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CITY OF CHARLOTTE
ORDINANCE NO. 2014-01

AN ORDINANCE TO AMEND CHAPTER 68: *UTILITIES* OF THE CODE OF THE CITY CHARLOTTE BY RENAMING AND AMENDING THE TABLE OF CONTENTS, RESTATING ARTICLE I, SECTION 68-1 THROUGH 68-8, ARTICLE II, SECTIONS 68-26 THROUGH 68-75, ARTICLE III, SECTIONS 68-96 THROUGH 68-102, ARTICLE IV, SECTIONS 68-120 THROUGH 68-194, AND BY ADDING SECTION 68-195 THROUGH 68-196 IN ORDER TO BRING CHAPTER 68: *UTILITIES* INTO COMPLIANCE WITH THE RULES AND REGULATIONS OF THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY WITHIN THE CITY OF CHARLOTTE.

Council Member Conway moved the following:

THE CITY OF CHARLOTTE ORDAINS:

Chapter 68 – Utilities:

CHAPTER 68: UTILITIES

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ARTICLE I. IN GENERAL

§ 68-1 DEFINITIONS.

ACT. The federal Water Pollution Control Act (also know as the Clean Water Act), 33 USC 1251, et seq., as amended.

ADMINISTRATIVE ADJUSTMENT. An enforcement mechanism intended to allow for flexibility in developing a plan between the POTW and a user discharging to the POTW for taking measures to correct a violation or violations of this article.

APPROVAL AUTHORITY. The Director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non- NPDES state or an NPDES state without an approved pretreatment program.

ATTORNEY. The City Attorney.

AUTHORIZED REPRESENTATIVE OF THE USER. A person who is:

- (1) If the user is a corporation, a principal executive officer of at least the level of Vice-President;
- (2) If the user is a partnership or proprietorship, a general partner or proprietor, respectively;
- (3) 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;
- (4) A duly authorized representative of an individual designated in (1), (2) or (3) above, if the representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.
 - a. To be considered “duly authorized,” the authorization must be made in writing by an individual designated in (1), (2) or (3) 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 of the company or entity). The written authorization must be submitted to the POTW superintendent prior to or together with any reports to be signed by the authorized representative.
 - b. If an authorization under (4)a 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 superintendent prior to or together with any reports to be signed by the newly authorized representative.

AVAILABLE PUBLIC SANITARY SEWER SYSTEM. A public sanitary sewer system located in a

right-of-way, easement, highway or public way which crosses, adjoins, abuts, or is contiguous to the realty involved and passes not more than two hundred (200) feet at the nearest point from a structure in which sanitary sewage originates, or, in the case of all other real estate or land, a sewer which is located in a street, road, highway, right-of-way, easement, or public or private way crossing, adjoining, abutting or contiguous to any real estate or land within a special assessment district hereafter created, on which is located a structure in which sanitary sewage originates.

BACKFLOW. Water of questionable quality, waste or other contaminants entering a public water supply system due to a reversal of flow.

BASE CHARGE. The charge calculated on the basis of meter capacity ratio in accordance with § 68-101 of this chapter.

BIOCHEMICAL OXYGEN DEMAND OR BOD. The quantity of oxygen utilized in the biological oxidation of organic matter under standard laboratory procedures in 5 days at 20 degrees Celsius, expressed as milligrams per liter as required by EPA approved methods under 40 CFR Part 136.

BONDS. At any time, bonds issued by or on behalf of the city for purposes of financing improvements to the system and outstanding, secured by or payable from the revenues of the system.

BOND RESERVE ACCOUNT. The separate account in the Redemption Fund required to be established and maintained in accordance with the terms of any bonds issued by the city and secured by the net revenues of the system.

BUILDING SEWER. The sewer that connects the building in which the sanitary sewage originates to the public sewer or other place of disposal and conveys the sewage of only 1 building.

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

CAPITAL EXPENSES. Includes:

- (1) Normal annual replacement of existing facilities;
- (2) Normal annual extensions and improvements; and
- (3) Major capital replacements and improvements.

CATEGORICAL INDUSTRIAL USER. A non-domestic user subject to a categorical pretreatment standard.

CATEGORICAL PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with §§ 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users that appear in 40 CFR Chapter 1 Subchapter N Parts 405-471.

CITY-TOWNSHIP CONTRACT. The agreement between the city and the Township of Eaton, dated March 12, 1979, and its amendments or the agreement between the city and the Township of Carmel, dated August 28, 2000, and its amendments and any future intergovernmental agreements between the city and the Township of Eaton and/or the Township of Carmel.

COMBINED SEWER. A sewer intended to serve as a sanitary sewer and a storm sewer or as an industrial sewer and a storm sewer.

COMMERCIAL USERS. Any establishment being involved in a commercial enterprise, business or service. Any commercial user which discharges any waste other than normal strength domestic waste or has the reasonable potential, as determined by the POTW superintendent, to discharge any waste other than normal strength domestic waste into the POTW shall be deemed a non-domestic user for purposes of this article.

COMPATIBLE POLLUTANT. A regulated pollutant which, as determined by the POTW superintendent at the superintendent's sole discretion, is susceptible to effective treatment by the POTW as designed, and which will not interfere with, or pass through the POTW.

COMPOSITE SAMPLE. A series of individual samples taken at regular intervals, collected on a time-proportional or flow-proportional basis, 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.

CONSUMPTION CHARGE. The charge calculated on the basis of metered gallons per day of water consumed as described in § 68-101.

COOLING WATER. Water used for cooling purposes only, including both contact and non-contact cooling water.

COOLING WATER (CONTACT). 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). 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 (including water treatment chemicals or any other substance) 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).

COVERAGE REQUIREMENT. The promise to bondholders to maintain net revenues at annual amounts at a percentage of debt service greater than 100%.

CROSS CONNECTION. A connection or arrangement of piping or appurtenances through which a backflow could occur.

DEBT SERVICE EXPENSES. The principal and interest payments on any outstanding bonds of the system, including mandatory redemption requirements, mandatory deposits into the Bond Reserve Account, if any, plus the amount necessary to meet any coverage requirements then in effect, and any amounts necessary and permitted to pay debt service on any general obligation bonds of the city incurred for system purposes.

DIRECTOR. The Director of the Department of Public Works.

DIRECT CONNECTION. The connection of a premises wherein sanitary sewage originates directly to sewer lines constructed by the city.

DOMESTIC WASTE. 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 may not include any waste resulting from industrial or commercial processes, including, but not limited to, 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 as waste from residential dwelling units. The determination of whether or not a waste is domestic waste shall be made by the POTW superintendent at the superintendent’s sole discretion as determined necessary by the superintendent to achieve the purposes and objectives of this article.

ENVIRONMENTAL PROTECTION AGENCY OR EPA. The United States Environmental Protection Agency or its duly authorized officials and representatives.

EXCESSIVE. At such a flow, rate, magnitude or amount that, in the judgment of the POTW superintendent, 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 article; or may otherwise adversely impact the public health, safety or welfare or the environment.

EXISTING SOURCE. Any source of discharge that is not a new source as defined by this article.

FATS. Fats, oil or grease (FOG) consisting of any hydrocarbons, fatty acids, soaps, fats, waxes, oils, or any other non-volatile or semi-volatile materials of animal, vegetable or mineral origin that is extractable by solvents in accordance with methods approved by EPA under 40 CFR Part 136.

FEDERAL GRANT. The grant to be made for the construction of wastewater collection, transportation and treatment works provided under Pub. L. 92-500 or subsequent amendments.

FLOOR DRAIN. Piping that collects and conveys non-stormwater waste from the interior of a building to a building sewer.

FLOW PROPORTIONAL SAMPLE. A composite sample taken with regard to the flow of the waste stream.

GARBAGE. Solid waste from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce or from the preservation or packaging of food. It is composed largely of putrescible organic matter and its natural or added moisture content.

GENERAL OBLIGATION DEBT FUND. The separate fund established from time to time by the city to pay debt service on presently existing or future general obligation bond issues of the city or presently existing or future general obligations or contractual obligations of the city incurred or to be incurred for system expenses.

GRAB SAMPLE. An individual sample that is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes, and which reasonably reflects the characteristics of the waste stream at the time of sampling.

GRINDER PUMP. Any electric motor-driven, submersible, pump capable of macerating all material found in normal domestic sanitary sewage, including reasonable amounts of objects such as plastics, sanitary napkins, disposable diapers, rubber and the like, to fine slurry and pumping this material through a small diameter discharge.

GOVERNMENTAL USER. A federal, state or local governmental facility or the facility of any political subdivision thereof not otherwise defined in this section.

HAZARDOUS WASTE. 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, MCLA §§ 324.1101 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 contributed 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 of the environment if improperly treated, stored, transported, disposed of, or otherwise managed, as determined by the POTW.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

INCOMPATIBLE POLLUTANT. Any pollutant which is not a compatible pollutant; or any pollutant which may adversely affect the POTW's treatment process, effluent, or sludge disposal practices; impact worker health and safety; or cause the POTW to violate its NPDES permit. The determination of whether or not a pollutant is incompatible shall be made by the POTW superintendent at the superintendent's sole discretion as determined necessary by the superintendent to achieve the purposes and objectives of this article.

INDIRECT CONNECTION. The connection of any premises to any sewer lines not originally comprising the sewer system constructed by the city but connecting thereto; for example, premises served by subdivision and mobile home park sanitary sewers which in turn connect to public sewers.

INDUSTRIAL USER. Any nondomestic user that 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 WASTES. The wastewater discharges from industrial, trade or business processes as distinct from their employees' domestic waste or waste from sanitary conveniences.

INFILTRATION. Any waters entering the POTW from the ground, through means such as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

INFLOW. Any waters entering the POTW from sources such as, but not limited to, 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.

INSTANTANEOUS MAXIMUM CONCENTRATION. 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 article.

INSTITUTIONAL USER. A school, hospital, sanatorium, clinic or like user.

INTERFERENCE. A discharge that, alone or in conjunction with a discharge or discharges from other sources: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) causes or contributes to 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 issues thereunder (or more stringent State or local regulations as applicable): Section 405 of the Clean Water Act, 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; and the Marine Protection, research, and Sanctuaries Act.

IPA. Industrial Pretreatment Administrator.

LOCAL LIMIT. A specific enforceable prohibition, standard or requirement (numerical or non-numerical) on discharges by users established by the POTW to meet the purposes and objectives of this article and to comply with applicable state and federal laws and regulations.

MEDICAL WASTE. 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. Milligrams per liter.

MONTHLY AVERAGE. The sum of the daily maximums divided by the number of days sampled during that month.

MULTIPLE RESIDENTIAL DWELLING. A residence in which more than 1 family resides.

NATURAL OUTLET. Any naturally formed outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

NEW SOURCE.

(1) Any building, structure, facility or installation from which there is or may be a discharge, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act (33 U.S.C. 1317) 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;

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge at an existing source; or

(c) The production of waste 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.

(2) 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 (1)b. or (1)c. of this definition 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).

(3) Construction of a new source has commenced if the owner or operator has:

(a) Begun or caused to begin, as part of a continuous onsite construction program:

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

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

NON-DOMESTIC USER. Any user that discharges anything other than normal strength domestic waste into the POTW (i.e., any user other than a domestic user). The determination of whether or not a user is a non-domestic user shall be made by the POTW superintendent at the superintendent's sole discretion as determined necessary by the superintendent to achieve the purposes and objectives of this article. Any user that has the reasonable potential, as determined by the POTW superintendent, to discharge any waste other than normal strength domestic waste into the POTW, may be deemed a non-domestic user for purposes of this article.

NON-DOMESTIC WASTE. Any waste which is not entirely composed of normal strength domestic waste. The determination of whether or not a waste is a non-domestic waste shall be made by the POTW superintendent at the superintendent's sole discretion as determined necessary by the superintendent to achieve the purposes and objectives of this article. Any waste which has the reasonable potential, as determined by the POTW superintendent, to be not entirely composed of normal strength domestic waste may be deemed non-domestic waste for purposes of this article.

NORMAL DOMESTIC STRENGTH WASTEWATER. A sewage or other wastewater effluent which shall be a compatible pollutant and with BOD of 300 milligrams per liter or less, suspended solids of 350 milligrams per liter or less and total phosphorus of 10 milligrams per liter or less.

NPDES PERMIT. A permit issued pursuant to the national pollution discharge elimination system prescribed in 33 U.S.C. 1251 *et seq.*

OPERATION AND MAINTENANCE EXPENSES. Includes, but is not limited to, salaries, wages and fringe benefits for system employees, purchased power, purchased services, chemicals, other materials and supplies, small equipment that does not extend the useful life of the major facilities of the system, and the system's percentage of general overhead of city administration and support services provided by city employees other than system employees.

