the User may still be liable for surcharges for exceeding applicable discharge

limitations as provided by this Ordinance. In any enforcement proceeding, the User seeking to establish the affirmative defenses provided by MAC R 323.2303(3) shall have the burden of proof.

ARTICLE 12 – BYPASS

Section 12.1. Bypass Not Violating Applicable Pretreatment Standards or Requirements

A Nondomestic User may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if the bypass is for essential maintenance to assure efficient operation. A bypass that meets the requirements of the preceding sentence of this Section is not subject to the provisions in Sections 12.2, 12.3, and 12.4. However, nothing in this Section shall be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Ordinance or other applicable laws or regulations; nor to relieve a User for any expense, loss, damage, or liability that may be incurred as a result of the bypass, such as damage to the POTW, fish kills, or any other damage to person or property; nor to relieve the User of any fines, penalties or other liability that may be imposed by applicable laws or regulations as a result of the bypass.

Section 12.2. Bypass Prohibited

Except as provided by Section 12.1, the bypass of industrial wastes from any portion of a User's facility is prohibited, and shall be subject to enforcement action, unless all of the following apply:

- A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
- B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance.)
- C. The User submitted the notices as required under Section 12.3.

Section 12.3. Required Notices

- A. Anticipated bypass. If a User knows in advance of the need for a bypass, it must submit prior notice of the bypass to the POTW. Such notice shall be submitted to the POTW as soon as the User becomes aware of the need for the bypass, and if possible, at least 10 days before the date of the bypass.
- B. Unanticipated bypass. A User shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time the User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the 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 POTW Manager may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

Section 12.4. POTW Approved Bypass

The POTW Manager may approve an anticipated bypass after considering its adverse effects, if the Manager determines that it meets the conditions set forth in Sections 12.2.A, 12.2.B and 12.2.C. It shall be a violation of this Ordinance for a User to allow an anticipated bypass to occur without the prior approval of the Manager.

ARTICLE 13 – CONFIDENTIAL INFORMATION

Section 13.1. Confidential Information

The following provisions shall apply regarding the treatment by the POTW of confidential information submitted to or obtained by the POTW in the administration of this Ordinance:

- A. Information and data regarding a User obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests at the time of submission and is able to demonstrate to the satisfaction of the POTW Manager, and in accordance with applicable state and federal laws and regulations, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.
- B. Information submitted by a User for which confidentiality is requested shall be clearly marked on each page as to the portion or portions considered by the User to be confidential and shall be accompanied by a written explanation of why the User considers the information to be confidential or why the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.
- C. Information that may disclose trade secrets or trade secret processes, and for which the User has requested, and been granted, confidentiality as provided by this Section, shall not be made available for inspection by the general public; however, that information shall be made available upon written request to governmental agencies for uses related to matters regulated by this Ordinance and shall be made available for use by the state, any state agency, or the POTW in judicial review or enforcement proceedings that involve the User that furnished the information. The POTW shall notify the User 10 days in advance if it intends to release confidential information to another governmental agency as authorized by this Section.
- D. Information furnished to the POTW on the volume or characteristics of wastewater or pollutants discharged or proposed to be discharged into the POTW shall be available to the public or other governmental agency without restriction.

- E. If a User has mass-based limits as allowed by certain categorical pretreatment standards on a production basis, the production data necessary to determine compliance must also be provided by the User to the POTW, and shall be available to the public. If application of the combined waste stream formula is necessary to apply categorical pretreatment standards to a User, the flow measurements and other data used in the calculation must be provided by the User to the POTW, and shall be available to the public.
- F. Observations made by POTW and/or Local Unit inspectors shall be subject to the confidentiality provisions of this Section as if they were in writing if the User specifies to the POTW and the Local Unit in writing for which particular observations made by the inspector the User seeks confidentiality.
- G. All confidential information and/or data with respect to a particular User which is on file with the POTW shall be made available upon written request by that User or its authorized representative during regular business hours.

ARTICLE 14 – RECORDS RETENTION

Section 14.1. Maintenance of Records

All Users shall retain and preserve records, including, without limitation, all books, documents, memoranda, reports, correspondence and similar materials, related to matters regulated by this Ordinance as provided by the minimum requirements of this Section or as provided by a permit or order issued pursuant to this Ordinance.

- A. Discharge Records. A Nondomestic User shall retain, preserve, and make available to the POTW for inspection and copying, for the period specified in Section 14.1.C, all records related to matters regulated by this Ordinance, including, without limitation, all documents, memoranda, correspondence and similar materials; copies of all required reports and notifications; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of results of all sampling, monitoring, measurements and analyses; and records of all data used to complete the application for a permit. Any Nondomestic User subject to the sampling, monitoring, analysis, or reporting requirements of this Ordinance shall maintain copies of all records and information pertaining to those requirements or resulting from any monitoring activities (whether or not such monitoring activities are required by this Ordinance). For all samples, the records shall include, at a minimum, the information required to be recorded by Section 9.6 of this Ordinance.
- B. Hazardous or Solid Waste. A Nondomestic User shall retain and preserve all records regarding its generation, treatment, storage, or disposal of hazardous waste or solid waste for the period specified in Section 14.1.C, and shall make them available to the POTW for inspection and copying, subject to the provisions in this Ordinance regarding confidential information. (As used in this Section, the terms “hazardous waste” and “solid waste” shall have the same definition as provided in the state hazardous waste management act, Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended, and the rules promulgated under that act.)

- C. Retention Period. Users subject to the reporting requirements of this Ordinance (or of any permit or order issued pursuant to this Ordinance) shall retain the records specified in Sections 14.1.A and 14.1.B for a period of at least 3 years from (a) the date the record was created or (b) the date the record was first used or relied upon by the User, whichever is later. The 3 year retention period shall be extended during any administrative or judicial action, enforcement proceeding or litigation regarding matters regulated by this Ordinance (or regarding discharges of the POTW under its NPDES permit), until all such actions, proceedings, or activities have concluded and all periods of limitation with respect to any and all appeals have expired. The 3-year retention period may also be extended at any time at the request of the POTW, the Michigan Department of Environmental Quality, or the U.S. EPA. The POTW shall retain all records, notices and other information regarding discharges to the POTW submitted to it by Nondomestic Users of the POTW for a period of not less than 3 years.

