

CHAPTER 19 - SEWER AND WATER

19A-1 PURPOSE OF CHARGES, RATES, AND FEES. The charges, rates, and fees for the use of and connection to the City's Water Distribution System as established under Chapter 18 of this Code, and the City's Publicly Owned Treatment Works ("Sewer System") as established under Chapter 19 of this Code, are hereby established for the following purposes: to recover the cost of construction, reconstruction, maintenance, repair, and operation of those Systems; to comply with the Federal and State acts and regulations applicable to those Systems; to provide for the payment of principal of and interest on any bonds authorized to be issued as and when the same become due and payable and to create a bond and interest redemption fund therefor; to provide a fund for reasonable and necessary improvements to the Systems; and to provide for such other funds as are necessary to meet contractual obligations of the Issuer. Such charges, rates, and fees shall be made in accordance with the purposes herein described, as well as the following:

- (A) All premises connected directly or indirectly to the Water Distribution System and/or the Sewer System, except as hereinafter provided, shall be charged as provided by this Chapter and shall make payments to the City in the amounts provided in Chapter 6 of this Code.
- (B) The charges, rates and fees for water service by the Water Distribution System and sewer service by the Sewer System are established herein to adequately provide for bond requirements and to ensure that those Systems do not operate at a deficit.
- (C) Each System's staff (or other parties as designated by the City) shall periodically review the charges, rates, fees, rules and regulations of their respective Systems, which reviews shall be completed not less than one (1) time per fiscal year. Results of the reviews for each System shall be reported to the City Commission with recommendations for any adjustments.
- (D) The charges, rates and fees shall be set so as to recover costs from the users of each System in reasonable proportion to the cost of serving those users.

19A-2 Proportionality, Fairness, and Benefits of Charges, Rates and Fees. The City Commission has previously found and further currently reaffirms that the fairest and most reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the Water Distribution System and the Sewer System is to charge each user, based in all cases on amount of use, for the costs of: (i) retiring debt secured by the net revenues of those Systems issued to pay for improvements and replacements to the Systems; (ii) ongoing repair, replacement and improvement and budgeted as part of the annual costs of the Systems; and (iii) operation, administration and maintenance costs of the Systems.

The City has investigated several methods of apportioning the costs of the water service provided by the Water Distribution System and the costs of the sewage disposal service provided by the Sewer System. Based on its investigation and on the advice of its engineers, the City Commission has previously found, and currently reaffirms, that to ensure the stability and viability of those Systems for the benefit of its users, a fair and accurate way to apportion the costs of operation, maintenance, replacement and improvement of the Systems is to charge each user: (i) a Capital Connection Charge for water service and a Capital Connection Charge for sewer service when a user's property is first connected to each of those Systems; (ii) a basic water rate which includes a fixed minimum bi-monthly charge plus a commodity charge for the use of water, and a basic sewer rate which includes a fixed minimum bi-monthly charge plus a commodity charge for the use of sewer; and (iii) a high volume service charge for high volume users of each System. The City Commission has previously found, and currently reaffirms that the rates and charges currently in effect accurately apportion the fixed and variable costs of the Systems among the users of each System and that the basic water rates, basic sewer rates, and the high-volume service charges each provide actual benefits to such users in the form of ready access to water service and sewer service that would be unavailable if such charges were not charged. The City Commission has previously found and currently reaffirms that the declining block rates set forth in the basic water rates and the basic sewer rates fairly and proportionally allocate the fixed and variable costs of the respective Systems among all users of the Systems and that the use of such block rates is supported not only by the City's engineers, but also by leading experts in utility service rate setting methodology.

In addition to the findings set forth above, the City Commission has previously found and currently reaffirms that the Capital Connection Charges for the Water Distribution System and for the Sewer System reflect the proportional capital costs of those Systems, previously paid by the City and the Systems, attributable to each new user of the Systems, and that the opportunity to connect to the Systems provides actual benefits to each new user equal to or greater than the amount of such charges. Furthermore, the City Commission has previously found and currently reaffirms that the charges imposed by the Systems are sufficient to meet the short-term capital improvement needs of each System as set forth the Short-Term Capital Improvement Plan proposed by the City Manager.

19A-3 Basic Water Rates. The bi-monthly charges for water service furnished by the City's Water Distribution System, as measured by a water meter installed in each premises, shall be as provided in Chapter 6 of this Code.