OPERATION AND MAINTENANCE FUND. The fund of the system established by the city for purposes of paying the expenses of administration and operation of the system and current expenses for the maintenance of the system.

PASS THROUGH. 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, causes or contributes to 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); causes or contributes to a violation of any requirement of the Act; or detrimental impacts the receiving stream.

pH. The logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

POLLUTANT. The term "pollutant" includes (but is not limited to) any of the following:

- (1) 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.
- (2) Properties of materials or characteristics of wastewater, including but not limited to, pH, heat, suspended solids, dissolved solids, turbidity, color, BOD, COD, toxicity, and odor.
- (3) Substances regulated by categorical standards.
- (4) Substances discharged to the POTW that are required to be monitored by a user under this article, are limited in the POTW's NPDES permit, or required to be identified in the POTW's application for an NPDES permit.
- (5) Substances for which control measures on users are necessary to avoid restricting the POTW's residuals management program; to avoid POTW operational problems; to avoid degradation of water quality; or to avoid POTW worker health and safety problems as determined at the discretion of the POTW superintendent.

PRETREATMENT (OR TREATMENT). 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 the 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 dilution is expressly authorized by an applicable pretreatment standard or requirement and by the POTW). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings.

PRETREATMENT REQUIREMENT. Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on a non-domestic user.

PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA 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, MCLA §§ 324.3101 et seq., that applies to non-domestic users including general and specific prohibitive discharge limits and local limits established in this article pursuant to MAC R 323.2303, and categorical standards.

PRIVATE SEWAGE DISPOSAL SYSTEMS. Any septic tanks, lagoons, cesspools or other facilities intended or used for the disposal of sanitary sewage other than via the public sanitary sewer.

PROPERLY SHREDDED GARBAGE. The waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers, with no particle greater than one-half inch in any dimension.

PROPERTY OWNER. The person having legal title to the premises according to the city's tax records and includes, in the case of a land contract sale, the land contract vendee, provided that the city has been furnished with a copy of the land contract or assignment thereof.

PUBLICLY OWNED TREATMENT WORKS OR POTW. The complete sewage disposal system and treatment works owned, operated, or controlled by the City as defined by the Act, 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 mains and intercepting sewers), pipes, pumps, lift stations, 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 outside the City who are, by contract or agreement with the City, users of the POTW. References in this article to approvals, determinations, reviews, etc., "by the POTW" shall mean by the POTW superintendent or the superintendent's designated representative. The term "POTW" may also be used to refer to the City as the municipality that has jurisdiction over the discharges to, and discharges from, the treatment works, or to the wastewater treatment plant and its designated representatives as appropriate to the context in which the term is used.

PUBLIC SEWER or PUBLIC SANITARY SEWER. A sanitary sewer constructed, used or intended for use by the public for the collection and transportation of sanitary sewage for treatment or disposal and owned or operated or controlled by the city or any other political subdivision of the state or connected to such system or in which all owners of abutting properties have equal rights.

RECEIVING FUND. The fund established on the books and accounts of the city into which all revenues of the system shall be deposited.

REDEMPTION FUND. The fund established on the books and accounts of the city from which the city shall pay principal and interest on all bonds of the city secured by a lien on the net revenues of the system.

REPLACEMENT. The obtaining and installing of any equipment, accessories and appurtenances which are necessary during the service life of the system to maintain the capacity and performance to which such system was designed and constructed and to preserve its financial integrity.

REPLACEMENT AND IMPROVEMENT FUND. The fund established on the books and accounts of the city from which the city shall pay the costs of making repairs, replacements, improvements or

enlargements to the system.

RESERVE AMOUNT. The amount required to be held in the Bond Reserve Account in accordance with any ordinances pertaining to outstanding bonds secured by or payable from the revenues of the system.

RESIDENTIAL EQUIVALENT or **EQUIVALENT UNIT.** The factor representing a ratio of the estimated sewage generated by each user class to that generated by the normal single-family residential user.

RESIDENTIAL USER. The user of the system whose premises or building is used primarily as a residence for 1 or more persons, including dwelling units such as detached, semidetached townhouses, mobile homes, apartments or permanent multifamily dwellings. For purposes of this article, transient lodgings shall be considered to be a commercial use.

SANITARY SEWAGE. The liquid or water carried waste discharge from sanitary conveniences of dwellings, including apartments, houses, motels and hotels, office buildings, factories or institutions.

SANITARY SEWAGE DISPOSAL SYSTEM. All sewers, pumps, lift stations, treatment facilities and other facilities and appurtenances used or useful in the collection, transportation, treatment and disposal of domestic, commercial or industrial wastes, and all easements, rights and land for such easements and rights, and including all extensions and improvements thereto which may be acquired or constructed.

SANITARY SEWER. The sewer which carries sanitary sewage and industrial waste or either of them into which storm water, surface water and groundwater are not intentionally admitted.

SANITARY SEWER PERMIT. The permit required for connection to the POTW. The sanitary sewer permit charge is comprised of an inspection, a capacity charge and the costs of labor and material associated with extending a lead from the sewer main to the property line.

SEPTIC TANK WASTE. Any sanitary sewage or wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

SEWAGE. Any combination of sanitary sewage, storm water, industrial waste and uncontaminated industrial waste or any of them.

SEWAGE TREATMENT PLANT or **WASTEWATER TREATMENT PLANT.** Any arrangement of devices or structures used for the treating of sewage.

SEWER. A pipe or conduit and appurtenances for transmitting or carrying sanitary sewage, including any device necessary for pumping, lifting or collecting such sewage.

SEWER LEAD. A sewer pipe extension from the sewer main that receives wastewater from a building or house.

SIGNIFICANT INDUSTRIAL USER OR SIU. Any industrial user (i.e., any non-domestic user):

- (1) Subject to categorical pretreatment standards; or
- (2) Any other industrial user that:
 - a. Discharges to the POTW an average of twenty-five thousand (25,000) gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater);
 - b. Contributes a process waste stream that makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. Is otherwise designated by the POTW as a significant industrial user on the basis that the industrial user (either singly or in combination with other users) has a reasonable potential to adversely affect the operation of the POTW, the quality of the sludge, or the POTW's effluent or air emissions; to violate any pretreatment standard or requirement; or because the POTW determines that a wastewater discharge permit for the user's discharge is otherwise required for any reason to meet the purposes and objectives of this article.

The POTW may determine that a user that meets the criteria of paragraphs (2)a and (2)b of this definition, above, is not currently a significant industrial user, if the superintendent 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 permit is not required to meet the purposes and objectives of this article. 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 superintendent at any time based on changed circumstances, new information, or as otherwise determined necessary by the superintendent to meet the purposes and objectives of this article.

SIGNIFICANT NONCOMPLIANCE.

- (1) Chronic violation of discharge limits, defined here as those in which sixty-six (66) percent 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 of a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1) for the same pollutant parameter;
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit or the average limit numeric Pretreatment Standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats oil and grease, and 1.2 for all other pollutants, except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum, or longer-term average) Standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the Control Authority POTW determines will adversely affect the operation or implementation of the local pretreatment program

SINGLE-FAMILY DWELLING. A residence in which only 1 family resides.

SLUG, SLUG LOAD OR SLUG DISCHARGE. Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

STRUCTURE IN WHICH SANITARY SEWAGE ORIGINATES. A building in which a toilet, kitchen, laundry, bathing or other facility which generates water-carried sanitary sewage is used or is available for use for household, commercial, industrial or other purposes.

SURCHARGE. The additional charge which a user discharging wastewater having strength in excess of the limits set by the city for transmission and treatment within the sanitary sewage system will be required to pay to meet the cost of treating such excessively strong wastewater.

SUPERINTENDENT OR POTW SUPERINTENDENT. The person designated by the City to supervise the operation, maintenance, alteration, repair and management of the POTW and who is charged with certain duties and responsibilities by the article, or the superintendent's designated representatives.

SUSPENDED SOLIDS. Solids that either float on the surface of or are in suspension in the water, sewage or other liquids and which are removable by laboratory filter.

SYSTEM. The complete city water supply system and sanitary sewage disposal systems.

TABLE OF UNIT FACTORS. The table of unit factors on file with the Director, as amended from time to time, based on a unit equaling 250 gallons of water consumed per day per year.

TOWNSHIP. The Township of Eaton or the Township of Carmel, Eaton County, Michigan, and any other townships which may connect with the city.

TOXIC POLLUTANT. Any pollutant or combination of pollutants that is or can potentially be harmful to the public health, the POTW, or the environment, including, but not limited to, those listed as toxic in 40 CFR 401.15 under the provisions of the Clean Water Act, or 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.

TRADE SECRET. The whole or any portion or phase of any manufacturing proprietary process or method which is not patented, which is secret, which is useful in compounding an article of trade having a commercial value, and the secrecy of which the owner has taken reasonable measure to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes. Trade secret shall not be construed, for purposes of these rules, to include any information regarding the quantum or character of waste products or their constituents discharged, or sought to be discharged, into the publicly owned treatment works.

TRUCKED OR HAULED WASTE OR POLLUTANTS. Any waste proposed to be discharged to the POTW from a mobile source, including, but not limited to, holding tank waste.

UPSET. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the non-domestic 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. Any premises receiving water and/or sewage disposal service from the system, whether intentional or unintentional, and whether directly or indirectly, including all premises owned or occupied by the city. In addition, **USER** includes each fire hydrant for which the city shall be deemed to be the owner or occupier.

USER CLASS OR CUSTOMER CLASS. The category assigned to each user connected to the POTW, as identified in the table of unit factors, including, but not limited to, residential, industrial, commercial, institutional and governmental.

WASTEWATER. The liquid and water-carried domestic and non-domestic waste from dwellings, commercial buildings, industrial facilities, and institutions (including, but not limited to, contaminated groundwater and landfill leachate), whether treated or untreated, that is contributed, introduced or discharged, directly or indirectly, and whether intentionally or unintentionally, into the POTW. The term includes any water that has in any way been used and degraded, or physically or chemically altered, or to which pollutants have been added. Sometimes generically referred to as "sewage."

WASTEWATER CONTRIBUTION PERMIT. As set forth in § 68-191.

WATERCOURSE. An open channel, either natural or artificial, in which a flow of water occurs, either continuously or intermittently.

WATER CONNECTION. That part of the water distribution system connecting the water main with the premises serviced, from the main to the curb stop.

WATER MAIN. That part of the water distribution system located within the easement lines of streets designed to supply more than 1 water connection.

WATER SUPPLY SYSTEM. All storage facilities, transmission lines, mains, pumps and other facilities and appurtenances used or useful in the delivery of potable water to all users of the water supply system, including all easements, rights and land for such easements and rights, and including all extensions and improvements thereto which may be acquired or constructed.

WATER TREATMENT FACILITY. Location and/or structures where a water supply is treated by chemical or physical processes to produce a finished water meeting state drinking water standards and to provide safe water for use by the public.

§ 68-2 ADMINISTRATION.

The Director of the Department of Public Works is charged with the responsibility of administering the system.

§ 68-3 OPERATION AND MAINTENANCE; CONTROL.

The operation and maintenance of the system shall be under the supervision and control of the city. The city retains the exclusive right to establish, maintain and collect rates and charges for use of the system, and in such capacity, the City Council may employ such person in such capacity as it deems advisable and may make such rules or regulations as it deems advisable and necessary to ensure the efficient establishment, operation and maintenance of the system to comply with the terms of the NPDES permit and the Safe Drinking Water Act, and to discharge its financial obligations.

§ 68-4 FISCAL YEAR, RECORDS, FUNDS AND ACCOUNTS.

(A) *Fiscal year.* The fiscal year of the system shall begin July 1 and shall end on June 30 in each year.

(B) *Records and accounts.* The city shall maintain the Water Supply and Sewage Disposal Fund as an enterprise fund within the books and accounts of the city. The Water Supply and Sewage Disposal Fund shall be used to account for the operation of the water distribution, water treatment, sewage disposal and sewage treatment systems, the construction and acquisition of additions and improvements to those systems, and contributions toward the payment of interest and principal on general obligation bonds issued to help finance the construction projects undertaken by the system. The city shall cause an annual audit of such books and records and accounts of the preceding operating year to be made by a recognized independent certified public accountant and will make such audit available to the public upon proper request.

(C) *Establishment and maintenance of separate funds and accounts within the Water Supply and Sewage Disposal Fund.* The city has established and shall maintain and use the following funds and accounts.