ARTICLE 15 – ADMINISTRATION OF THE POTW

Section 15.1. Operation and Management of POTW

Except as otherwise expressly provided by this Ordinance, the operation, maintenance, alteration, repair and management of the POTW shall be under the direct supervision and control of the County Agency. The County Agency has the exclusive right to establish, maintain and collect rates and charges for use of the POTW, and the County Agency may employ the persons in the capacities as the County Agency deems necessary and advisable to ensure the efficient establishment, operation, maintenance, and management of the POTW, to comply with the POTW's NPDES permit, and to discharge its financial obligations.

The County Agency may designate a POTW Manager for each of the separate Districts of the POTW. The POTW Manager shall be charged with the duty of investigating, preventing and abating violations and enforcing the provisions of this Ordinance. The County Agency may establish any rules, regulations and procedures as determined necessary to assure the efficient management and operation of the POTW. Any powers granted to or duties imposed upon the POTW Manager by the County Agency may be delegated to other persons in the discretion of the County Agency.

Section 15.2. Powers of POTW Manager

As directed by the County Agency, the POTW Manager shall, either directly or through authorized representatives, take the following actions:

- A. Supervise the implementation of this Ordinance.
- B. Review plans submitted by Users for pretreatment equipment.
- C. Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered sampling, metering, or pretreatment equipment to determine compliance with the provisions of this Ordinance.

- D. Verify the completeness, accuracy and representativeness of self-monitoring data submitted and/or maintained by Users.
- E. Investigate complaints of violations of this Ordinance, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.
- F. Issue orders and notices of violation and take other actions as necessary to require compliance with this Ordinance.
- G. Develop and implement a Control Authority Enforcement Response (CAER) Plan as required by 40 CFR 403.8(f)(5). The CAER Plan shall provide procedures for the POTW to investigate and respond to instances of noncompliance by Users. The CAER Plan and any associated regulations developed by the POTW Manager shall become effective upon approval by the County Agency.
- H. With the approval of the County Agency and notice to the Local Unit, and in conjunction with the County Agency's legal counsel, institute necessary civil or criminal judicial legal actions and proceedings in a court of competent jurisdiction against all Users violating this Ordinance to prosecute violations of this Ordinance, to compel the abatement or prevention of violations, to compel compliance with this Ordinance and any order, determination, permit or agreement issued or entered into under this Ordinance, and to pursue other necessary or advisable judicial relief or remedies with respect to violations of this Ordinance.
- I. Commence a municipal civil infraction action against any User violating this Ordinance, and issue municipal civil infraction citations and municipal civil infraction violation notices for violations of this Ordinance.
- J. Perform any other actions authorized by this Ordinance, or as necessary or advisable for the supervision, management and operation of the POTW and the enforcement of this Ordinance and other applicable laws and regulations.

ARTICLE 16 – USER POLLUTION CONTROLS

Section 16.1. Provision by Users of Necessary Pretreatment Facilities

Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation. All facilities required to pretreat wastewater shall be provided, operated, and maintained at the User's sole expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the POTW for review, and shall be acceptable to the POTW before construction of the facility. The review of such plans and operating procedures does not in any way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the POTW under the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and

be approved by the POTW prior to the User's initiation of the changes. (Users shall notify the POTW regarding the installation of new pretreatment facilities as provided by Section 8.7 of this Ordinance.)

Section 16.2. Proper Operation and Maintenance

A User shall at all times properly operate and maintain at the User's sole expense all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the User to comply with the requirements of this Ordinance. Proper operation and maintenance includes, without limitation, effective performance, adequate funding, adequate operator staffing, and adequate quality assurance/quality control (QA/QC) procedures for sampling and analysis.

Section 16.3. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with Section 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act, and other applicable local, state, and federal laws and regulations.

Section 16.4. Duty to Halt or Reduce Activity

Upon reduction of efficiency of operation, or loss, or failure of all or part of a User's pretreatment equipment or facility, the User shall, to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable standards, requirements, and limits, control its production and all discharges until operation of the equipment or facility is restored or an alternative method of treatment is provided. This requirement applies in situations, including, without limitation, where the primary source of power for the pretreatment equipment or facility is reduced, lost, or fails. It shall not be a defense for a User in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Ordinance.

Section 16.5. Duty to Mitigate

A User shall take all reasonable steps to minimize or correct any adverse impact to the POTW or the environment resulting from noncompliance with this Ordinance, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

Section 16.6. Duty to Pretreat Prior to Discharge to POTW

Except as otherwise expressly required by this Ordinance, by a User Permit or order issued pursuant to this Ordinance, or other applicable law or regulation, the prohibitions and limitations provided by this Ordinance or a User Permit shall apply at the point where wastewater and pollutants are discharged or caused to be discharged into the POTW and any required pretreatment shall, at a minimum, be completed before that point of discharge is reached.

Section 16.7. Additional Pretreatment Measures

The POTW may require Users to take additional pretreatment measures, as determined necessary by the POTW, including, but not limited to, the following:

- A. Whenever deemed necessary, the POTW may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Ordinance.
- B. The POTW may require any person 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.
- C. Users with the reasonable potential to discharge explosive or flammable substances may be required to install and maintain an approved explosion hazard meter, combustible gas detection meter, or similar device, as determined appropriate by the POTW.

Section 16.8 Implementation of Best Management Practices or Best Management Practices Plan

- A. The POTW Manager may require any User to develop and implement Best Management Practices to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances from the User's premises to the POTW, as determined necessary by the Manager.
- B. In addition, the POTW Manager may require a User to develop and submit a Best Management Practices Plan ("BMPP"), including an enforceable implementation schedule, for review and approval by the Manager. The BMPP shall be submitted within 30 days after notification by the Manager or as otherwise required by a User Permit. The BMPP shall be directed at preventing the entrance of pollutants, directly or indirectly, into the POTW. The BMPP shall be available for inspection at all times at the User's premises. At a minimum, a User's BMPP shall contain all of the following elements, as determined necessary by the POTW Manager, at a level of detail and in units and terms as determined necessary by the Manager to adequately evaluate the plan:
 - 1. A statement of the purpose and objectives of the plan.
 - 2. A description of the strategies, methods, policies and procedures to prevent, minimize or reduce the introduction of pollutants into the User's discharge and to minimize waste generation.
 - 3. A description of the options available to the User to control accidental spillage, leaks and drainage.