19A-4 Basic Sewer Rates. The bi-monthly charges for sewer service furnished by the City's Publicly Owned Treatment Works (hereinafter City's "Sewer System"), as measured by a water meter installed in each premise, shall be as provided in Chapter 6 of this Code. Any user of water furnished by the Water Distribution System, using in excess of 300,000 cubic feet per bi-monthly billing period for six consecutive billing periods may use a sewage meter to determine sewage discharge. Said meter shall be installed, calibrated and maintained per agreement with, or as otherwise required by, the City. Thereafter, in commencing with the next regular billing period, the charges for sewer service shall be at the rates provided in this Chapter measured by the sewage meter.

19A-5 High Volume Service Charge. In addition to the metered charges provided for in Sections 19A-1 and 19A-2, for each premises where the average bi-monthly billing period metered water consumption during the previous six bi-monthly billing periods exceeded 33,000 cubic feet, users shall pay, for the next succeeding six bi-monthly billing periods, high volume service charges which shall be as provided in Chapter 6 of this Code. Average metered water consumption shall be determined on the average consumption for the previous twelve-month period. The City Manager is authorized to negotiate a contract pertaining to high volume service charges with any user whose metered consumption exceeds 33,000 cubic feet per bi-monthly billing period, which contract shall be subject to the approval of the City Commission and shall be approved only if the combined basic water and sewer rates and the high volume user charges in the contract are fairly and accurately apportioned to the fixed and variable costs of providing water and sewer service to such user.

19A-6 Short-Term Capital Improvements Plan and Short-Term Capital Improvements Fund. The City Manager shall cause to be prepared and updated annually a Short-Term Capital Improvements Plan which shall contain a description of the capital improvement needs for the City's Water Distribution System and the City's Sewer System for the next succeeding five years and a proposed budget for such improvements. During each fiscal year of the City, twenty percent (20%) of the budgeted amount for such five-year plan shall be set aside and reserved in a special fund to be known as the "Water and Sewer Systems Short-Term Capital Improvements Reserve Fund." The City Manager shall include in the annual budget expenditures for projects included in the Short-Term Capital Improvements Plan for approval by the City Commission. On or before December 1 of each year, the City Manager shall prepare and file with the City Commission a utility rate report with recommendations as to adjustments in water and sewer rates. The primary purpose of such report shall be to inform the City Commission as to whether or not existing rates are generating sufficient revenue to cover all the items included in the Short-Term Capital Improvements Plan.

19A-7 Water and Sewer Connection Charges and Fees

19A-7.1 Capital Connection Charges and Tap-in Fees. The owner of each premises connecting to the Water Distribution System or the Sewer System shall pay a Capital Connection Charge for the privilege of making connection to each System. These charges shall be one-time charges imposed for water services or sewer services, as applicable, the first time a premises is connected to each System. The Capital Connection Charges represent the capital costs of the respective System, previously paid by the City for the System, attributable to each new user and are equivalent to the benefit provided to such user for connecting to the System. The Capital Connection Charge for various uses shall be as provided in Chapter 6 of this Code. Connections fees for uses not listed in Chapter 6 of this Code and for structures with fire sprinkler systems shall be determined by the City Manager.

The Capital Connection Charge shall not include the tap-in fees for the actual costs of making the connection from a user's premises to the service line of the Water Distribution System or the Sewer System. The tap-in fees shall be charged separately as provided by Section 19A-7.2.

19A-7.2 Tap-in Fees. The City Manager shall establish tap-in fees which shall be charged to users each time a connection is made to the Water Distribution System for water service. Such fee shall be equivalent to the actual costs of connecting to the System, including any applicable administrative costs.

19A-8 Sewer Service Surcharges. Surcharges for the treatment of wastewater containing pollutants in excess of specified concentrations, loadings or other applicable limits, or for other specified purposes shall be established and charged as provided by Chapter 19 of the City Code.

19A-9 Billing. Bills for water and sewer service, and, if applicable, high volume service charges, shall be rendered bi-monthly as follows: First District and Second District - June 1, August 1, October 1, December 1, February 1, April 1. Third District and Fourth District - July 1, September 1, November 1, January 1, March 1, May 1.