(1) *Receiving fund.* All revenues of the system shall be credited initially to the Receiving Fund, and shall be transferred or debited from the Receiving Fund periodically in the manner and at the times and in the order of priority described in this article.

(2) *Operation and Maintenance Fund.* Out of the revenues credited to the Receiving Fund, at least monthly the City Manager shall first set aside in, or credit to, the Operation and Maintenance Fund an amount sufficient to provide for the payment of the next month's expenses of administration and operation of the system and such current expenses for the maintenance of the system as may be necessary to preserve the

system in good repair and working order.

(3) *Bond and Interest Redemption Fund; Bond Reserve Account.* Out of the revenues remaining in the Operation and Maintenance Fund, the City Manager shall set aside each month an amount equal to the amounts specified in each bond ordinance applicable to outstanding bonds secured or payable from revenues of the system. In addition, if required by any bond ordinance, the City Manager shall set aside the amounts required to establish and maintain the Bond Reserve Account. Money in the Bond and Interest Redemption Fund shall be used exclusively for payment of the principal of redemption premiums, if any, and interest on the bonds as they come due. Money in the Bond Reserve Account shall be used solely for the payment of the principal of redemption premiums, if any, and interest on the bonds as to which there would otherwise be a default. If at any time it is necessary to use money credited to the Bond Reserve Account for such payment, then the City Manager shall replace the money used from the net revenues next received that are not needed for current principal and interest requirements, until the amount on deposit equals the reserve amount.

(4) *Replacement and Improvement Fund.* Out of the revenues and moneys of the system remaining in the Receiving Fund at the end of each month, after provision has been made for credits or deposits to the Operation and Maintenance Fund and the Bond and Interest Redemption Fund, the City Manager may deposit such additional funds into the Replacement and Improvement Fund such amounts as the City Manager shall determine advisable, not to exceed the amounts budgeted for such purpose. The money in the Replacement and Improvement Fund shall be used solely for the purpose of making repairs, replacements, improvements, or enlargements of the system, including any buildings or structures related to the system. If at any time it shall be necessary to use the money in the Replacement Fund for the purpose for which the Replacement Fund was established, the City Manager shall replace those amounts from any money in the Receiving Fund which is not required to be used for the Operation and Maintenance Fund or the Bond and Interest Redemption Fund, including the Bond Reserve Account.

(5) *General Obligation Debt Fund.* Out of the remaining revenues in the Receiving Fund each month, the City Manager shall credit to the General Obligation Debt Fund such sums as shall be necessary to pay debt service on outstanding general obligation bonds or contractual obligations of the city issued or incurred for system purposes.

(D) *Surplus revenues.* All money remaining in the Receiving Fund after satisfying all of the requirements of this section may, at the option of the City Council, be used for any purpose directly relating to the system, including credit or transfer to the Replacement Fund or the general obligation debt, or for the purchase of bonds on the open market at not more than the fair market value thereof, or for the redemption of bonds prior to maturity.

(E) *Priority of funds.* If the money in the Receiving Fund is insufficient to provide for the current requirements of the Operation and Maintenance Fund or the Redemption Fund, any money or securities in other funds of the system, except the proceeds of the sale of bonds, shall be credited or transferred, first, to the Operation and Maintenance Fund, and second to the Bond and Interest Redemption Fund.

(F) *Depository.* Money credited to the several funds and accounts of the system, except money in the Redemption Fund (including the Bond Reserve Account) may be kept in 1 or more bank accounts at a bank or banks designated by resolution of the City Council, and if kept in 1 bank account, the money shall be allocated on the books and records of the city in the manner and at the times provided in this section.

(G) *Deficiencies in cash accounts.* If the money in the Operation and Maintenance Fund is insufficient to provide the current requirements of the operation and maintenance of the system, the city may transfer any money or securities from any other fund of the system to the extent of the deficiency.

(H) *Insurance.* The city shall maintain and carry insurance on all physical properties of the system of a kind and in the amounts normally carried by public utility companies and municipalities engaged in the operation of water supply and sanitary sewage disposal systems. All money received from losses under any such insurance policy shall be applied solely to the replacement and restoration of the property damaged or destroyed.

(I) *Proceeds of system equity charge.* The city shall deposit the proceeds of all system equity charges into the Replacement and Improvement Fund.

§ 68-5 UTILITY BOARD OF APPEALS.

(A) *Creation.* The City Council hereby establishes a Utility Board of Appeals, consisting of 5 members, to hear and consider all properly submitted appeals of the provisions of this chapter.

(B) *Meetings and membership.* The Utility Board of Appeals shall meet as frequently as is necessary to hear all appeals properly submitted to it. All matters relating to the meetings, qualifications for membership, appointment to office, term of office and all other organizational matters of the Board shall be determined by resolution of the City Council.

(1) *City Manager.* Jurisdiction shall not vest in the Utility Board of Appeals until such time as the matter at issue has been submitted to the City Manager for his review and decision.

(C) *Jurisdiction.* The Utility Board of Appeals shall hear, consider and make recommendations to the City Council on the following matters:

(1) Appeals of charges imposed on a user when the correctness of the billing is disputed;

(2) Appeals pursuant to § 68-142(C) to allow the property owner additional time in which to connect to the system without penalty or legal action, because of adverse weather conditions;

(3) Appeals to review the unit factor assigned to a property;

(4) Applications for deferring partial or total payment of connection charges in the cases of undue hardship.

(D) *Final action.* After hearing and considering an appeal, the Utility Board of Appeals shall submit its recommendations as to granting, denying or modifying the decision appealed or relief being sought to the City Council, and the decision of the City Council on the matter shall be final.

§ 68-6 POWER AND AUTHORITY OF INSPECTORS.

(A) Users shall permit duly authorized employees of the city bearing proper credentials and identification to enter upon their property for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter.

(B) Duly authorized employees of the city may enter at all reasonable times in or upon private or public property for the purpose of inspecting and investigating conditions or practices that may be in violation of this chapter or detrimental to the system.

(C) Duly authorized employees of the city shall inspect onsite work occurring by reason of any system permit. Such person shall have the right to issue a cease and desist order on the site upon finding a violation of the permit or of this chapter. The order shall contain a statement of the specific violation and the appropriate means of correcting the violation and the time within which corrections shall be made.

(D) Users shall permit duly authorized employees of the city bearing proper credentials and identification to enter upon all properties for the purpose of copying records relevant to the pretreatment program.

§ 68-7 PENALTIES.

(A) *Violation.* The failure to perform any act required by this chapter or the performance of an act prohibited by this chapter shall constitute a violation of this chapter. In addition, the failure, neglect or refusal to comply with a cease and desist order of the Department shall constitute a violation of this chapter.

(B) *Criminal proceedings.* Unless otherwise provided, a violation of any of the provisions of this chapter shall be punishable by a fine of not to exceed \$500 and costs of prosecution, by confinement in the county jail for a period not exceeding 90 days or both fine and imprisonment, in the discretion of the court. Each day that a violation continues or is permitted to exist shall constitute a separate offense, except that no person shall be confined or jailed for a single but continuing violation for a period longer than 90 days.

§ 68-8 PROTECTION FROM DAMAGE.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with the system or any component of the system.

§§ 68-9 – 68-25 RESERVED.

ARTICLE II. WATER

DIVISION 1. GENERALLY

§ 68-26 WATER SUPPLY.

The city shall offer potable water to any property located within the city, upon application by the property owner for connection to the water supply system, in exchange for the payment of the fees and charges

established by the City Council from time to time, and subject to the rules and regulations adopted in accordance with the provisions of this chapter.

§ 68-27 ADDITIONAL REGULATIONS.

The City Manager may recommend additional rules and regulations concerning the water supply system, connection to the water supply system, meter installation and maintenance, hydrants and water mains and appurtenances thereto, not inconsistent with this chapter. Such rules and regulations shall be effective upon approval by the City Council.

§ 68-28 SERVICE CONNECTIONS.

Applications for water service connections shall be made to the Department on forms prescribed and furnished by the Department. Service connections and meters shall be installed in accordance with rules and regulations of the Department and upon payment of the required fee set by resolution of the City Council from time to time in accordance with Article III. All meters shall be the property of the system. The system shall be responsible for installation and maintenance of all meters.

§ 68-29 TURNING ON SERVICE.

Except as provided in this section, only authorized employees of the Department shall turn on or off any water service. Licensed plumbers may turn on water service for testing their work, when the service must be immediately turned off, or upon receiving a written order from the Department. Upon written permit from the Department, water may be turned on for construction purposes only prior to the granting of a certificate of occupancy for the premises and upon payment of all required charges.

§ 68-30 HYDRANT USE.

Except in cases of emergency, only employees of the city or persons having a written permit from the Department may open or use a fire hydrant, and then only in the performance of their duties. Any such hydrant use shall require the use of an approved backflow prevention device.

§ 68-31 USE RESTRICTIONS.

The city may regulate, limit or prohibit the use of water for any purpose as determined by the City Council to be in the best interests of the longevity and safety of the water supply system. Such regulations shall restrict less essential water uses to the extent deemed necessary to ensure an adequate supply for domestic and commercial needs and for firefighting. No such regulation, limitation or prohibition shall be effective until 24 hours after publication thereof in a newspaper of general circulation in the city. Any person

violating such regulation or rule shall, upon conviction thereof, be punished as prescribed in § 1-16.

§ 68-32 INJURY TO FACILITIES.

Only employees of the city, in the course of the performance of their duties, may break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the water supply system.

§§ 68-33 – 68-45 RESERVED.

DIVISION 2. METERS

§ 68-46 METERS REQUIRED.

All premises using water shall be metered, except as otherwise provided in this Code. Only Department employees may break or injure the seal or change the location of a meter, or otherwise alter or interfere with it in any way.

§ 68-47 ACCESS.

The Department shall have the right to shut off the supply of water to any premises where the Department is not able to obtain access to the meter. Any qualified employee of the Department shall at all reasonable hours have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing or inspecting the meter, and no person shall hinder, obstruct or interfere with such employee in the lawful discharge of his duties in respect to the care and maintenance of such meter.

§ 68-48 REIMBURSEMENT FOR DAMAGE.

(A) The owner of a property served by the water supply system shall reimburse the city for any damage that a water meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect by any of them to properly secure and protect the meter, as well as for any damage that may be caused by frost, hot water or steam backing from a boiler. If the owner fails to pay the reimbursement within the ~~time~~ time required in the bill, the Department may shut off the water service until all charges have been paid to the city.

(B) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, a second bill will be mailed containing a shutoff date by which the bill must be paid to prevent discontinuation of service for nonpayment; and

(3) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to revise the amount of the customer's bill.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge of such amount as is authorized from time to time by Council by resolution.

§ 68-49 METER FAILURE.

If any water meter shall fail to register properly, the Department shall estimate the consumption on the basis of former consumption and bill accordingly.

§ 68-50 ACCURACY REQUIRED.

A water meter shall be considered to be accurate if, when tested, it registers not more than 2% more or 2% less than the actual quantity of water passing through it. If a meter registers in excess of 2% more than the actual quantity of water passing through it, it shall be considered fast to that extent. If a meter registers more than 2% less than the actual quantity of water passing through it, it shall be considered slow to that extent.

§ 68-51 INACCURATE METERS.

A user may request the Department to test the meter. If the meter is accurate, the user requesting the test shall pay the inspection charge. If the meter is defective, the Department shall repair it or shall install a new meter at no charge to the user, unless the Department determines that the meter failed because of damage caused to the meter in violation of § 68-48.

§ 68-52 BILL ADJUSTMENT.

If a water meter has been tested at the request of a user and has been found to be fast, the Department shall credit the user with a sum equal to the percent fast multiplied by the amount of all bills incurred by the user within the 3 months prior to the test. If a meter so tested is found to be slow, the Department may collect from the user a sum equal to the percent slow multiplied by the amount of all bills incurred by the user for the prior 3 months. When the Department tests a meter on its own initiative, the test shall be done without cost to the user, other than the user's paying the amount due the city for water used but not metered as provided in this section.

§ 68-53 REMOTE READERS – GENERALLY.

The installation of remote readers for measuring water usage is required. Water service shall not be turned on unless and until the premises is equipped with a remote reader.

§ 68-54 SAME – INSTALLATION.

No person shall install a remote reader for water use except in accordance with the rules and regulations of the Department.

§§ 68-55 – 68-65 RESERVED.

DIVISION 3. CROSS CONNECTIONS

§ 68-66 CROSS CONNECTIONS PROHIBITED.

As required by state law, the city hereby prohibits the installation of cross connections, except as expressly permitted in writing by the Department in accordance with the provisions of state law.

§ 68-67 RULES ADOPTED; INSPECTIONS; VIOLATIONS.