4. A description of best available or practicable control technologies available for the User's specific circumstances.
 5. A detailed facility layout and site diagram showing points of entry into the POTW.
 6. A description of the waste handling, treatment and discharge disposal facilities, including flow diagrams and process schematics.
 7. A description of operating and maintenance processes and procedures.
 8. Inventory of raw materials and a list of waste sources, including a list of all chemicals used or stored at the facility.
 9. A description of employee training programs, policies and procedures; continuing education programs; and participation.
 10. A description of documentation, including record keeping and forms.
 11. A description of monitoring activities.
 12. Information log of facility personnel, organization chart, emergency phone numbers, contact persons and maintenance or service representatives.
 13. Certification by a qualified professional that the plan is adequate to prevent spills, leaks, slug loads, or non-customary discharges of regulated substances, directly or indirectly, to the POTW.
 14. Such other information, documents or diagrams as required by the POTW Manager, including, but not limited to, any of the information required under Section 7.4 of this Ordinance.
- C. The BMPs or BMPP required of a User or approved for a User shall be incorporated in a User Permit issued to the User. If the User already has a User Permit, the existing permit may be modified to incorporate the BMP requirements. If the User does not currently have a User Permit, a permit shall be issued for that purpose.
- D. The POTW Manager may require revisions to Users BMPP if the Manager determines that the plan contains elements that are inadequate, or as otherwise determined necessary by the Manager to ensure compliance with applicable requirements of this Ordinance. Review of a BMPP by the Manager shall not relieve the User from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

ARTICLE 17 – ENFORCEMENT

Section 17.1. POTW Inspection, Surveillance and Monitoring Authority; Right of Entry

- A. In general. The POTW is authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by Users or any other persons, compliance or noncompliance with applicable pretreatment standards and requirements, with this Ordinance, and with other applicable laws and regulations. This authority includes, without limitation, the authority:
- (1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by Users.
 - (2) To determine compliance with the terms, conditions and requirements of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance.
 - (3) To support enforcement actions taken by the POTW against non-compliant Users.
 - (4) To determine if Users have corrected problems identified in previous inspections.
 - (5) To identify which (and to what degree) Users influence the quality of the POTW's influent, effluent and sludge quality.
 - (6) To evaluate the impacts of the POTW's influent on its treatment processes and receiving stream.
 - (7) To evaluate the need for revised local limits.
 - (8) To maintain current data on each User.
 - (9) To assess the adequacy of each User's self-monitoring program and User Permit.
 - (10) To provide a basis for establishing sampling and monitoring requirements for Users.
 - (11) To evaluate the adequacy of each User's operation and maintenance activities on its pretreatment system.
 - (12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.
 - (13) To gather information for User Permit development.
 - (14) To evaluate compliance with existing enforcement actions.

- (15) To require any User to submit one or more representative samples of the wastewater discharged or that the User proposes to discharge into the POTW.
 - (16) To determine compliance with requirements regarding implementation of best management practices; accidental discharge controls and protections; spill prevention or containment measures; and pollution prevention, minimization or reduction measures.
- B. Right of entry. The POTW Manager and other authorized representatives of the POTW and/or the Local Unit bearing proper credentials and identification are authorized to enter a Nondomestic User's premises (and any other User's premises, as determined necessary by the POTW Manager) to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this Ordinance, and in that regard shall have, without limitation, the following minimum authority:
- (1) To enter into any premises of any User in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this Ordinance, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis, and inspecting and making copies of required records. This shall include the right to take photographs.
 - (2) To set up and maintain on the User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the User to do so, at the User's sole expense.
 - (3) To randomly sample and analyze the effluent from Users and conduct surveillance activities to identify occasional and continuing noncompliance with applicable standards and requirements. The POTW shall inspect and sample the effluent from each significant industrial User at least once a year.
 - (4) To inspect any production, manufacturing, fabrication, or storage area where pollutants, subject to regulation under this Ordinance, could originate, be stored, or be discharged to the POTW.
 - (5) To enter all private properties through which the POTW and/or the Local Unit or other governmental agency holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW or wastewater transmission facilities lying within the easement.

POTW representatives entering a User's premises for purposes authorized by this Ordinance shall comply with the User's plant safety requirements regarding such matters as entry into confined spaces, use of safety glasses, and hearing protection requirements, as requested by the User. Entry shall be commenced and completed as expeditiously as practicable, consistent with the purposes for which the entry was made.

- C. Access without delay required. Users shall allow the POTW ready access at all times to all parts of the User's facility or premises where wastewater governed by this Ordinance is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this Ordinance could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the POTW's duties. If a User has security measures in force that would require proper identification and clearance before entry into the premises by the POTW, the User shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the POTW (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Upon arrival at a User's premises, POTW representatives shall inform the User or its employees that inspections, sampling, compliance monitoring, metering or other POTW procedures are to be performed and that the User has the right to accompany the POTW employee/representative during the performance of his/her duties.
- D. Refusal to allow entry. If a User refuses to permit access (or unreasonably delays access) to an authorized POTW representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this Ordinance, the POTW Manager may order the termination of the discharge of wastewater to the POTW; order the User to permit access within a time certain; issue the User a notice of violation of this Section; or take other appropriate action as provided by this Ordinance and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this Section shall constitute a violation of this Ordinance.

Section 17.2. Notice of Violation

- A. Any person found to be violating a provision of this Ordinance may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by Section 17.4 of this Ordinance.
- B. Unless otherwise specified by the NOV, the following provisions shall apply: Within 30 days of the date of the NOV, the User shall submit to the POTW a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the User of liability for any violations occurring before or after receipt of the Notice of Violation.
- C. Nothing in this Section shall limit the authority of the POTW and/or the Local Unit to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation, or otherwise require the POTW and/or the Local Unit to first

issue a Notice of Violation before initiating a civil or criminal action against a person for violating this Ordinance.

- D. Failure to comply with any requirement of a notice of violation shall constitute a separate violation of this Ordinance.