Bills for service shall be due and payable fifteen (15) days after being rendered. Ten percent (10%) of the total bill shall be added to all bills for water and sewer service, and/or high-volume service charges, which are not paid by the due date to reimburse the Water Distribution System or Sewer System, as applicable, for the additional administrative and interest costs attributable to such delay in payment.

Notwithstanding any other provisions of this Chapter, persons whose metered consumption of water is in excess of 100,000 cubic feet per bimonthly billing period shall be billed monthly for water and/or sewer service. Such monthly bills, the first month of each bi-monthly billing period shall be estimated and the balance due for each bi-monthly billing period shall be billed at the end of the second month based on the metered consumption. Users subject to monthly billing shall pay one half of the charges as provided in Section 19A-6 each month.

19A-10 Collection. The City is hereby authorized to enforce the payment of charges for water service to any premises by discontinuing the water service to such premises and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both, and legal action to collect delinquent charges may be instituted by the City against the user. The charges for water service or sewage disposal service which, under the provisions of Act 94, Public Acts of 1933 of the State of Michigan, as amended, are made a lien on the premises to which furnished, and are hereby recognized to constitute such lien; and the City shall, annually, on October 1, certify all unpaid charges for such services furnished to any premises, which, on the 30th day of September preceding, have remained unpaid for a period of six (6) months, to the City Assessor who shall place the same on the next tax roll of the City. At the City's discretion, the City may place a lien on a premise if the charge for such services furnished to such premises have remained unpaid for a period of six (6) months. Such charges so assessed shall be collected in the same manner as general City taxes. In cases where the City is properly notified in accordance with said Act 94 of 1933 that the tenant is responsible for water or sewage disposal charges, no such service shall be

commenced or continued to such premises until there has been deposited with the Department, a sum sufficient to cover three (3) times the minimum bimonthly billing amount for such premises as estimated by the City. Where the water service to any premises is turned off to enforce payment, continuance of water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made. There shall be a water turn-on charge assessed in the event that water has been turned off to enforce payment. There shall be different turn-on charges assessed based on the time the service is reconnected. These charges shall be listed in the current "User Fees and Charges" ordinance as adopted by the City Commission. Where the water service to any premise is turned off to enforce the payment of water service a second time (2) in a twelve (12) month period, a penalty in the amount of two (2) times the water turns on fee shall be charged. Where the water service to any premise is turned off to enforce the payment of water service a third time (3) in a twelve (12) month period, a penalty in the amount of three (3) times the water turns on fee shall be charged. In any other case where, in the discretion of the City, the collection of charges for water or sewage disposal services may be difficult or uncertain, the City may require a similar deposit. Such deposits may be applied against any outstanding water or sewage disposal service charges of the depositor, and in the event that the charges outstanding exceed the deposited amount, the user shall be billed for the balance. The application of said deposit shall not affect the right of the City to turn off the water service and/or sewage disposal service to any premises for any reason. No such deposit shall bear interest and the City shall refund the deposit amount or any remaining balance thereof within thirty (30) days after the final reading has been submitted to the City's Finance Department. The City may take all appropriate legal or equitable actions to collect any amounts due the City under this Chapter.

19A-11 Senior Citizen Discount. Notwithstanding the provisions of Sections 19A-3 and 19A-4 of this Chapter, users of the City's water and/or sewage disposal service who are of the age of 65 years and over and whose bi-monthly use of water furnished by the City to such user's residence does not exceed 1,100 cubic feet during any billing period, shall be eligible for a 15% discount for water and sewer usage. Users who are eligible for the discounts provided by this Section shall file an application, in a form approved by the City Manager, with the City's Finance Department.

19A-12 Rate Agreements. No provision of this Chapter shall be construed as preventing any special agreement between the City and any industrial or commercial user pertaining to water service rates and charges pertaining to service provided, however, that any such agreement shall be in writing and approved by the City Commission.

19A-13 Sewer and Water Repair Program.

19A-13.1 Repair Program. The City will budget \$30,000 in the Sewer fund annually to support and maintain the repair program. Additionally, the City will maintain a reserve account as restricted assets within the Sewer Fund to support the repair program. Funding options will be reviewed periodically by the City Commission to determine if the repair program funding is being maintained at an adequate level.