(A) The city adopts by reference the water supply cross connection rules of the State Department of Public Health, being R325.11401 to R325.11407 of the Michigan Administrative Code.

(B) It shall be the duty of the Department to cause inspections to be made of all properties served by the public water supply where cross connection with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Department and as approved by the State Department of Public Health.

(C) Representatives of the Department shall have the right to enter after reasonable notice at any reasonable time any property served by a connection to the public water supply system of the city for the

purpose of inspecting the piping systems thereof for cross connections. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

(D) The Department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

(E) The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the State Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(F) This section does not supersede the State Plumbing Code, but is supplementary to it.

(G) Any person or customer found guilty of violating any of the provisions of this section or any written order of the Department in pursuance thereof, upon conviction thereof, shall be punished by a fine of not more than \$100 for each violation. Each day upon which a violation shall occur shall be deemed a separate and additional violation.

§ 68-68 IMPLEMENTATION OF PROGRAM.

In accordance with the requirements set forth by the State Department of Public Health, the city has officially adopted the state cross connection control rules to protect the city public water supply system. The cross connection control program will take effect immediately upon approval of the State Department of Public Health.

§ 68-69 LOCAL AUTHORITY.

The authority to carry out and enforce a local cross connection control program will be in accordance with this Code.

§ 68-70 LOCAL INSPECTION.

The Department Superintendent or his designated agent shall be responsible for making the initial cross connection inspections and reinspections to check for the presence of cross connections with the city water supply system. Individuals responsible for carrying out the cross connection inspections and reinspections shall have obtained necessary training through any available manuals on cross connection prevention,

including the Cross Connection Rules Manual as published by the State Department of Public Health, and attendance of any cross connection training sessions sponsored by the State Department of Public Health or other recognized agencies.

§ 68-71 SCHEDULE FOR INSPECTIONS.

(A) The schedule for inspections for cross connections shall be in accordance with the following general outline:

- (1) Known or suspected secondary water supply cross connections shall be inspected first; (Surface water, class 3 wells, recirculated water, and the like.)
- (2) Known or suspected submerged inlet cross connections will be inspected next.

(B) In general, emphasis will be placed on making inspections initially of all industrial and commercial establishments or where cross connections are known or suspected to exist. A general review will follow in a logical sequence as time permits.

§ 68-72 SCHEDULE FOR REINSPECTION.

In order to ensure against the hazards of cross connections, it will be necessary to periodically and systematically reinspect for the presence of cross connections. The schedule for reinspection shall be in accordance with the schedule noted in the Cross Connection Rules Manual. Whenever it is suspected or known that modifications have taken place with piping systems serving a particular water customer, reinspections of the premises will be made.

§ 68-73 PROTECTIVE DEVICES.

The method to protect against the hazards of cross connections as outlined in the Cross Connection Rules Manual are incorporated by reference into the City Cross Connection Control Program. Whenever any deviation from the recommended methods of protection is contemplated, approval from the State Department of Public Health shall be first obtained.

§ 68-74 COMPLIANCE TIME.

The time allowed for correction or elimination of any cross connection found shall be as follows:

- (1) Cross connections which pose an eminent and extreme hazard shall be disconnected immediately and so maintained until necessary protective devices or modifications are made;
- (2) Cross connections which do not pose an extreme hazard to the water supply system but

nevertheless constitute a cross connection should be corrected within a reasonable period of time. The length of time allowed for correction should be reasonable and may vary depending on the type of device necessary for protection. The water utility shall indicate to each customer, where a cross connection is found to exist, the time period allowed for compliance.

§ 68-75 ANNUAL REPORT AND RECORD KEEPING.

Sufficient data to complete an annual report to the State Department of Public Health and to monitor the program adequately for city purposes will be maintained by the City Water Department and its responsible agents. An inspection form will be used during the initial inspection procedure. Inspection forms will be used to monitor the status of the protective device as well as the test results reported by a qualified backflow preventer tester. Inspection forms will also be used for reinspection for cross connection.

§§ 68-76 – 68-95 RESERVED.

ARTICLE III. WATER AND SEWER RATES

§ 68-96 FIXING RATES.

The City Council has determined that, in order to provide safe, adequate water to the users of the system, and to assure safe transportation and treatment of sewage discharged into the system by all users of the system, the system must receive sufficient total annual revenue to ensure the proper operation and maintenance of the system, the development and perpetuation of the system, and the preservation of the financial integrity of the system. The City Council has also determined that the system shall be self-sustaining, supported solely by the revenues of the system and not dependent upon the property tax payers of the city. To meet those ends, City Council shall annually fix the rates and charges to be imposed on all users of each component of the system in accordance with the principles and standards set forth in this article.

§ 68-97 PURPOSE OF SEWER AND WATER RATES; ESTABLISHMENT OF COST OF SERVICE.

(A) The City Council has determined that the purpose of sewer and water rates is to produce sufficient revenues each year to pay the costs of service. The City Council has found that annual revenues and expenditures of the system can fluctuate as much as 25% from year to year. Based on the recommendations of the city's engineers, City Council has determined that, in order to provide adequate, but not excessive, annual adjustments in revenue levels in a timely manner, the Department shall develop the costs of service based on 5 year projections of cash needs, adjusted for inflation, and shall base rates each year on the estimated needs for those 5 year periods, adjusted annually.

(B) The costs of service to be paid from revenues shall include all of the following:

- (1) Operation and maintenance expenses;
- (2) Debt service expenses; and
- (3) Capital expenses not funded from bonded indebtedness.

§ 68-98 SERVICE TO CITY.

(A) The city shall pay the same water and sewer rates for service to the city as would be payable by a private user for the same service.

(B) In addition, in recognition of the capacity requirements of fire hydrants, the city shall pay a fee equal to 5% of the annual budgeted revenues of the water supply system.

§ 68-99 BILLING AND COLLECTION.

(A) Charges for water and sewer usage shall be paid by the last day of the month in which they are billed. Payments shall be deemed made when they are received in the Treasurer's office or a city authorized depository. If payment is not made as provided in this section, a penalty of 10% shall be added to the bill. Failure to receive a bill shall not relieve the customer from the responsibility for payment.

(B) Such charges shall constitute a lien upon the respective properties served and if any charge is not paid before it becomes delinquent it may be recovered by the city in an action in *assumpsit* against the owner of the property served as well as any tenant supplied with such water, or such charges may be certified to the City Treasurer by the City Council and assessed against the property on the next city tax roll, in which event such charge shall be collected and returned in the same manner as other city taxes are collected and returned; provided that any charge shall not be so certified which has not been delinquent for a period of at least six (6) months. The effective date of certification by City Council shall be May 1 of each year. In addition to any other remedy provided in this chapter or by law, if such charges for water consumed is not paid as provided in this section, the City Treasurer shall have the authority to shut off the supply of water to any such premises, provided:

(1) Delinquent notice is provided by first class mail to the account holder, which shall serve as due process, prior to the water being shut off;

(2) Shut off notice is provided to any occupant(s) of the property by posting notice of same at the premises at least 3 days prior to the water being shut off;

(3) After shut off, such connection shall not thereafter be reconnected until all such water charges and penalties shall be paid, together with turn-on charges.

(C) If the city shuts off the water supply by mistake, the City Manager or his designee is authorized to credit the property owner an amount equal to the shut-off fee.

(D) (1) It is the policy of the city to discontinue utility service to customers by reason of nonpayment

of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) That all bills are due and payable on or before the date set forth on the bill; and

(b) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(c) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge of such amount as is authorized from time to time by Council by resolution.

§ 68-100 ALLOCATION OF COSTS OF SERVICE.

(A) The City Council has determined that not all classes of users of the system cause the same costs of service. Based on the recommendations of independent engineering consultants to the city, City Council has determined the following:

(1) The commodity costs of water supply and some portions of the costs of sewage disposal are uniform among users in accordance with the volume of use;

(2) Indirect costs of water supply and sewage transportation, including size of service pipe, materials used, locations of meters, size of storage and treatment facilities, and maintenance, billing and collection costs vary according to the size of meters;

(3) While all users benefit equally from capital improvements to the system, users taking possession of previously undeveloped properties, and users changing the nature and amount of use of the system at renovated or expanded properties would not bear equally the cost of those capital improvements unless required to pay a system equity charge;

(4) Certain types of property uses require a reservation of a greater capacity of the system than others;

(5) At least 50% of the costs of service to all customers is related to the indirect costs of service;

(6) Current technology does not support the efficient and cost effective metering of sanitary sewage discharged into the sanitary sewage disposal system. As a result, the city has determined that the most equitable measure of the volume of sanitary sewage discharged into the system is the amount of water consumed;

(7) The city will offer service to properties located outside the city limits only pursuant to City-Township contract.

(B) The City Council has therefore developed the following classes of users.

(1) For meters of the following sizes, the following meter equivalency ratios for purposes of allocating the base amount of the indirect costs of service and calculating the quarterly base rate per meter size:

<i>Meter Size (inches)</i>	<i>AWWA Meter Capacity Ratio</i>
5/8 and 3/4	1.0
1	1.6
1-1/2	3.3
2	5.3
3	10.0
4	15.5
6	33.3

(2) All classes of users shall pay the same rate per gallon of metered water for water supply and sewage transportation services.

(3) For purposes of calculating the system equity charge, City Council has decided to use a table of unit factors, a copy of which is on file with the Director, based on a unit equaling 250 gallons of water consumed per day per year, as recommended by the city's consulting engineers.

(4) The base charge shall be calculated so as to produce no less than 50% of the annual budgeted expenditures of the system.

(5) The amount of water consumed is generally an appropriate and fair indicator of the amount of sanitary sewage discharged into the sanitary sewage disposal system.

(6) Where a user discharges sanitary sewage into the sanitary sewage disposal system but does not use the water supply system, or where a property uses large quantities of water that are not disposed of

through the sanitary sewage system, the Department shall propose and the City Council shall adopt, methods of allocating the costs of service to those properties based on the estimated use of the sanitary sewage system.

§ 68-101 SPECIFIC RATES AND CHARGES.

(A) *Consumption charge.* Every user shall pay a consumption charge calculated on the basis of metered gallons per day of water consumed at a rate determined by City Council to produce an estimated 45% of the annual budgeted revenues of the system.

(B) *Base charge.* Every user shall pay a base charge calculated on the basis of meter capacity ratio in an amount determined by Council to produce an estimated 50% of the annual budgeted revenues of the system.

(C) *System equity charge.* The purpose of the system equity charge is to recover certain of the capital costs incurred to provide sufficient capacity to all users from those users that have not previously paid their share of those costs. Every person seeking to utilize the system for a use estimated to demand the reservation of greater capacity of the system shall pay a system equity charge established and managed as provided in this section.

(1) *Calculation of estimated demand on capacity.* The estimated demand on capacity of the system shall be based on the unit factor assigned to the type of use described in the table of unit factors approved by City Council from time to time, based on historic average use for each type of use.

(2) *Calculation of system equity.* System equity shall be determined annually on the basis of the value of system assets comprising the backbone facilities of the system, including, but not limited to, wells, reservoirs, treatment plants, mains, distribution mains and high service pumps, plus funds in the Replacement and Improvement Fund, plus accumulated depreciation, less the amount of any grants received to fund system assets, and less the principal amount of bonds remaining outstanding and incurred to finance those assets.

(3) *Calculation of system equity charge.* The system equity charge shall be determined each year as follows:

System Equity x residential equivalent unit factor = Total number of existing Residential Equivalent Units

(4) *Credits.* If the system equity charge relates to an increase in demand on capacity, the city shall provide residential equivalent unit credits in the following order:

(a) The number of documented residential equivalent units previously paid for connection of that property to the system;

(b) If the number of residential equivalent units paid for previously can not be identified, the residential equivalent units shall be determined by the latest 2 year average billable flow divided by 250 gallons per day per year;

(c) If the latest 2 year average billable flow cannot be determined, the residential equivalent units shall be determined by the table of unit factor based on the property's previous use.

(5) *Use of proceeds of the system equity charge.* Proceeds of the system equity charge shall be used exclusively to pay for replacements and improvements to the system, other than extensions of service to new users.

(6) *Appeals.* A person may challenge the unit factor applicable to the property being connected to the system, or the amount of the system equity charge by bringing an appeal to the Utility Board of Appeals within 24 months of payment of the charge and after review of the City Manager. In considering the appeal, the Utility Board of Appeals shall take into account the historical volume of use by the appellant for the previous 24 months.