Section 17.3. Orders and Supplemental Enforcement Tools

The POTW Manager may issue an order to any User as determined by the Manager to be appropriate under the circumstances, as provided by this Section. Multiple orders may be issued simultaneously or in combination as a single order with respect to a single User.

- A. Service. An order shall be served upon a User and shall contain the information as provided by Section 17.4 of this Ordinance. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment or the POTW, may be oral and may be served by telephone (to be followed within 5 days by written confirmation of the order by the POTW Manager).
- B. Types of Orders. The POTW Manager may issue the following types of orders:
- (1) Order to Immediately Cease and Desist Discharge. The POTW Manager may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Ordinance. The order shall have immediate effect if the actual or threatened discharge to the POTW presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes, or may cause, interference or pass through. The POTW Manager shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The User shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Ordinance.
 - (2) Order to Cease Discharge Within a Time Certain. The POTW Manager may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Ordinance by a certain time and date. The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the POTW Manager, an order may be issued under this Section for the failure to pay applicable permit fees or to comply with any term of a User Permit.
 - (3) Order to Effect Pretreatment. The POTW Manager may issue an order to a User requiring the User to pretreat its discharge in accordance with this Ordinance. Any User subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the discharge complies with the requirements of the order and this Ordinance. The plan shall be submitted to the POTW Manager within a reasonable period as specified in the order. The plan shall be prepared in accordance with good

engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the POTW Manager. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the POTW Manager:

- (a) Retain a qualified engineer and/or consultant.
 - (b) Obtain any engineering or scientific investigation or surveys deemed necessary.
 - (c) Prepare and submit a preliminary plan to achieve pretreatment.
 - (d) Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.
 - (e) Establish a time to let any contract necessary for any construction.
 - (f) Establish completion times for any construction necessary.
 - (g) Establish a time limit to complete full pretreatment pursuant to the final order.
 - (h) If a phase or unit of construction or implementation may be affected independently of another phase or unit, establish separate timetables for the phases or unit.
- (4) Order to Affirmatively Respond. The POTW Manager may issue an order requiring a User to perform any action required under this Ordinance, including, without limitation, requiring a User to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.
- (5) Order to Terminate Sewer Services. The POTW Manager may issue an order to terminate the sewer services of a User, including, but not limited to, physical blockage of the User's sewer connection, for reasons including, without limitation, the following:
- (a) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.

- (b) Failure of a User to notify the POTW of any discharge as described in Section 17.3.B.(5)(a) of which the User was aware or reasonably should have been aware.
 - (c) Failure of a User to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the POTW Manager.
 - (d) A knowing, willful violation of any term, condition or requirement of an order or User Permit, or any provision of this Ordinance.
 - (e) A negligent violation of any major term, condition or requirement of an order or User Permit. For purposes of this Section, a “major” term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment or the POTW.
- (6) Order to Show Cause. The POTW Manager may issue an order requiring a User to appear and explain any noncompliance with the requirements of this Ordinance or any permit, order, decision or determination promulgated, issued or made under this Ordinance, and to show cause why more severe enforcement actions against the User should not go forward. A show cause hearing shall be held within 10 days after the order to show cause is issued, as follows:
 - (a) The hearing shall be conducted and evidence shall be taken by the POTW Board of Appeals. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.
 - (b) Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.
 - (c) After reviewing the evidence taken at the hearing, the POTW Board of Appeals shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, without limitation, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this Ordinance.
- C. Immediate Response to Order by User may be Required. Any User issued an order as provided by this Section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the User fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this Ordinance, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or

endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the User that the noncomplying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the User describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the POTW Manager within 15 days of the occurrence.

- D. **Noncompliance Due to Factors Beyond User's Control.** If noncompliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a User, and the User can demonstrate the conditions necessary for demonstration of an upset as provided by Section 11.1.A, the POTW Manager may modify the order or take other actions as determined appropriate. However, a User shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- E. **Amendment, Suspension and Revocation of Orders.** An order shall be subject to amendment, suspension or revocation as determined appropriate by the POTW Manager. Notice of the amendment, suspension or revocation shall be served upon the User in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Ordinance.
- F. **Consent Orders and Agreements.** The POTW Manager may enter into a consent order or agreement with a User to resolve disputed claims and address identified and potential deficiencies in the User's compliance status. The order or agreement shall be in the form of a written agreement with the User and may contain appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.
- G. **POTW Authority to Require Financial Assurances.** The POTW may require any User to post a performance bond (or other form of surety acceptable to the POTW Manager) sufficient to cover expenses (direct and/or indirect) that might reasonably be incurred by the POTW as a result of the User's discharges to the POTW (including, but not limited to, the costs to restore or repair any damage to the POTW) or sufficient to achieve consistent compliance with applicable laws and regulations, as determined necessary by the POTW Manager. Further, any User that has in the prior 2 years been responsible for causing interference or pass through at the POTW may be required to obtain liability insurance sufficient to cover the reasonable costs of responding or restoring the POTW in the event of a second such incident. These financial assurance requirements may also be made conditions of a User Permit.

Section 17.4. Service of Notices of Violations, Orders and Notices of Assessments

Except as otherwise expressly provided by this Ordinance, all orders, notices of violations and notices of assessments shall be served upon persons and shall contain the information as provided by this Section.

- A. Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the User, alleged violator or other person, as applicable, at the person's last known address as shown by POTW's and/or the Local Unit's records. The person served shall sign and date the order or notice and shall return the signed original copy to the POTW; provided, that the failure to do so shall not affect the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not actually be received by the User, but this shall not nullify any enforcement action subsequently taken by the POTW against the User under authority of this Ordinance.
- B. Contents. All orders and notices shall contain at least the following information, to the extent known by the POTW and as determined by the POTW to be applicable to the situation:
- (1) The name and address of the violator;
 - (2) The location and time that the violation occurred or was observed, and the duration of the violation;
 - (3) The nature of the violation, including the provisions of this Ordinance or of any permit, order, decision, determination or agreement violated;
 - (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
 - (5) The amount of the fine, penalty or charge assessed or due, if any;
 - (6) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;
 - (7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.
 - (8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.
 - (9) The date and time the order or notice was issued.
- C. Request for Additional Information. A person served may request additional information from the POTW Manager regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