19A-13.2 Application of Funds. Funds collected under authority of this Section shall be used for payment of all repair costs in excess of the amount established by Chapter 6 of this Code and which the City declares to be attributable to the repair or replacement of a failing private residential sewer or water connection from the public main to the foundation wall of the private structure. The private water connection area is defined as the connection from the shut-off valve to the water meter. The private sewer connection area is defined as the connection from the sewer main to the building wall.

Repair costs paid for from the Repair Fund shall not include any charges associated with the removal or replacement of any trees, shrubbery, plants, lawns, sprinkler systems or other landscaping features on public or private property, nor any expenses incurred in tunneling under and/or replacing any surface improvements such as bituminous, concrete or brick driveways, patios, sprinkler systems, gas grills, utility lines, foundations, and any other surface or subsurface improvements found on public or private property. Repair costs paid for from the Repair Fund shall include all charges associated with the removal and/or replacement of public streets, curbs and sidewalks.

19A-13.3 Charges to Owner. The owner of the sewer or water connection repaired or replaced shall be responsible for payment to the City up to the amount of costs as provided by Chapter 6 incurred for all work allowed under Section 19A-13.2. Payment shall be due prior to the initiation of any repairs or replacement. However, in cases of hardship or emergency, as determined by the City, payment shall be due within 180 days of the date of invoice. Failure to pay as required shall result in the placement of a lien upon the premises served by the service.

19A-13.4 Maintenance. All private residential sewer and water connections shall remain the sole responsibility of the property owner with regard to maintenance, reaming, cleaning and all other related maintenance required for normal operation. All connections which lie behind foundation walls (and/or building lines) and all connections which are located between foundations and/or buildings shall remain the responsibility of the property owner.

19A-13.5 Qualification. Any residential property owner who wishes to file a claim under this Section shall file an application on the form provided by the City, sign a release provided by the City authorizing right of entry onto the affected property for purposes of making repairs, and make payment of the full amount of the deductible or execute a payment agreement. No property owner is eligible for the benefits of this Section if sewer and water charges for the subject account are more than 30 days delinquent when the application is filed.

19A-13.6 Special Provisions. All work performed under authority of this Section shall be in accordance with the provisions of the State Plumbing and miscellaneous standards as approved by the City. No claim for the repair or replacement of a sewer or water connection will be honored unless the repairs or replacement has been authorized and approved by the City.

19A-13.7 References to City Manager. All references in this Chapter to "City Manager" shall mean the City Manager of the City or the City's Manager's designee.

19-1 GENERAL PROVISIONS

19-1.01. Purpose and Scope

- A. 1. The purposes of this Chapter include, but are not limited to, the following:
- To establish uniform requirements for discharges by all users to the City of Three Rivers Publicly Owned Treatment Works ("POTW"), and to enable the City to comply with applicable State and Federal laws as required by the Federal Water Pollution Control Act (also known as the "Clean Water Act"), as amended, 33 USC 1251, et seq.; the General Pretreatment Regulations (40 CFR Part 403); Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended ("Water Resources Protection"); and the rules, Michigan Administrative Code, R 323.2301 et seq., as amended, promulgated pursuant to Sections 3103, 3106 and 3109 of Part 31 of Act 451 of the Public Acts of Michigan of 1994, as amended.
2. To prevent the discharge of pollutants into the POTW that do not meet applicable pretreatment standards and requirements; that could interfere with the operation of the POTW; that could pass through the POTW into the receiving waters or the atmosphere, the environment, or otherwise be incompatible with the POTW; that could inhibit or disrupt the POTW's processing, use, or disposal of sludge; that could cause health or safety problems for POTW workers; or that could result in a

violation of the City's NPDES permit or of other applicable laws and regulations.