(D) *System equity charges for buildings built before 1960.* The purpose of this section amendment is to encourage the redevelopment of structures originally constructed before December 31, 1959. For all structures built before this date which: 1) involves a change of use and 2) which use is estimated to demand a greater reservation of capacity, the equity investment fee shall be half of the fee set by resolution of the City Council for new construction. By resolution of the City Council, payment for the equity investment charge can be deferred for a period of up to 2 years. Any deferrals shall be filed as a lien on the property.

(E) *Tap fee.* Each person connecting to the system shall pay the actual costs of the material, meter, labor, equipment and supervision related to the installation of the connection and the meter, plus an administrative charge equal to 10% of the actual costs of the connection.

(F) *Inspection fee.* Each person connecting to the system shall also pay a fee for inspection of the premises during connection to the system, which fee shall be set from time to time by City Council by resolution.

§ 68-102 DELINQUENCIES; LIENS ON PROPERTY.

As authorized by the provisions of Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138, as amended, if a user shall fail to pay a bill within 6 months of the date on which the bill is due and payable, the delinquent bill and all penalties thereon shall become a lien on the premises served. The City Assessor shall place such charges on the next general tax roll, and the charges shall be collected in the same manner in all respects as provided by law for the collection of taxes by the city.

§§ 68-103 – 68-119 RESERVED.

ARTICLE IV. SEWERS

DIVISION 1. GENERALLY

§ 68-120 INDUSTRIAL USE OF SYSTEM.

Any industry or structure discharging or desiring to discharge industrial waste to the wastewater treatment

and collection system shall provide the city with the following information or material and do the following:

- (1) A written statement setting forth the nature of the enterprise, the source and amount of water used, the amount of water to be discharged, with its present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes;
- (2) A plan map of the building, works or complex with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse or ground waters noted, described and the waste stream identified;
- (3) A test sample and file reports with the city and the appropriate state agencies on appropriate characteristics of wastes on a schedule, at locations and according to methods approved by the city;
- (4) Place waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities;
- (5) A report on raw materials entering the processor support systems, intermediate materials, final products and waste byproducts, as these factors may pertain to waste control;
- (6) Maintain records and file reports on the final disposal of specific liquid, solid, sludges, oils, radioactive materials, solvents or other waste;
- (7) If any industrial process is to be altered as to include or negate a process waste or potential waste, written notification shall be given to the city, subject to approval of the waste product.

§ 68-121 CONNECTION OF PRIVATELY CONSTRUCTED SANITARY SEWER SYSTEMS.

Before any sanitary sewer system shall be permitted to connect to the wastewater treatment and collection system, except those sanitary sewer systems constructed by or on behalf of the city, the owner or developer of such system shall do and provide the city with the following.

- (1) Provide the city with the developer's plans and specifications for construction, an estimate of the cost of construction and a performance bond and deposit with the city the estimated cost of review of construction plans covering the cost of hiring a registered professional engineer to review plans and specifications, which monies shall be placed by the city in an escrow account in the name of the developer.
- (2) Obtain approval of the city of the plans and specifications.
- (3) Secure all necessary permits for construction.
- (4) Upon commencement of construction of the private sanitary sewer, deposit with the city in the escrow account referred to in subsection (1) of this section a sum of 4% of the cost of construction of the wastewater system improvements to cover the anticipated cost of inspection of construction and payment of connection charges.

§§ 68-122 – 68-140 RESERVED.

DIVISION 2. USE OF PUBLIC SEWERS REQUIRED

§ 68-141 CONNECTION.

(A) *Required.* Each and every owner of property on which is located a structure in which sanitary sewage originates shall, at his own expense, install suitable toilet facilities in such structure and shall cause such facilities to be connected to the available public sanitary sewer system.

(B) *Penalties for late connection.* Failure or refusal to connect to the system within the time prescribed in § 68-142 shall result in the property being charged a penalty of \$100 for each single-family residential unit multiplied by the number of units or multiplying factors as established by the table of unit factors.

(C) *Civil penalties.* If any structure wherein sanitary sewage originates is not connected to the system 90 days after the date of mailing or otherwise serving notice to connect set forth in § 68-142, the city may bring an action for mandatory injunction or injunctive order in any court of competent jurisdiction in the county to compel the owner of the property on which the structure is located to connect to the system. The city may charge in such action any number of owners of such properties to compel the persons to connect to the system.

§ 68-142 CONNECTION PROCEDURES.

(A) The connection required in § 68-141 shall be completed promptly but in no case later than 90 days from the date of the occurrence of the last of the following events:

(1) Publication of a notice by the City Clerk of the availability of the public sanitary sewer system in a newspaper of general circulation within the city and the mailing of written notice indicating the availability of the public sanitary sewer to the owner or any of the owners in the case of co-ownership of the property in question;

(2) Modification of a structure so as to become a structure where sanitary sewage originates;

(3) Improvement of land with building or structures from which sanitary sewage originates.

(B) If the owner of property on which is located a structure in which sanitary sewage originates does not complete connection to an available sanitary sewer within the 90 day period described in subsection (A) of this section, the City Clerk shall notify such person by written notice that connection to the system is required forthwith. The giving of notice shall be made by first class mail to the owner of the property on which the structure is located or by posting such notice on the property. Notice shall provide the owner with the approximate location of the public sanitary sewer system which is available for connection of the structure involved and shall advise the owner of the requirements and the enforcement provisions of this Code.

(C) If the property owner is unable to connect to the system within the time prescribed by this section because of inclement or adverse weather conditions, the property owner may appeal to the utility board of appeals, established pursuant to § 68-5, to allow the person additional time in which to connect without

penalty and without civil and criminal proceedings being initiated against him. The appeal shall be made in writing within 10 days of notice of sanitary sewer availability as set forth in this section.

§ 68-143 PRIVATE SEWAGE DISPOSAL.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited upon any public or private property within the city or any area under its jurisdiction any human excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet any sanitary sewage, industrial waste or other polluted water except where suitable treatment has been provided in accordance with the provisions of this article.

(C) Except as provided in this article, it shall be unlawful to construct any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage or industrial waste.

(D) Where a public sanitary sewer is not available under the provisions of §§ 68-141 and 68-143, the building sewer shall be connected to a private sanitary sewer disposal system which shall be approved by the County Health Department.

(E) At such time as the public sanitary sewer system becomes available to premises served by a private sanitary sewage disposal system, connection to the public system shall be made in compliance with this article, and any septic tank, cesspool and similar private disposal facilities located thereon shall be abandoned in accordance with County Health Department regulations and discontinued for sanitary sewage disposal use.

(F) All private sanitary sewage disposal systems maintained in compliance with this article shall be maintained in a sanitary manner at all times at the sole expense of the owner thereof.

(G) All abandoned private sanitary sewage disposal systems shall be completely filled with earth, sand, gravel, concrete or other approved material. Upon the abandonment or discontinuation of use of a septic tank or privy, the sewage and sludge contents thereof shall be completely removed and disposed of by a septic tank cleaner who is duly licensed. The tank or the pit, in the instance of a privy, shall be treated with at least 10 pounds of chlorinated lime or other chemical or disinfectant acceptable to the health officer, and the tank or pit shall be completely backfilled with approved material and made safe from the hazard of collapse or entrapment.

§§ 68-144 – 68-158 RESERVED.

DIVISION 3. BUILDING SEWERS AND CONNECTIONS

§ 68-156 BUILDING SEWERS.

(A) A separate and independent building sewer (lead) shall be provided for every building.

(B) All costs and expenses incident to the installation of the building sewer and the connection of the building sewer to the public sewer shall be borne by the property owner.

(C) All building sewers (leads) shall meet or exceed the requirements of this Code.

(D) Building sewers shall consist of pipes and fittings of the following types and sizes:

(1) Pipe must be of sufficient diameter to carry the estimated volume of discharge. Minimum pipe size permitted is 4 inch ID;

(2) Pipe must be 1 of the following materials and cannot be mixed in the connection lines to include the fittings:

(a) Cast iron with rubber-type gaskets;

(b) Cast iron NH pipe with neoprene stainless couplings;

(c) Ductile iron with rubber-type gaskets, slip joint or mechanical joint;

(d) Vitrified clay tile with ASTM C425 joints;

(e) Reinforced concrete with ASTM C443 joints;

(f) PVC plastic, schedule 40 or better;

(3) No tees, double tees, or crosses or double hub pipes shall be permitted; and

(4) All changes in grades or direction shall be made with appropriate fittings.

(E) Cleanouts shall be installed every 50 feet of straight run and at each 45 degree direction change, and all cleanouts shall be plugged. All cleanouts shall be the same diameter as the pipe they serve.

(F) All lines shall be laid at a minimum slope of 1/8 inch per foot grade and a maximum slope of 1/2 inch per foot grade for 4 inch lines and a minimum of 1/8 inch per foot grade and a maximum 1/2 inch per foot grade for 6 inch lines.

(G) The method to be used in excavating, placing of pipe, jointing, testing and backfilling the trench shall conform to the requirements of the Plumbing Code rules (Part 7) issued by the State Department of Labor Construction Code Commission and the regulations of the city, where applicable.

(H) No building sewer shall be laid within 3 feet of any bearing wall. The depth shall be sufficient to afford protection from frost.

(I) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by a pumping system and discharged to the building sewer.

(J) All excavation for building sewer installation and connection shall be adequately guarded by barricades and lighting so as to protect the public from hazard. Streets, sidewalks, alleys, parkways and other

public property disturbed in the course of the installation and connection work shall be restored in a manner satisfactory to the city.

§ 68-157 CONNECTIONS AND PERMITS.

(A) No person shall uncover, make any connections with or openings into, alter or disturb any public sewer or appurtenance thereto without first obtaining a written connection permit from the city. Each non-domestic user shall be required to submit to the POTW superintendent in such form as the superintendent shall require a baseline monitoring report.

(B) The fee, if any, for the connection permit shall be an amount established by resolution of the City Council from time to time to recover the actual costs to city of the granting and administration of the permit.

(C) The owner or contractor applying for a connection permit will provide the city a sketch of the installation showing all dimensions, directions and such other information concerning the installation as shall be requested by the City. The owner or contractor will receive one copy of the connection permit. A second copy will remain the property of the city.

(D) No connection to the system will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for treatment of BOD and suspended solids.

(E) All connections to the system will be made by a licensed contractor or plumber; provided, however, that a property owner may make his own installation and connection in accordance with the requirements of this article and law so long as he has secured a connection permit.

(F) All licensed contractors and plumbers making connections to the systems shall file with the city a copy of their plumber's or contractor's license from the state and a copy of their liability insurance prior to performing any connections to the system.

(G) No person shall connect roof downspouts, foundation drains, areaway drains or any sources of surface water or groundwater to a building sewer which in turn is connected to the system.

(H) No building sewer shall be covered until after it has been inspected and approved by authorized personnel of the city or its designee. No building sewer may be used until finally approved after the trench is backfilled and an air test is conducted.

§§ 68-158 – 68-170 RESERVED.

DIVISION 4. PUBLIC SEWER USE

§ 68-171 STORMWATER, GROUNDWATER AND UNPOLLUTED WATER.

(A) No person shall discharge or cause to be discharged any storm water, surface water, groundwater or roof water to any sanitary sewer.

(B) Storm water, groundwater and all other unpolluted drainage shall be discharged into storm drains or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged, upon application to and approval by the city, to a storm drain or natural outlet.

§ 68-172 PROHIBITED DISCHARGES.

The following discharges to the public sewer system shall be prohibited.

(1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit or of a temperature which causes the influent to the treatment plant to exceed 104 degrees Fahrenheit, whichever is lower.

(2) Any gasoline, benzene, naphtha, fuel oil, petroleum oil, non-biodegradable cutting oil products or mineral oil in amounts that would cause interference or pass through, or other flammable or explosive liquid, solid or gas.

(3) Any garbage that has not been properly shredded.

(4) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, paunch manure or any other solid or viscous substance capable of causing obstruction to flow in sewers or other interference with the proper operation of the sewage works.

(5) Discharges greater than the following concentrations of specific pollutants:

<i>Daily Maximum (24 hour composite) – unless otherwise specified below</i>	
BOD (biochemical oxygen demand)	1600 mg/l
Total suspended solids	2200 mg/l
Total phosphorus	30 mg/l
Fats, Total (Grab)	250 mg/l*
Fats, Non-polar (Grab)	50 mg/l
Phosphorus	30 mg/l
Ammonia-N	22mg/l
pH (Grab)	Lower than 6.0 or higher than 9.0*

<i>Inorganics</i>	
Aluminum	2.1 mg/l
Arsenic	0.26 mg/l
Beryllium	0.01 mg/l
Cadmium	0.032 mg/l
Chromium	1.2 mg/l
Copper	0.9 mg/l
Available Cyanide ¹ (Grab)	0.03 mg/l*
Lead	0.16 mg/l
Total mercury ³	Non-detect
Molybdenum	0.18 mg/l
Nickel	0.25 mg/l
Selenium	0.09 mg/l
Silver	0.014 mg/l
Zinc	1.4 mg/l

Notes:

1 Nondetectible per U.S. EPA method 245.

2 Nondetectible per U.S. EPA method 608.

3. Nondetectible per U.S. EPA method 245.1 at a detection level of 0.2 µg/l.

* Based on daily mean calculated from a minimum of 4 appropriately spaced grab samples in lieu of 24-hour composite.