Section 17.5. Publication of Users in Significant Noncompliance

The POTW shall publish once per year in the largest newspaper circulated in the County, a list of Nondomestic Users that, at any time during the previous 12 months, were in significant

noncompliance with applicable pretreatment standards or requirements. For the purposes of this Section, a User shall be considered to be in significant noncompliance if its violations meet one or more of the following criteria:

- A. Chronic violation of discharge limits, defined as results of analyses in which 66% or more of all of 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;
- B. Technical review criteria (TRC) violations, defined as results of analyses in which 33% or more of all of 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 times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);
- C. Any other violation of a pretreatment effluent limit (instantaneous maximum concentration, daily maximum, or longer-term average) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of Department personnel or the general public);
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent the discharge;
- E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide any required reports within 30 days after the due date;
- G. Failure to accurately report noncompliance; or
- H. Any other violation or group of violations that the POTW Manager determines will adversely affect the POTW or the operation or implementation of the POTW's pretreatment program.

Section 17.6. Municipal Civil Infractions

- A. Violation; Municipal Civil Infraction. Except as provided by Section 17.7, and notwithstanding any other provision of the Genesee County's or the Local Unit's laws, ordinances and regulations to the contrary, a person who violates any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.

- B. Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this Section, “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance (i) committed by a person within any 90-day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:
- (1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.
 - (2) The fine for any offense that is a second repeat offense, or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.
- C. Amount of Fines. Subject to the minimum fine amounts specified in Sections 17.6.A and 17.6.B, the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator’s recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- D. Authorized Local Official. Notwithstanding any other provision of Genesee County’s and/or the Local Unit’s laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this Ordinance (or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): the POTW Manager or other person designated by the County Agency, and any sworn law enforcement officer, including the County Sheriff or the County Sheriff’s deputies; and any other persons so designated by the Local Unit.
- E. Other Requirements and Procedures. Except as otherwise provided by this Section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.

Section 17.7. Criminal Penalties; Imprisonment

Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Ordinance; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the POTW regarding matters regulated by this Ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

Section 17.8. Continuing Violation

Each act of violation, and each day or portion of a day that a violation of this Ordinance (or of any permit, order, notice or agreement issued or entered into under this Ordinance) exists or occurs, constitutes a separate violation subject to the fines, penalties and other sanctions and remedies as provided by this Ordinance.

Section 17.9. Number of Violations

The number of violations resulting from a User's noncompliance with applicable discharge prohibitions or effluent limitations shall be determined as follows:

- A. Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a User may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.
- B. Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each day on which the violation occurs or continues.
- C. Each violation of an instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each such occurrence, and there may be multiple violations for each day on which such a violation occurs or continues.
- D. Each violation of a monthly average limit (or of some other average limit period) for a single pollutant or sampling parameter shall constitute a separate violation for each day of the month (or other stated period) during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)

- E. If a User Permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this Section.

Section 17.10. Nuisance

A violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance, is deemed to be a public nuisance and shall be corrected or abated as directed by the County Agency or the Local Unit. In addition to any other legal or equitable remedies available under the law, any person creating a public nuisance shall be subject to the provisions of state law, this Ordinance, the Genesee County Sewer Use Ordinance, or other ordinance of the Local Unit governing such nuisances, including reimbursing the County Agency and/or the Local Unit for any costs incurred in removing, abating, or remedying said nuisance, as applicable.

Section 17.11. Reimbursement

- A. Any person who discharges to the POTW, including, but not limited to, any person who causes or creates a discharge that violates any provision of this Ordinance, produces a deposit or obstruction, or otherwise damages, injures, or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW, whether any such act is intentional or unintentional, shall be liable to and shall fully reimburse the POTW for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the POTW as a result of any such discharge, deposit, obstruction, damage, injury, impairment, violation, exceedence, noncompliance, or act. The costs that must be reimbursed to the POTW shall include, but shall not be limited to, all of the following:
- (1) All costs incurred by the POTW in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, or noncompliance.
 - (2) All costs to the POTW of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, or noncompliance.
 - (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW, or any POTW representative, by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, or noncompliance.
 - (4) The full value of any POTW staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the POTW's legal counsel and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, or noncompliance or otherwise incurred by the POTW in administering and enforcing the requirements of this Ordinance.

Further, the POTW is authorized to correct any violation of this Ordinance or damage or impairment to the POTW caused by a discharge and to bill the person causing the violation or discharge for the amounts to be reimbursed. The costs reimbursable under this Section shall be in addition to fees, amounts or other costs and expenses required to be paid by Users under other Sections of this Ordinance.

- B. In determining the amounts to be reimbursed, the POTW may consider factors such as, but not limited to, the following:
- (1) The volume of the discharge.
 - (2) The length of time the discharge occurred.
 - (3) The composition of the discharge.
 - (4) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of the discharge.
 - (5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.
 - (6) The direct and indirect costs incurred by the POTW, or imposed upon the POTW to treat the discharges, including sludge handling and disposal costs.
 - (7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the POTW, including the POTW's costs of defense of actions, or suits brought or threatened against the POTW by governmental agencies or third parties.
 - (8) Such other factors, including the amount of any attorney's fees, consultant and expert fees, expenses, costs, sampling and analytical fees, repairs, etc., as the POTW deems appropriate under the circumstances.
- C. Costs to be reimbursed to the POTW as provided by this Section may be assessed to the User as provided by Section 17.4 of this Ordinance, or as otherwise determined appropriate by the POTW Manager in conjunction with an enforcement action.
- D. The failure by any person to pay any amounts required to be reimbursed to the POTW as provided by this Section shall constitute an additional violation of this Ordinance.

Section 17.12. Judicial Relief

With the approval of the County Agency and notice to the Local Unit, and, as necessary, in conjunction with the County Agency's legal counsel and the Local Unit and the Local Unit's legal counsel, the POTW Manager may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a

court may order. The POTW Manager may also seek collection of surcharges, fines, penalties and any other amounts due to the POTW that a User has not paid. The Local Unit may also institute legal proceedings and seek all appropriate legal and equitable relief for violations of this Ordinance as provided by this Section.