3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the POTW.
 4. To regulate the discharge of wastewater and/or pollutants to the POTW and to enforce the requirements of this Chapter through the issuance of permits and through other means as provided by this Chapter.
 5. To authorize and require all inspection, monitoring, reporting and enforcement activities as necessary to insure compliance with applicable pretreatment standards and requirements and other applicable laws and regulations.
 6. To provide for the equitable distribution and recovery of costs from users of the POTW sufficient to administer regulatory activities and to meet the costs of the operation, maintenance, repair, replacement, and improvement of the POTW.
- B. This Chapter applies to any person, whether located within the City or outside the City that discharges to the POTW.
- C. This Chapter also applies to any person owning, using, constructing or maintaining any private system or facility intended or used for the disposal of sewage or wastewater within the City or under the City's jurisdiction.
- D. Any other local unit of government that discharges into the POTW (or that has users or premises that discharge into the POTW) shall, as a condition to discharge:
1. Adopt, and to keep continually in force and up-to-date, an ordinance that, except as specifically provided by this subsection, shall be identical to the sewer use and pretreatment regulations as provided by this Chapter (and as this Chapter is amended from time to time by the City). The ordinance adopted by the local unit shall expressly designate, empower and authorize the City to act as the agent and representative of the local unit for purposes of administering and enforcing the local unit's ordinance within the local unit. This shall include, but shall not be limited to, the power and authority of the City, as deemed necessary by the City, to immediately and independently investigate, enforce, and prosecute (administratively or judicially, and civilly or criminally) any violation of the local unit's ordinance or of any notice, order, permit, decision or determination promulgated, issued or made by the City Manager under this Chapter or the local unit's ordinance, and to otherwise implement the requirements of this Chapter and the local unit's ordinance. The only other deviations and differences permitted between this Chapter and the local unit's ordinance shall be those that reflect the fact that the local unit's ordinance is being adopted as an ordinance by the Local Unit, and any other deviations or differences that are approved in advance by the City.
 2. Enter into an inter-jurisdictional agreement with the City that allows the City, as the designated control authority for the POTW, to implement and enforce its industrial pretreatment program, including this Chapter, with regard to users throughout the City's service area and regardless of jurisdictional or political boundaries.
- E. It shall be unlawful for any person to discharge any wastewater or pollutant to the POTW or to any storm sewer or natural outlet within the City or in any area under the jurisdiction of the City, except in accordance with the provisions of this Chapter and other applicable laws and regulations.
- F. If any user discharges or proposes to discharge wastewaters or pollutants that are prohibited or limited by this Chapter, the City may take any action as provided by this Chapter or other applicable laws or regulations to assure and require compliance with the provisions of this Chapter.

19-1.02 Definitions. Unless the context specifically indicates otherwise, the following terms shall have the following meanings as used in this Chapter:

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

“Alternative FOG Pretreatment Technology” or **“AFPT”** means a device to trap, separate, and hold FOG from wastewater and prevent it from being discharged into the POTW, other than an outdoor FOG interceptor.

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

- A. If the user is a corporation, a responsible corporate officer. “Responsible corporate officer” means: (i) 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 (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long- term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the user is a partnership or proprietorship, a general partner or proprietor, respectively.
- C. If the user is a federal, state or local governmental entity, the principal executive officer, ranking elected official, or director having responsibility for the overall operation of the discharging facility.
- D. A duly authorized representative of an individual designated in (A), (B) or (C) above, if the representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.
 - (1) To be considered “duly authorized,” the authorization must be made in writing by an individual designated in (A), (B) or (C) above. The authorization must specify either an individual or a position having responsibility for the overall operation of the facility (such as the position of plant manager, operator of a well or well field, or a position of equivalent responsibility, or having overall responsibility for the environmental matters for the company or entity). The written authorization must be submitted to the City Manager prior to or together with any reports to be signed by the authorized representative.
 - (2) If an authorization under (D)(1) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company or entity, a new written authorization must be submitted to the City Manager prior to or together with any reports to be signed by the newly authorized representative.

“Best Management Practice” or **“BMP”** means any practice, program, procedure, control, technique or measure (used singularly or in combination), that a user is required to adopt or implement to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances to the POTW, as determined necessary by the City Manager. BMPs include, but are not limited to: schedules of activities; pollution treatment practices or devices; prohibitions of practices; good housekeeping practices; pollution prevention, minimization and reduction measures; educational practices and programs; maintenance procedures; other management programs, practices or devices; treatment requirements; notice, reporting, and record-keeping requirements; and operating procedures and practices to control or contain site runoff, spillage or leaks, batch discharges, sludge or water disposal, or drainage from product and raw materials storage. BMPs may be structural, non-structural, or both. In determining what BMPs will be required of a user in a particular case, the City Manager may consider all relevant technological, economic, practical, and institutional considerations as determined relevant and appropriate by the City Manager, consistent with achieving and maintaining compliance with the requirements of this Chapter and other applicable laws and regulations.