A user shall comply with all categorical pretreatment standards and any other pretreatment requirements established under §§ 307(b), 307(c), or 402(b)(8) of the Act (33 U.S.C. 1347) that are applicable to that user. If a categorical pretreatment standard and another limit contained in this article regulate any same pollutant, then the more restrictive of the two shall apply.

Future conditions imposed on the city by government agencies with proper jurisdiction may require

subsequent amendment of this subsection by the city. Where federal or state promulgated pretreatment standards require limits on parameters not covered in this subsection or limits more stringent than those specified in this subsection, the state or federal limits shall have precedence and take effect with respect to the applicable user on the later of: (i) their promulgation date, or (ii) the date specified for compliance with such standards.

(6) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

(7) Any pollutants to the POTW that result in toxic gases, vapors, foam, and/or fumes in quantities that might cause worker health and safety problems, or any malodorous gas or liquid substances capable of creating a public nuisance.

(8) No industrial waste that may cause a deviation from the NPDES permit requirements, pretreatment standards and all other state and federal regulations.

(9) Any waters or wastes having a pH lower than 6.0 or higher than 9.0 or having any other corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the wastewater system.

(10) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the city in compliance with the applicable state or federal regulations.

(11) Any discharge to the sewer which will result in a nuisance or contamination or pollution of receiving waters.

(12) Any discharge which would violate any statute, rule, EPA regulation or ordinance of any public agency.

(13) Any pollutants with a closed cup flash point of less than 140 degrees Fahrenheit.

(14) Any trucked or hauled wastes to POTWs, except at discharge points designated by the POTW. Any truck waste which is targeted for discharge into the POTW system must receive written permission from the city prior to discharge. A report and waste analysis must be prepared indicating what type of waste is going to be discharged and in what condition the pollutant will be.

§ 68-173. GREASE, OIL AND SAND INTERCEPTORS OR TRAPS.

(A) Interceptors/traps required.

(1) Grease interceptors/traps shall be provided and maintained in proper operating condition at all times at the expense of the property owner for the proper handling of liquid waste containing grease. Grease interceptors/traps shall be required for all food service establishments and may be required for other users as determined necessary by the POTW superintendent. Grease interceptors shall be sized, constructed, and installed as required by the City's specifications and subject to the POTW superintendent's approval. At a minimum, grease interceptors, traps shall be cleaned and maintained per the manufacturer's specifications and as provided by this section at the property owner's expense.

(2) Oil and sand interceptors/traps may be required in any establishment where sand, oil, and flammable wastes or other harmful ingredients could enter the wastewater. If a plug or backup occurs and is directly caused by sand and/or oil, the POTW superintendent may require that establishment to install an oil and sand interceptor/trap. Oil and sand interceptors/traps are required for establishments engaged in the washing of motor vehicles.

(3) All interceptors/traps shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. Grease, oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted into place, shall be gas tight and watertight. Grease interceptors shall provide a minimum capacity of seven hundred fifty (750) gallons.

(4) Where installed, all grease, oil and sand interceptors/traps shall be cleaned and maintained by the owner, at the owner's sole expense, and shall be kept in continuously efficient operation at all times. At a minimum, any user required to install an interceptor shall comply with the best management practices as provided.

(B) Best management practices ("BMPs")

(1) Any user required to install and maintain an interceptor (trap) of any kind shall develop and carry out a system of maintenance and clean out of such device(s) and shall document and keep:

- a. A maintenance schedule;
- b. the identity of the person(s) who cleaned and maintained the interceptor;
- c. The method and location of grease, oil and sand disposal.

(2) Any problems with or damage to an interceptor/trap shall be reported immediately to the owner and the POTW superintendent.

(3) Any damage to an interceptor/trap shall be immediately repaired.

(4) No interceptor/trap clean out material shall be discharged into a sewer.

(5) No bacteria or enzyme products shall be used in the maintenance of the interceptor/traps.

(6) All users shall implement BMPs for grease management to minimize the discharge of food grease to the POTW.

(7) Specific BMPs for grease interceptors/traps. All users required to install and maintain grease interceptors (traps) shall comply with the following minimum requirements:

- a. Under sink grease traps shall be cleaned at least weekly.
- b. Clean outs of all other interceptor/traps shall be scheduled such that the interceptor/trap does not exceed twenty-five (25) percent solids content (including both the top and bottom layers of solids) and there is no visible discharge of grease or oil. At a minimum, an

interceptor/traps shall be cleaned out at least once every three (3) months.

c. The cleanout shall be accomplished by pumping to remove the entire grease mat, liquids, sludges, and solids from screens, baffles, air-relief chambers, and wash down of interior walls. The interceptor/trap shall be refilled with clear water before being returned to service.

d. The user shall witness all clean out and maintenance of interceptor/traps.

(C) Documentation available for review

The documentation required by this section shall be available for review by the POTW and copies shall be provided to the POTW upon request.

(D) Right to inspect

The POTW shall have the right to inspect a restaurant (or other establishment where an interceptor/trap is required) at any time for any reason.

(E) Failure to comply

The failure of a restaurant (or other establishment where an interceptor/trap is required) to comply with this section may subject the violator to enforcement action and remedies as may be available by law and the terms of this article.

(F) Failure to maintain required interceptor/trap

If a user fails to provide or maintain a required interceptor/trap, the City may do so (or cause the same to be done) and charge the costs to the user.

§ 68-174 PRELIMINARY TREATMENT.

The admission into the public sewers of any waters or wastes:

(1) Containing a 5 day BOD greater than 300 mg/l or containing more than 350 mg/l of suspended solids or 10 mg/l of phosphorus;

(2) Containing any quantity of substances having the characteristics described in § 68-172; or

(3) Having any average daily flow greater than 2% of the average daily flow of the city shall be subject to review and approval of the city. Preliminary treatment shall be provided, at no expense to the city, as may be necessary to reduce the BOD to 300 mg/l and suspended solids to 350 mg/l or to reduce objectionable characteristics of the effluent to within the maximum limits provided for in § 68-172 or to control the quantity and rates of discharges of such waters or wastes. On direction of the city, a person may be required to remove, exclude, or require pretreatment of any industrial waste, in whole or in part, for any reasons deemed to be in the city's interest. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained in satisfactory and effective operation at no expense to the city. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall

be submitted for approval to the city, and no construction of such facility shall be commenced until the approvals are obtained in writing. The city may elect to treat industrial wastes discharged in excess of normal domestic concentrations on a basis prescribed by written agreement and for an established surcharge to cover the added cost. All such preliminary treatment or pretreatment shall be in accordance with federal and state laws and regulations, including §§ 68-186 *et seq.* All expenses of city services of such preliminary treatment facilities, plans and specifications shall be borne by the owner.

(A) Grinder Pump Station Required.

1.) Grinder pump station shall be provided and maintained in the proper operating condition at all times at the expense of the property owner for the proper handling of liquid waste containing any materials which would be capable of causing an obstruction to flow in sewers or other interference with the proper operation of the sewage works.

2.) Grinder pumps will be required for any non-domestic user whom may have the potential of discharging any material which may cause obstruction to sewer flow. Grinder pumps may be required for other users as determined necessary by the POTW superintendent.

3.) Grinder pump stations shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning, inspection, and maintenance.

4.) Each property owner served by a grinder pump shall close the sewage system and cease operations during any period when the grinder pump and/or low pressure system serving a property is inoperable.

A) Each property owner served by a grinder pump shall bear full responsibility for providing, installing, using, operating, maintaining, servicing, repairing, and replacing his/her grinder pump and/or its low pressure force main or lateral, unless otherwise set forth herein.

§ 68-175 INDUSTRIAL WASTES.

(A) The owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans and specifications approved by the city. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(B) All measurements, test and analyses of the characteristics of waters and wastes to which references are made in §§ 68-172 and 68-174 shall be determined in accordance with Guidelines Establishing Test Procedures for Analysis of Pollutants, Federal Regulation, 40 C.F.R. 136 as amended, published in the Federal Register, and shall be determined at the control manhole provided for in subsection (A) of this section or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(C) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or

character may be accepted by the city, subject to payment of surcharge by the industrial concern.

§ 68-176 GENERAL/SPECIFIC PROHIBITIONS.

(A) *Allowable bypasses.* An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (C) and (D) of this section.

(B) *Notice.*

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least 10 days before the date of the bypass if possible.

(2) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C) *Conditions.*

(1) Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass, unless:

(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 wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The industrial user submitted notices as required under subsection (C) of this section.

(2) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the 3 conditions listed in subsection (C)(1) of this section.

§§ 68-177 – 68-185 RESERVED.

§ 68-186 PURPOSE AND POLICY.

(A) This division sets forth requirements for dischargers into the POTW wastewater collection systems, treatment systems, surface waters, ground waters, storm sewers, septic systems, dry wells or on the ground and enables the city POTW to protect public health, the environment and the POTW in conformity with all applicable local, state and federal laws relating thereto.

(B) The objectives of this division are to:

- (1) Control or prevent the introduction of pollutants into the municipal wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;
- (2) Control or prevent the introduction of pollutants into the municipal wastewater system which do not receive adequate treatment in the POTW and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) Improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- (4) Control or prevent discharges or potential discharges (storage of materials) to systems or areas under the jurisdiction of the city that may impair the environment.

(C) The city will be responsible for the monitoring of the pretreatment program, unless the industrial user has written permission from the city to perform its own monitoring. If the city performs the monitoring, it has the right to demand reimbursement of all labor, maintenance and lab fees associated with the monitoring period. If the industrial user has written permission to perform its own monitoring, the industrial user must notify the POTW within 24 hours of a violation. It is also required that the industrial user resample and resubmit the results within 30 days to the POTW.

§ 68-187 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 article, and with other applicable laws and regulations. This authority includes but is not limited to the authority:

- (1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.
- (2) To determine compliance with the requirements of this article or with wastewater discharge permits.
- (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 wastewater discharge 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.

(B) *Right of entry.* The POTW superintendent and other authorized representatives of the City bearing proper credentials and identification are authorized to enter any premises which is connected to the POTW to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this article, and in that regard shall have, but shall not be limited to, the following 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 article, 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 discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the discharger to do so, at the discharger'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 article, could originate, be stored, or be discharged to the POTW.
- (5) To enter all private properties through which the City 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 with the easement.

City representatives entering a user's premises for purposes authorized by this article 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.

(C) *Access without delay required.* Users shall allow the POTW ready access at all reasonable times to all parts of the user's facility where wastewater governed by this article is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this article 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 article, the POTW superintendent may order the termination of the discharge of wastewater to the POTW; order the user to permit access within a certain time; issue the user a notice of violation of this section; or take other appropriate action as provided by this article and other applicable laws and regulations, including, but not limited to, obtaining a court order.

§ 68-188 LIMITATION ON WASTEWATER STRENGTH.

(A) *National categorical pretreatment standards.* National categorical pretreatment standards, as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act (33 U.S.C. 1345 *et seq.*) and as adopted as Appendix C to this article, which appendix is on file in the office of the City Clerk, shall be met by all dischargers of the regulated industrial categories. An application for modification of the national categorical pretreatment standards may be considered for submittal to the regional administrator by the approval authority, when the approval authority's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 C.F.R. 403.7.

(B) *State requirements.* State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable ordinance.

(C) *Right of revision.* The approval authority reserves the right to amend this article to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in § 68-186.

(D) *Dilution.* No discharger shall increase the use of potable or process water in any way nor mix

separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this article.

(E) *Notice of potential problems.* All categorical and noncategorical industrial users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined by 40 C.F.R. 403.5(b), by the industrial user.

(F) *Net/gross and federal categorical pretreatment standards.* A user may apply to the city for an adjustment in a federal categorical pretreatment standard to reflect the presence of pollutants in the user's intake water in accordance with 40 C.F.R. 403.15. If such an adjustment is made, the adjusted federal categorical pretreatment standard shall apply, provided the adjustment will not result in interference or pass through.