Section 17.13. Cumulative Remedies

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance, shall not preclude the imposition by the POTW, the Local Unit, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

Section 17.14. Severance of Water Supply

If a User violates or continues to violate any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Ordinance), water service provided directly or indirectly to the User by the County and/or the Local Unit may be severed. If severed, the water service shall recommence only after the User has satisfactorily demonstrated the User's ability to comply with all applicable provisions of this Ordinance, and only at the User's sole expense.

ARTICLE 18 – ADMINISTRATIVE REVIEW AND APPEALS

Section 18.1. Procedures Available

Any person aggrieved by a Notice of Violation (NOV), a Cease and Desist Order (C&D), an Order To Pre-treat (OTP), an Order to Affirmatively Respond (OAR), or an Order to Terminate Service (OTS), or other action taken by the POTW Manager under this Ordinance may request review and reconsideration by the POTW Manager or may appeal to the POTW Board of Appeals as provided by this Article. If review and reconsideration or appeal is not properly and timely requested in connection with an action as provided by this Article, the action shall be deemed final.

Section 18.2. Review and Reconsideration by the POTW Manager

A request for review and reconsideration by the POTW Manager must be made in writing within 7 days from the date of the POTW Manager's action in question. The request must state the reasons for the review and shall include all supporting documents and dates. The POTW Manager may affirm, reverse, or modify, in whole or in part, the action taken and must notify the aggrieved person of the decision on the request within fourteen (14) days of its submission. The POTW Manager may request additional information and extend the time for his/her decision by an additional seven (7) days following the submission of the additional information. The decision of the Manager may be appealed to the POTW Board of Appeals as provided by Section 18.3.

Section 18.3. Appeal to POTW Board of Appeals

A three-member “POTW Board of Appeals” shall consider appeals from final decisions of the POTW Manager and recommend an appropriate disposition of the appeal to the County Agency, including, in particular cases, whether any deviation from strict compliance will violate the purposes and intent of this Ordinance, or endanger public health, safety or welfare, or the environment, or have an adverse impact on the POTW or on the POTW’s ability to comply with applicable laws and regulations. The POTW Board of Appeals shall consist of three members of the Water and Waste Services Advisory Board appointed from time to time by the County Agency and who are not Advisory Board members from the same community as the aggrieved person. The following provisions shall govern appeals of final decisions of the POTW Manager made to the POTW Board of Appeals under this Ordinance:

- A. An appeal from any final action of the POTW Manager must be made to the POTW Board of Appeals within 7 days from the date of the action appealed. The appeal may be taken by any person aggrieved by the action. The appellant shall file a notice of appeal with the County Agency and shall be accompanied by payment of any appeal fee in the amount as may be established by the POTW. The notice of appeal shall specify the grounds for the appeal and shall include all documentation that will be submitted in support of the appeal. All documentation and evidence in support of the appeal shall be provided at the sole cost of the appellant. Failure to file a timely notice of appeal shall be deemed to be a waiver of the right to appeal.
- B. Prior to a hearing before the POTW Board of Appeals regarding an appeal, the POTW Manager shall transmit to the POTW Board of Appeals a written summary of all previous action taken in connection with the action being appealed. The POTW Board of Appeals may, at its discretion, request the POTW Manager to provide further information regarding the action that is the subject of the appeal.
- C. The POTW Board of Appeals shall fix a reasonable time for the hearing of the appeal. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript. The POTW Board of Appeals shall hear the appeal and make its recommendation to the County Agency within a reasonable time. The POTW Board of Appeals shall make its recommendation by a majority vote.
- D. The County Agency may accept or reject, in whole or in part, the recommendation of the POTW Board of Appeals, or may make any order, requirement, decision or determination as, in its opinion, ought to be made in the case under consideration.
- E. The final disposition of the appeal shall be in the form of a ruling by the County Agency reversing, modifying, or affirming, in whole or in part, the action of the POTW Manager. The decision of the County Agency shall be final.

Section 18.4. Payment of Charges, Penalties, Fines, and Other Costs or Fees Pending Outcome of Appeal

All service charges, penalties, fines, fees, surcharges, costs or expenses outstanding during any appeal process shall be due and payable to the POTW and the Local Unit, as applicable. Upon resolution of any appeal, the amounts due and payable shall be adjusted accordingly, provided that any refunds shall be retroactive to the previous four monthly billings only. The POTW may terminate wastewater treatment services if a corrective course of action is not taken or if service charges, penalties, fines, fees, surcharges, costs or expenses are not paid by a User.

Section 18.5. Finality of Action

If an appeal is not demanded as provided by this Article within the periods specified by this Article, the POTW Manager's action shall be deemed final. If an appeal is properly demanded, the action appealed shall be suspended until a final determination has been made by the County Agency, except for orders to immediately cease and desist discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; and as otherwise expressly provided by this Ordinance (such as for permit appeals, Section 7.14).

Section 18.6. Appeals from Determination of POTW Board of Appeals

Appeals from the determination of the County Agency may be made to circuit court as provided by law. All findings of fact made by the County Agency, if supported by the evidence, shall be deemed conclusive.

ARTICLE 19 – PROTECTION FROM DAMAGE

It is a misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment that is part of the POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct, and shall be subject to other sanctions and remedies as provided by this Ordinance, including, but not limited to, reimbursement of the POTW as provided by Section 17.11 of this Ordinance.

ARTICLE 20 – MUNICIPAL LIABILITY

Neither the POTW nor the Local Unit shall be responsible for interruptions of service due to natural calamities, equipment failures, or actions of the system Users. It shall be the responsibility of the customer that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

ARTICLE 21 – INDUSTRIAL PRETREATMENT PROGRAM FEES

Section 21.1. Purpose

It is a purpose of this Ordinance to provide for the recovery from Users of the POTW of all costs incurred by the POTW for the administration and implementation by the POTW of the industrial pretreatment program (IPP) established by this Ordinance. The IPP fees provided for by this Article are separate from, and in addition to, amounts chargeable to Users for sewage disposal services by the POTW and/or the Local Unit and costs required to be reimbursed to the POTW and/or the Local Unit under any other provisions of this Ordinance or other laws and regulations.