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

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

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

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

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

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

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

“CFR” means Code of Federal Regulations.

“Chemical Oxygen Demand” or **“COD”** means a measure of oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as oxygen consumed (OCR) and dichromate oxygen consumed, respectively.

“City” means the City of Three Rivers, St. Joseph County, Michigan, or the City’s authorized representatives.

“City Manager” means the City Manager of the City or the City’s Manager’s designee, including, but not limited to, the WWTP Director.

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

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

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

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

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

“County Health Department” means the Branch-Hillsdale-St. Joseph Community Health Agency or its successor agency.

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

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

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

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

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

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

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

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

“ Dwelling ” (as in “residential dwelling”) means any structure designed for habitation, including but not limited to houses, mobile homes, apartment buildings, condominiums, and townhouses where each dwelling unit contains, at a minimum, sleeping facilities, a toilet, a bath or shower, and a kitchen.

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

“ EPA ” means the United States Environmental Protection Agency.

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

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

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

“ Flow-proportional Composite Sample ” means a combination of individual samples of equal volume taken at equal intervals of flow without consideration of the time between individual samples.

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

“ Food Service Establishment ” or **“ FSE ”** means any premises where food or beverages are prepared and served or consumed, whether fixed or mobile, with or without charge, and whether on or off the premises. FSEs shall include, but are not limited to, restaurants, hotels, taverns, bars, rest homes, schools, factories, institutions, camps, grocery stores with onsite food preparation, and ice cream parlors. The following shall not be subject to the interceptor/APT requirements under Section 19-25.100 of this Chapter except as otherwise determined necessary by the City Manager to meet the purposes and objectives of this Chapter: (a) A private residential dwelling unit where the food is prepared and served or consumed solely by the occupants of the dwelling unit; (b) a premises where the only food prepared and served or consumed is dispensed from automatic vending machines; and (c) a “Temporary Food Service Establishment” meaning an FSE operating at a fixed location for not more than 14 consecutive days in conjunction with a single event or celebration.

“ Footing drain ” means a pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits ground water.

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

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

“ Grab Sample ” means 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 15 minutes.

“ Grease Trap ” means a device designed to separate and retain fats, oils, and grease from liquid waste and permit the liquid waste to discharge into the POTW.

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

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

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

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

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

“Industrial User” means any Nondomestic User that, by any means, contributes, causes or permits the contribution, introduction or discharge of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether directly or indirectly. For purposes of this Chapter, the term industrial user also includes municipalities or other units of local government that contribute, cause or permit the contribution or introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect.

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

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

“Instantaneous Maximum Limit” means the maximum concentration or other measure of pollutant magnitude 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 or other measure of pollutant magnitude determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample exceeds the instantaneous maximum limit, the instantaneous maximum limit shall be deemed to have been exceeded.

“Instantaneous Minimum Limit” means the lowest measure of pollutant magnitude 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 or other pollutant magnitude determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample is below the a specified instantaneous minimum limit, the instantaneous minimum limit shall be deemed to have been violated.

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

- A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or
- B. Is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations) Section 405 of the Clean Water Act, the

Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

“Lateral Sewer” means that portion of the sewer system located under the street or within the public right-of-way from the property line to the trunk line and which collects sewage from a particular property for transfer to the trunk line. (A lateral sewer is sometimes also referred to as a sewer stub or sewer lead.)

“lbs/day” means pounds per day.

“Leachate” means any liquid that has percolated through or out of some substance and that liquid has been polluted or made toxic by percolating through that substance such as rubbish; a solution obtained by leaching.

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

“May” is permissive.

“MAC” means the Michigan Administrative Code.

“MDEQ” means the Michigan Department of Environmental Quality) or the MDEQ's authorized representatives.

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

“mg/l” means milligrams per liter.

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

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

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

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

- A. The building, structure, facility or installation is constructed at a site at which no other source is located; or
- B. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

- C. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (B) or (C) of this Section, above, but otherwise alters, replaces, or adds to existing process or production equipment. Commencement of construction of a new source shall be determined in a manner consistent with 40 CFR 403.3(m)(3).

“**ng/l**” means nanograms per liter.