(G) *Removal credits.* Removal credits will be awarded to those POTWs who follow the requirements set in 40 C.F.R. 403.7.

(H) *RCRA notification.* It is the responsibility of the industrial user to notify the POTW, the EPA Regional Waste Management Director, and the state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. 261.

§ 68-189 POTW'S RIGHT TO REFUSE OR CONDITION DISCHARGE; POLLUTANT REDUCTION PLANS, BEST MANAGEMENT PRACTICES.

(A) In General.

The POTW may refuse to accept, or may condition the acceptance of, all or any portion of any proposed or existing discharge to the POTW, regardless of whether or not a wastewater discharge permit has been issued for the discharge, if the POTW superintendent 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 superintendent denies any person permission to commence or continue all or any portion of a discharge or shall immediately terminate the 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 superintendent. Similarly, if the POTW superintendent 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 superintendent, the person shall refrain from commencing or continuing the discharge except in full compliance with those conditions. Conditions may include, but are not limited to, the imposition of surcharges, pretreatment requirements, reduction plans, best management practices, and any other conditions or requirements, or combination thereof, determined necessary by the POTW superintendent to comply with the purposes and requirements of this article. The failure to comply with any condition or requirement imposed under this section or other provisions of this article constitutes a separate violation and shall be subject to fines, penalties and other sanctions as provided by this article.

(B) The POTW Authority and the industry may enter into an agreement under which the Authority may treat a particular waste, subject to payment therefor by the industry, unless prohibited by state or federal law.

(C) Pollutant reduction plans.

If determined necessary by the POTW superintendent 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 article, any user determined by the POTW superintendent 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 wastewater discharge permit, or may be required independently by order of the superintendent and even if a wastewater discharge permit has been issued to the user.

(1) At a minimum, the RP shall contain such requirements and conditions, as determined necessary by the POTW superintendent to ensure that the pollutant reduction efforts will be effective in achieving the goals of this article (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 superintendent).

(2) The goals 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, to minimize discharge of a pollutant as much as possible, or such other goals as required by the POTW. The POTW superintendent may, in the superintendent's discretion, consider cost-effectiveness during the development and implementation of an RP.

(3) The POTW superintendent may require any user to submit an RP that describes the control strategy designed to proceed toward achievement of the specified goal and which shall at a minimum include, but shall not be limited to, all of the following as determined necessary by the POTW superintendent 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 superintendent.

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 superintendent, the superintendent may require a user to develop, submit and implement an RP for any pollutant or substance regulated by this article.

(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 article, subject to the fine, penalty, and other enforcement provisions of this article.

(6) Holding enforcement action in abeyance. If the effluent sample analysis results in a user's discharge exceeding the applicable discharge limit, detection level, or quantification level for a pollutant, the POTW superintendent may, in the POTW superintendent'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 as follows:

a. If an approved RP is already in place: If effluent sample analysis results exceed the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is already in place, then the POTW superintendent may, in the POTW superintendent'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 requirement thereof) is being fully and continually performed in good faith by the user, as determined by the POTW superintendent, and subject to all of the requirements and conditions of this section.

b. If an approved RP is not already in place: If effluent sample analysis results exceed 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 superintendent may, in the POTW superintendent'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 this section, and provided further as follows: The user with the non-compliant discharge shall develop and implement an RP approved by the POTW superintendent 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.

c. The following requirements and conditions shall apply to any situation under this subsection 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. All costs and expenses for and related to the installation and maintenance of this monitoring point and any required

sampling devices shall be paid or solely by the user.

(ii) The user with the non-compliant discharge shall routinely self-monitor its discharges and report results to the POTW for the pollutant in question using the sampling methods, procedures, preservation and handling, and analytical protocol required by the POTW superintendent and at the frequency specified by the POTW superintendent. 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 superintendent, 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 superintendent, and if the POTW superintendent determines that all reasonable and cost-effective actions based on the economic, technical, and treatability consideration, 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 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 superintendent 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.

(vi) Notwithstanding any provision of this subsection to the contrary, the POTW superintendent shall not hold an enforcement action in abeyance as provided by this subsection unless the POTW superintendent has first obtained approval from 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.

(D) Best Management Practices.

(1) The POTW superintendent 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 superintendent.

(2) In addition, the POTW superintendent 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 superintendent. The BMPP shall be submitted within thirty (30) days after notification by the superintendent or as otherwise required by a wastewater discharge permit or order. 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 superintendent, at a level of detail and in units and terms as determined necessary by the superintendent to adequately evaluate the plan:

- a. A statement of the purpose and objectives of the plan.
- b. 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.
- c. A description of the options available to the user to control accidental spillage, leaks and drainage.
- d. A description of best available or practicable control technologies available for the user's specific circumstances.
- e. A detailed facility layout and site diagram showing points of entry in the POTW.
- f. A description of the waste handling, treatment and discharge disposal facilities, including flow diagrams and process schematics.
- g. A description of operating and maintenance processes and procedures.
- h. An inventory of raw materials and a list of waste sources, including a list of all chemicals used or stored at the facility.
- i. A description of employee training programs, policies and procedures; continuing education programs; and participation.
- j. A description of documentation, including record keeping and forms.
- k. A description of monitoring activities.
- l. An information log of facility personnel, organization chart, emergency phone numbers, contact person and maintenance or service representatives.
- m. 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.
- n. Such other information, documents or diagrams as require by the POTW superintendent, including, but not limited to, any of the information required under section 68-191 of this article.

(3) The BMPs or BMPP required of a user or approved for a user may be incorporated into a wastewater discharge permit issue to the user. If the user already has a wastewater discharge permit, the existing permit may be modified to incorporate the BMP requirements. If the user does not currently have a wastewater discharge permit, a permit may be issued for that purpose. Alternatively, BMPs or a BMPP may be required of a user independently by order of the superintendent and even if a wastewater discharge permit has not been issued to the user..

(4) The POTW superintendent may require revisions to users' BMPP if the superintendent determines that the plan contains elements that are inadequate, or as otherwise determined necessary by the

superintendent to ensure compliance with applicable requirements of this article. Review of a BMPP by the superintendent shall not relieve the user from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

(E) Mercury Discharge Limits.

The instantaneous maximum concentration, daily maximum and monthly average discharge limits for mercury are non-detect when utilizing U.S. EPA Method 245.1 with a detection limit of 0.0002 mg/L.

(1) *Discharge of detectable mercury prohibited; determining compliance.* To determine compliance with the instantaneous maximum concentration, daily maximum and monthly average discharge limits for mercury a user's discharge shall be sampled and analyzed for "detectable mercury." For the purpose of this article detectable mercury is defined to mean any wastewater, pollutant or substance containing mercury at or above the quantification level of the minimum mercury sampling and analytical protocol and methods required by this article or other more stringent methods required by the POTW superintendent.

(2) *Minimum sampling and analytical protocol and methods.* Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user's discharge shall be in accordance with the U.S. EPA Method 245.1.

a. For Method 245.1, the quantification level shall be 0.0002 mg/l, unless higher quantification levels are determined appropriate by the POTW superintendent because of sample matrix interference. Any discharge of mercury at or above 0.0002 mg/l using U.S. EPA Method 245.1 is prohibited as a discharge of detectable mercury.

§ 68-190 SPILL PREVENTION.

(A) *Required.* Each sewer system user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide for this protection shall be approved by the city before construction of the facility. No user who commences contribution to the POTW shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. Copies of the user's spill prevention control and countermeasure (SPCC) and the pollution incidence prevention plan ("PIPP") shall be filed with the city. Each user required to develop a PIPP 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 MCLA §§ 324.3101 et seq., as amended), shall submit a copy of that plan to the POTW superintendent. The PIPP shall be submitted to the superintendent within sixty (60) days of the effective date of this article for an existing source, or thirty (30) days prior to the date of discharge for a new source.

(B) Secondary Containment Requirements.

(1) Each 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 article.

(a) 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.

(b) The containment or curbing shall be sufficient to hold not less than ten (10) percent of the total volume of the tanks or containers within the secondary containment structure or provide a capacity of one hundred (100) percent of the largest single tank or container within the secondary containment structure, whichever is larger, unless a lesser containment area or alternate control measures are approved in advance by the POTW superintendent.

(c) The containment structure must accommodate "squirt distance." Containers within the containment structure must be able to be placed sufficiently back from the edge of the structure so if punctured, the resulting leak will be contained.

(d) The containment structure must be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25 year, 24-hour rainfall event.

(e) The containment structure shall be constructed with chemical-resistant water stops in place at all joints (if any) and be free of cracks or gaps.

(f) The containment structure shall be designed and installed to completely surround the tank or containers and to cover all surrounding earth likely to come into contact with the waste if released from the tank(s) or containers (i.e., capable of preventing lateral as well as vertical migration of the material).

(g) All floor drains found within the containment area must be plugged and sealed.

(2) Spill troughs and sumps within process areas must discharge to appropriate pretreatment tanks.

(3) Emergency containment shall also be provided for storage tanks that may be serviced by commercial haulers and for chemical storage areas.

(4) Solid pollutants shall be located in secure areas designed to prevent the loss of the materials to the POTW.

(5) Detailed plans showing facilities and operating procedures to provide the protection required by this section shall be submitted to the POTW superintendent for review, and shall be approved by the superintendent before construction. Construction of approved containment for existing sources shall be completed within the time period specified by the POTW superintendent.

(6) 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.

(7) The POTW superintendent may order a user to take interim measures for emergency containment as determined necessary by the superintendent under the circumstances.

(C) *Immediate notice.* For an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of the discharge, type of waste, concentration and volume and corrective actions.

(D) *Written notice.* Within 48 hours following an accidental discharge, the user shall submit to the POTW superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property, nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

(E) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call if a dangerous discharge occurs. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(F) *Defense.* A documented and verified, bona fide operating upset shall be an affirmative defense to any enforcement action brought by the city POTW against a discharger for any noncompliance with this article or any wastewater discharge permit, contract or waiver, pursuant to this article, which arises out of violations alleged to have occurred during the period of the upset.

§ 68-191 FUNDING OF PRETREATMENT PROGRAM.

To pay the costs of operating the city's pretreatment program, the city shall adopt charges and fees in accordance with the standards set forth in Article III. The fees and charges may include the following:

- (1) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
- (2) Fees for monitoring, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit applications;
- (5) Fees for filing appeals;
- (6) Fees for consistent removal by the city of pollutants otherwise subject to federal pretreatment standards;
- (7) Other fees as the city may deem necessary to carry out the requirements of this division.

§ 68-192 WASTEWATER DISCHARGE AND WASTEWATER CONTRIBUTION PERMITS.

(A) It shall be unlawful to discharge without a city permit to any natural outlet within the city or in any area under the jurisdiction of the city or to the POTW any wastewater except as authorized by the superintendent in accordance with this article.

(B) All major contributing industries proposing to connect to or contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW.

(C) Users required to obtain a wastewater contribution permit shall complete and file with the city an application in the form prescribed by the city and accompanied by a fee. Proposed new users shall apply for a wastewater contribution permit at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the information required. The following information shall also be submitted:

(1) A base line monitoring report (BMR) must be submitted at least 90 days prior to commencement of the discharge. The required sampling, for BMRs, will be based on both grab samples and composite samples. If known pollutants which are limited by the city, state, or federal agency are discovered in the discharge, a statement must be prepared regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance or additional pretreatment is required for the user to meet applicable pretreatment standards;

(2) If additional pretreatment or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment shall be submitted to the superintendent. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing final plans, executing contract for major components, commencing construction, completing construction, and the like);

(b) No increment referred to in subsection (C)(2)(a) of this section shall exceed 9 months;

(c) Not 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 superintendent, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. No more than 9 months shall elapse between such progress reports to the manager.

(3) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(D) Within 9 months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by this section, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within 180 days after the

promulgation of an applicable federal categorical pretreatment standard the information required by this section.

(E) Permits may contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (2) Limits on the maximum wastewater constituents and characteristics;
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards of tests and reporting schedule;
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports;
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording the city access thereto;
- (9) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater system;
- (10) Requirements for notification of sludge discharges;
- (11) Other conditions as deemed appropriate by the city to ensure compliance with this article.

(F) Permits shall be issued for a specified time period, not to exceed three years. A permit may be issued for a period less than one year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the user's permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(G) Wastewater contribution permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the city. If a transfer is granted, a copy of the existing control mechanism must be provided to the new owner or operator.

(H) Any user, categorical or noncategorical, issued a wastewater discharge permit shall submit to the superintendent during the months of June and December, unless required more frequently, a report indicating the nature and concentration of pollutants in the effluent and any other information the superintendent deems

necessary as listed in § 68-174.