Section 21.2. Rates, Charges, and Fees for Nondomestic Users

Sewerage system rates, charges or fees payable by Nondomestic Users shall be established by the POTW, and shall be subject to amendment or revision by the POTW from time to time. Such rates, charges or fees shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the sewerage system and the treatment plant, and may include, but are not limited to, any of the following:

- A. Fees to reimburse the POTW for the costs of development and operation of an Industrial Pretreatment Program, and fees to reimburse the POTW for monitoring, inspections and surveillance procedures, including expenses incurred for analysis of samples.
- B. Fees for reviewing discharge reports, and for related enforcement procedures.
- C. Fees for permit applications.
- D. Fees for filing appeals.
- E. Fees for removal by the POTW of pollutants subject to Federal or State pretreatment standards.
- F. User fees based on volume of waste and concentration or quantity of specific pollutants in the discharge.
- G. Other charges or fees for services or procedures performed by the POTW as are required by law.
- H. Such other charges or fees as the POTW may deem necessary to perform fully the provisions of applicable Federal and State laws, this Ordinance, rules and regulations issued or adopted pursuant to law or ordinance, and terms and conditions of service.

Section 21.3. IPP Fee Amounts

IPP fees shall be paid by Users to the POTW in amounts determined necessary by the POTW from time to time to reimburse the POTW for all expenses incurred by the POTW in administering the IPP. To the extent practical, the fees shall be set in an amount to include at least the POTW's

average total costs for that purpose. With regard to IPP activities undertaken by the POTW with regard to particular Users, the fees shall be charged to the Users on a time and materials basis, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken.

Section 21.4. Surcharges

- A. Surcharges are intended to reimburse the POTW for all costs incurred by the POTW in handling or treating a discharge which contains pollutants in excess of specified surcharge concentrations, loadings or other applicable limits.
- B. Any User exceeding applicable surcharge limitations or other applicable limits shall be subject to the imposition of one or more surcharges as provided by this Section to reimburse the POTW for any costs or expenses, direct or indirect, the POTW may incur in handling or treating the discharge, or which may be imposed upon the POTW, where the exceedence of applicable limits causes or contributes to those costs or expenses.
- C. The amount of a surcharge assessed shall be as specified in the surcharge rate schedule and associated surcharge provisions prepared by the POTW and approved from time-to-time by the POTW.
- D. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements shall constitute a violation of this Ordinance, subject to applicable fines, penalties and other enforcement actions provided by this Ordinance. In no event shall the imposition of a surcharge for a discharge which does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Ordinance.

Section 21.5. Billing and Collection of IPP Fees

User Permit application fees shall be due upon submission of permit applications. All other IPP fees shall be due within 30 days of the date of the activity or service for which the fee is required. For fees not paid at the time of service, the amount of the fee shall be added to the User's waste service charge or billed separately. IPP fees provided for by this Article shall be billed, collected and enforced pursuant to the procedures as provided by POTW for sewerage system rates and charges as provided by Article 22 of this Ordinance and/or as otherwise established by the POTW.

ARTICLE 22 – RATES AND CHARGES FOR SEWER SERVICE

Section 22.1. Sewer Rates and County Capital Improvement Fee (CCIF)

The County Agency shall prescribe the base rates of the County for sewer service and other County sewer charges for all Local Units that discharge to the POTW (with the Local Units prescribing the rates and charges to be paid by the individual Users located within each Local Unit). The County Agency may impose a one-time County Capital Improvement Fee (CCIF) for each new direct or indirect connection to the POTW as a method for financing the costs of construction and

related expenses of any expansion to the POTW on and after that date. The sewer rates, charges, and CCIF shall be subject to revision from time to time.

Section 22.2. Sewer Usage Charges and CCIF; Metering; Estimates

The usage charges of the County for sewer service to a User's premises connected to the POTW shall be determined by applying the base sewer rate established by the County Agency to the quantity of wastewater discharged from the premises during each billing cycle. If the source of fresh water to a User's premises is by connection to a public water supply system, the quantity of wastewater discharged from the premises shall be deemed the equivalent of the quantity of fresh water supplied to the premises as measured by the water meter connected to the premises' water supply line.

The usage charges of the County for domestic sewer service to a single-family detached residential dwelling without metered water is a flat rate charge assessed each billing cycle. The flat rate is based on an estimate of the quantity of fresh water supplied to a single-family detached residential dwelling for domestic use during a billing cycle multiplied by the base sewer rate.

The usage charges of the County for nondomestic sewer service to a premises without metered water shall be determined by applying the number of residential equivalent units (REUs) assigned to the type or classification of use or uses on the premises by the County Agency to the established flat rate. REUs are factors or multipliers assigned to Nondomestic Users by type or classification of User, which factors or multipliers are generally accepted and used by water and/or sewer service providers when metering has not been used. The Table of Residential Equivalent Units is published and kept on file by, and available upon request to, the County Agency.

If the source of fresh water to a Nondomestic User's premises is by connection to a private well, beginning with new connections to the POTW on and after January 1, 2007, the User must, as a condition of connection to the POTW, install, at the User's sole expense, a water meter on the water supply line to the premises. The quantity of wastewater discharged from the premises shall be deemed the equivalent of the fresh water supplied to the premises as measured by the water meter connected to the premises' water supply line.

A Domestic User or Nondomestic User with a premises that was connected to the POTW before January 1, 2007, which premises has its fresh water supplied from a private well without metering its water use may, at any time thereafter, and at the User's sole expense, install a water meter. The quantity of water measured by the meter shall, from that time forward, be used in determining the quantity of wastewater discharged from the premises.

A water meter that has been installed shall not be removed or replaced without the prior approval of the County; nor shall the meter be bypassed, tampered with, or otherwise rendered inoperable or inaccurate in any way by any person. Further, each water meter shall be installed, maintained in good working order, and kept calibrated at all times by the User at the User's sole expense.

Section 22.3. Sewer Capacity Purchase (CCIF)

The County Capital Improvement Fee (CCIF) is a one-time fee assessed, if at all, at the time of application for connection to the POTW by applying the established CCIF rate to the unit or number of REUs assigned by the County Agency to a classification of User. One unit is based upon a peak hour use. A peak hour use of 52.5 gallons per hour (1260 gallons per day) is 1 unit. A single-family detached residential dwelling is considered 1 unit. The number of units assigned per connection to a nondomestic building is determined by one of two ways:

1. Using existing water usage records from metering, identifying the peak hourly usage and dividing by 52.5 and dividing again by the percentage of occupancy at time of usage yields the number of units.
2. If metering data is not available, the County Agency shall assign the number of units based upon the approved site plan and the Table of Residential Equivalent Units.

All connections (whether domestic or nondomestic) shall be assigned at least 1 unit. Any partial units will be rounded up to the next whole number.

Section 22.4. Domestic Use of a Premises; Nondomestic Use of a Premises

Notwithstanding anything to the contrary provided by other provisions of this Ordinance, and solely for the purpose of calculating rates, charges, and fees as provided by this Article 22, the only use of a premises that shall be considered a domestic use shall be use for a single-family detached dwelling; all other uses of a premises, including but not limited to, all other residential uses such as multiple-family residential dwellings, shall be considered nondomestic uses for the purpose of calculating rates, charges, and fees as provided by this Article.

Section 22.5. Review of Non-Metered Usage Charges and CCIF; Mandatory Metering

If a Nondomestic User requests review by the Genesee County Board of Review of usage charges for sewer service and/or the CCIF, which charges or CCIF are based on the application of REUs due to the absence of metering, the User shall, at its sole expense, be required to install a meter capable of reading and recording instantaneous (peak hour) flow of water on the water supply line to the building before consideration by the Board of Review. Upon installation of the water meter, the usage charges of the County for sewer service shall thereafter be determined as set forth in Section 22.2 above.

If a single-family detached dwelling User requests review by the Genesee County Board of Review of usage charges for sewer service based on use of the flat rate, the User shall, at the User's sole expense, be required to install a water meter on the water supply line of the dwelling before consideration by the Board of Review of the User's request for review. Upon installation of the water meter, the usage charges of the County for sewer service shall thereafter be determined as set forth in Section 22.2 above.

If, during the 2 year period before metering, the County's sewer use charges paid by a domestic or Nondomestic User exceeded the County's sewer use charges paid by that User following 2 years

of metering, and the use of the premises at the time of metering was substantially the same as its use by that User before metering, the County Agency shall refund to that User the amount of the difference between what was paid by that User for the County's charges for the 2 year period before metering and what was paid by that User for the County's charges after 2 years of metering provided, however, that the Board of Review has not previously finally adjusted the User's sewer service charges.

Conversely, if it is determined that the County's sewer use charges paid by that User for the 2 year period prior to metering were less than what was charged following 2 years of metering, the County Agency may retroactively adjust the usage charges of the County by adding the amount of the difference to the charges assessed the Local Unit for County sewer service. The Local Unit shall apportion the adjusted amount as equally as possible on future bills for sewer service to that User over a 2 year period.

Similarly, a Nondomestic User requesting the Board of Review to grant a refund of a portion of the CCIF paid by the User, which CCIF was based on the application of REUs in accordance with Section 22.3(2), above, shall be entitled to a refund of a portion of the CCIF paid if, following 2 years of metering, the application of the formula stated above in Section 22.3(1) to the meter data collected shows that the User overpaid the CCIF. In that event, the User shall be refunded the difference between the CCIF paid by application of the REUs and the amount determined by the metering data collected. If the meter data discloses that the CCIF charged to that User was less than what would have been charged had the data been available, the County Agency may require that User to pay the amount of the underpayment.

A challenge to the CCIF must be filed before the next regularly scheduled meeting of the Board of Review or the challenge shall be barred as untimely.

Section 22.6. Collection Action

The POTW and/or the Local Unit may in any court having jurisdiction in the premises initiate an action for the collection of unpaid sewer service rates or charges, and to recover court costs and reasonable attorney fees. With respect to the collection of sewerage system rates and charges, the POTW and the Local Unit shall have all powers granted to them by applicable state and federal laws, rules and regulations.

Section 22.7. Separate Books, Records and Accounts; Audit

The POTW shall maintain and keep books of records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all matters relating to the sewerage system and to the wastewater treatment plant. An annual audit of such books of record and accounts for the preceding operating year shall be by an independent certified public accountant. The operating year of the POTW shall commence on January 1 and shall end on December 31.

Section 22.8. Annual Review of Rates, Fees, Charges and Surcharges

In conjunction with the annual sewerage works audit of the POTW, the POTW shall review sewer rates, fees, charges, and surcharges for the purpose of meeting anticipated expenditures for the following operating year.

Section 22.9. Annual Review of Nondomestic Users

A review shall be performed by the POTW at the end of each operating year of the classifications of all Nondomestic Users.

Section 22.10. Insurance

The POTW shall obtain and maintain in full force and effect insurance on the physical properties of the sewerage works. The insurance shall be of the kinds and in the amounts as are customarily carried by public entities engaged in the operation of public sewage disposal systems. All monies received for losses under any such insurance coverages shall be used solely for the repair, restoration or replacement of the sewerage system or of the wastewater treatment plant.

Section 22.11. Service Terms and Conditions

The terms and conditions of sewerage system use and/or service shall be as prescribed by the POTW; provided, however, that such terms and conditions shall not be less stringent than Federal or State laws or regulations issued pursuant thereto by governmental agencies having jurisdiction in the premises. The terms and conditions of sewerage system services shall include a provision for the discontinuance of service in the event of non-payment or delinquency in payment of sewer service rates or charges.

Section 22.12. Lien

The Local Unit and POTW shall have as security for the collection of sewerage system rates or charges a lien upon the real property to which service is provided. Such lien shall become effective immediately upon the supplying of the sewerage system service, and shall be enforceable as provided by law.

ARTICLE 23 – COUNTY AGENCY REQUESTS FOR INFORMATION
REGARDING DISCHARGES FROM LOCAL UNIT

Section 23.1. User Inventory and Other Information

The Local Unit shall provide information (or access thereto) as requested by the County Agency regarding discharges from Users located within the Local Unit, including by not limited to, the following:

- A. An inventory of all Users located within the Local Unit that are discharging to the POTW. The Local Unit shall revise the inventory at least annually.

- B. A description of the quality and volume of wastewater discharged to the POTW by the Local Unit.
- C. Such other information as the County Agency may deem necessary.