(I) The superintendent may impose mass limitations on users in cases where they are appropriate. In such cases, the report required by subsection (H) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(J) Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the facility. The review of plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(K) A user to which a promulgated federal categorical pretreatment standard applies shall achieve compliance with such standard within the shortest time feasible, not to exceed 90 days.

(L) The surveillance reports referred to in this article shall be signed as follows:

(1) By a responsible corporate officer, if the user submitting the reports is a corporation. The term "responsible corporate officer" means:

(a) 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

(b) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) By a general partner or proprietor, if the user submitting the reports is a partnership or sole proprietorship, respectively.

(3) By a duly authorized representative of the individual designated in subsection (L)(1) or (2) of this section, if:

(a) The authorization is made in writing by the individual described in subsection (L)(1) or (2) of this section;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager or a position of equivalent responsibility for environmental matters for the company; and

(c) The written authorization is submitted to the superintendent.

(4) If an authorization under this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this subsection must be submitted to the superintendent prior to or together with any reports to be signed by an authorized representative.

(5) Compliance reports by non-domestic users must contain the certification statement required by 40 CFR 403.6(a)(2)(ii).

(M) It is the responsibility of the permitter to notify the new permittee, at the time that the permit is granted, of all specifications and regulations that the permittee is responsible to comply with.

§ 68-193 CONFIDENTIAL INFORMATION AND PUBLIC RECORDS.

Information and data furnished to the city POTW with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the city POTW that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharger. When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon request to governmental agencies for uses related to this article, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Any request that data be kept confidential must be asserted at the time of submission of the information or data. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the city POTW as confidential shall not be transmitted to any governmental agency or to the general public in the city until and unless a 10 day (optional) notification is given to the discharger.

§ 68-194 ENFORCEMENT.

(A) *Emergency suspension of service and discharge permits.* The city POTW may for good cause shown suspend the wastewater treatment service, the water supply service, and/or the wastewater discharge permit of a discharger when it appears to the city POTW that an actual or threatened discharge presents or threatens:

- (1) A violation of the NPDES permit;
- (2) An imminent or substantial danger to the health or welfare of persons;
- (3) An adverse impact to the environment;
- (4) Interference with the operation of the POTW;
- (5) Violation of any pretreatment limits imposed by the city pursuant to this article; or
- (6) Violation of any wastewater discharge permit issued by the city pursuant to this article.

Any discharger notified of the suspension of the city POTW wastewater treatment service, the water supply service, the discharger's wastewater permit, contract or waiver shall, within a period of time as

determined by the approval authority, cease all discharges or be subject to utility cutoff or sewer blockage by the approval authority. If the discharger fails to comply voluntarily with the suspension order within the specified time, the city POTW shall notify the Michigan Department of Environmental Quality and commence judicial proceedings immediately thereafter to compel the discharger's compliance with such order. The city POTW shall reinstate the wastewater discharge permit, contract or waiver or the wastewater treatment service and terminate judicial proceedings upon proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat as set forth in this subsection.

(B) *Revocation of permit, contract or waiver.* The city POTW may revoke the permit, contract or waiver of any discharger which fails to:

- (1) Factually report the wastewater constituents and characteristics of its discharge;
- (2) Report significant changes in wastewater constituents or characteristics;
- (3) Refuses reasonable access to the discharger's premises by representatives of the POTW or the Michigan Department of Environmental Quality for the purpose of inspection or monitoring; or
- (4) Violates the condition of its permit, contract, waiver or this article or any final judicial order entered with respect thereto.

(C) *Notice of violation.* Upon determination by the POTW that a user has violated any provision of this Ordinance, an Industrial Discharge Permit or order issued hereunder, or any other Pretreatment Standard or requirement, the POTW shall serve or cause to be served upon such discharger a written notice, either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation.

- (1) Unless otherwise specified by the NOV, the following provisions shall apply: Within thirty (30) days of the date of the NOV, the user shall submit to the POTW an 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 the receipt of the notice of violation. The POTW shall approve or reject the user's proposed plan after receipt thereof.
- (2) Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (3) Failure to comply with any requirement of a notice of violation shall constitute a separate violation of this article.

(D) *Orders.* The POTW superintendent may issue an order to any user as determined by the superintendent to be appropriate under the circumstances, as provide by this section. Multiple orders may be issued simultaneously or in combination as a single order with respect to a single discharger. Notwithstanding any provision of this article to the contrary, the POTW superintendent may issue any type of order or orders as determined necessary by the superintendent to comply with the intent and purposes of this article or other applicable laws and regulations.

- (1) *Service.* An order shall be served upon a user and shall contain the information as provided in section 68-194 (E) 2 of this article. 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 five (5) days by written confirmation of the order by the POTW superintendent.

(2) *Types of orders.* The POTW superintendent may issue the following types of orders:

(a) Order to immediately cease and desist discharge. The POTW superintendent may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this article. 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 superintendent shall implement whatever action is necessary to halt the illegal discharge. The user shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge or pollutants as provided by this article.

(b) Order to cease discharge within a certain time. The POTW superintendent may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this article by a certain time and date. The proposed time for remedial action shall be specified in the order. In addition to other circumstances as determined appropriate by the POTW superintendent, the failure to pay applicable permit fees or to comply with any term of a wastewater discharge permit constitutes sufficient cause to issue an order under this section.

(c) Order to effect pretreatment. The POTW superintendent may issue an order to a user requiring the user to pretreat its discharge in accordance with this article. 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 article. The plan shall be submitted to the POTW superintendent 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 superintendent. 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 superintendent.

- i. Retain a qualified engineer and/or consultant.
- ii. Obtain any engineering or scientific investigation or surveys deemed necessary.
- iii. Prepare and submit a preliminary plan to achieve pretreatment.
- iv. Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.
- v. Establish a time to let any contract necessary for any construction.
- vi. Establish completion times for any construction necessary.

- vii. Establish a time limit to complete full pretreatment pursuant to the final order.
- viii. If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phase or unit.

(d) Order to perform affirmative action. The POTW superintendent may issue an order requiring a user to perform any action determined necessary by the POTW superintendent under this article, including, but not limited to, 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.

(e) Order to terminate sewer services. The POTW superintendent may issue an order to terminate the sewer services of a user, including physical blockage of the user's sewer connection, for reasons including, but not limited to, the following:

- i. 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.
- ii. Failure of a user to notify the POTW of any discharge as described in section 68-172 of which the user was aware or reasonably should have been aware.
- iii. Failure of a user to sample, monitor, pretreat, report, or failure to install monitoring or pretreatment facilities, as required by an order of the POTW superintendent.
- iv. A knowing, willful violation of any term, condition or requirement of an order or wastewater discharge permit, or any provision of this article.
- v. A negligent violation of any major term, condition or requirement of an order or wastewater discharge permit. For purpose 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. It shall be a violation of this article for any person to remove or tamper with any physical blockage or bulkhead installed pursuant to an order under this article.
- vi. The POTW superintendent's determination that such an order is necessary to comply with the intent and purposes of this article or other applicable laws and regulations.

(3) *Immediate response to order 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 City shall take any action determined necessary as authorized by this article, including, but not limited to, immediate suspensions 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 City 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 superintendent within fifteen (15) days of the occurrence.

(4) *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 68-196 (A), the POTW superintendent 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.

(5) *Amendment, suspension and revocation of orders.* An order shall be subject to amendment, suspension or revocation as determined appropriate by the POTW superintendent. 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 article.

(6) *Consent orders and agreements.* The POTW superintendent 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, but not limited to, compliance schedules and stipulated fines and remedial actions.

(7) *POTW authority to require finance assurances.* The POTW may require a noncompliant user to post a performance bond (or other form of surety acceptable to the POTW superintendent) sufficient to cover expenses that might reasonably be incurred as a result of future violations. Users that have in the prior two (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 requirements may also be made conditions of a user's permit.

(E) *Service of notices of violations, orders and notices of assessments.* Except as otherwise expressly provided by this article, all orders, notices of violations and notices of assessments shall be served upon persons and shall contain the information as provided by this section.

(1) *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 City 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, but this shall not nullify any enforcement action subsequently taken by the POTW under authority of this article.

(2) *Contents.* All orders and notices shall contain at least the following information, as applicable to the situation and to the extent know by the POTW:

(a) The name and address of the violator;

- (b) The location and time that the violation occurred or was observed, and the duration of the violation;
- (c) The nature of the violation, including the provisions of this article or of any permit, order, decision, determination or agreement violated;
- (d) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
- (e) The amount of the fine, penalty or charge assessed or due, if any;
- (f) 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;
- (g) The remedial action ordered, the time within which require actions must be taken, and any consequences for failure to do so;
- (h) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures;
- (i) The date and time the order or notice was issued.

(3) *Request for additional information.* A person served may request additional information from the POTW superintendent 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.

(F) *Show cause hearing.* Where the violation of subsection (B) of this section is not corrected by timely compliance by means of administrative adjustment, the POTW may order any discharger which causes or allows conduct prohibited by subsection (B) of this section to show cause before the POTW or its duly authorized representative why the proposed revocation should not be taken. A written notice shall be served on the discharger by personal service, certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the POTW or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action and directing the discharger to show cause before the POTW or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than 10 days before the hearing. Service may be made on any agency, officer or authorized representative of a discharger. The proceedings at the hearing shall be conducted by the city POTW which shall then enter appropriate orders with respect to the alleged improper activities of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or state law.

(G) *Judicial proceedings.* Following the entry of any order by the city POTW with respect to the conduct of a discharger contrary to the provisions of subsection (B) of this section, the attorney for the POTW may, following the authorization of such action by the POTW, commence an action for appropriate, equitable relief in the appropriate court.

(H) *Publication of users in significant non-compliance.* The POTW shall publish once per year in the largest daily newspaper in the City a list of categorical industrial users that, at any time during the previous twelve (12) months, were in significant non-compliance with the applicable pretreatment standards or requirements. The POTW may similarly publish a list of non-categorical users found to be in significant non-compliance as determined appropriate by the POTW superintendent. For the purposes of this section, a user

shall be considered to be in significant non-compliance if its violations meet one or more of the following criteria:

- 1) Chronic violation of discharge limits, defined here as those in which sixty-six (66) percent 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 of a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1) for the same pollutant parameter;
- 2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit or the average limit numeric Pretreatment Standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats oil and grease, and 1.2 for all other pollutants, except pH);
- 3) Any other violation of a pretreatment effluent limit (daily maximum, or longer-term average) Standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- 4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- 5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;
- 6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
- 7) Failure to accurately report noncompliance;
- 8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program

(I) *Criminal Investigation; Imprisonment.* The City may initiate a criminal investigation which involves the study of facts used to identify, locate and prove the guilt of a criminal. A criminal investigation may include searches, interviews, interrogations, evidence collection and preservation, and various methods of investigation. The following provide the basis for a criminal investigation: Any person who

- (1) at the time of the violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this article or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this article; 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 article, or in any other correspondence or communication, written or oral, with the POTW regarding matters regulated by this article; or
- (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this article; or
- (4) maliciously or willfully breaks, damages, destroys, uncovers, defaces or tampers with any structure, appurtenance, or equipment that is part of the POTW; or
- (5) commits any other act that is punishable under state law by imprisonment for more than ninety-three (93) days.

Such person shall, upon conviction, be guilty of a misdemeanor punishable by a fine of five hundred dollars (\$500.00) per violation per day or imprisonment for up to ninety-three (93) days or both in the discretion of the court.

§ 68-195 PENALTIES.

(A) *Civil penalties.* Any discharger who is found to have violated an order of the POTW or who has failed to comply with any provision of this article and the regulations or rules of the POTW or orders of any court of competent jurisdiction or permits issued under this article may be subjected to the imposition of a civil penalty of \$500 per day for each day the violation occurs and a penalty of double any economic gain made by continuing operations during a violation.

(B) *Recovery of costs incurred by city.* Any discharger violating any of the provisions of this article or who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the POTW stormwater or wastewater disposal system shall be liable to the POTW for any expense, loss or damage caused by such violation or discharge. The POTW shall bill the discharger for the costs incurred by the POTW for any supervision, investigation, sampling, administration, cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this article enforceable under the provisions of this article. In addition, the charges which are made pursuant to this article are hereby made a lien on all premises served thereby, subject to the remedies described in § 68-102 of this chapter.

§ 68-196 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 68-196(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 article. 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 twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission contain the same information must be provided within five (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 of 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.

The above ordinance shall be passed to a second reading.

Second, _____ () Yeas. () Nays.

Dated: _____, 2014.

Carrie Burch, Mayor

Ginger Terpstra, Clerk