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

“**Nondomestic User**” means any user other than a Domestic User (i.e., any user that discharges anything other than segregated normal strength domestic waste into the POTW). The determination of whether or not a user is a “nondomestic user” shall be made by the City Manager at the City Manager’s sole discretion as determined necessary by the City Manager to achieve the purposes and objectives of this Chapter. Any user that has the reasonable potential, as determined by the City Manager, to discharge any waste other than normal strength domestic waste into the POTW, may be deemed a nondomestic user for purposes of this Chapter. For the purposes of this Chapter, and notwithstanding any other provision of this Chapter to the contrary, any local unit of government that contributes, or causes or permits the contribution or introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect, shall be considered to be Nondomestic User.

“**Nondomestic User Permit**” means a permit issued to a Significant Industrial User, or to such other user as determined appropriate by the City Manager, as provided by this Chapter to control discharges to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

“**Nondomestic Waste**” means any wastewater (or water- or liquid-carried waste) other than domestic waste. The determination of whether or not a waste is a “nondomestic waste” shall be made by City Manager at the City Manager’s sole discretion as determined necessary by the City Manager to achieve the purposes and objectives of this Chapter. Any waste that has the reasonable potential, as determined by the City Manager, to be not entirely composed of normal strength domestic waste may be deemed nondomestic waste for purposes of this Chapter.

“**Normal Strength Domestic Waste**” means a domestic waste flow for which the levels of pollutants (including, without limitation, BOD, TSS, ammonia nitrogen, or phosphorous) are below the surcharge levels for any parameter as established by this Chapter. Further, to be considered normal strength, the wastewater must have a pH between 6.5 and 8.5, must not exceed any local limit, and must not contain a concentration of other constituents that would interfere with POTW treatment processes. The determination of whether or not a waste stream is “normal strength domestic waste” shall be made by City Manager at the City Manager’s sole discretion as determined necessary by the City Manager to achieve the purposes and objectives of this Chapter.

“**NPDES Permit**” means a National Pollutant Discharge Elimination System permit issued pursuant to Section 402 of the Act.

“**Obstruction**” means anything of whatever nature that impedes the flow of wastewater from the point of origination to the trunk line and anywhere else within the POTW. This includes, but is not limited to, objects, sewage, garbage, FOG, tree roots, rocks and debris of any type.

“**Operation, Maintenance, Repair, Replacement, and Improvement**” means all work, materials, equipment, utilities, and other efforts required to operate and maintain the POTW consistent, at a minimum, with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES Permit and other applicable state and federal regulations, and includes the cost of repair, replacement, and improvement, in whole or in part.

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

“Owner” means the owner of record of the freehold of a premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a premises.

“Pass Through” means a discharge that exits the POTW into waters of the State (or waters of the United States) in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit or of any requirement of applicable local, state or federal laws and regulations (including an increase in the magnitude or duration of a violation), or otherwise detrimentally impacts the receiving stream.

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

“pH” means the quantitative measure of acidity or alkalinity a solution, defined as the negative logarithm (base 10) of the concentration of hydrogen ions in moles/liter.

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

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

“POTW” (Publicly Owned Treatment Works). The complete sewage disposal, transportation and treatment system of the City as defined by the Act and this Chapter, including the Three Rivers WWTP, and any devices, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, sewage or sludge, as well as sewers (including all main, lateral and intercepting sewers), pipes and other conveyances used to collect or convey wastewater or sewage to the WWTP, as now or hereafter added to, extended or improved. The term “POTW” shall also include any sewers outside the City that convey wastewaters to the POTW from persons who are, by contract or agreement with the City, users of the POTW. References in this Chapter to approvals, determinations, reviews, etc., “by the POTW” shall mean by the City Manager, or the City Manager’s authorized representatives. 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 WWTP, and its designated representatives, as appropriate to the context in which the term is used.

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

“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or other means, except for the use of dilution (unless expressly authorized by any applicable pretreatment standard or requirement and the City Manager) and except for the

use other means prohibited by applicable local, state, or federal laws or regulations. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings, subject to applicable requirements of local, state and federal laws and regulations.

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

“Pretreatment Standard” means any regulation containing pollutant discharge limits promulgated in accordance with Section 307(b) and (c) of the Act or Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., including general and specific prohibitive discharge limits and local limits established in this Chapter pursuant to MAC R323.2303, and categorical standards.

“Private Sewer Line” means any sewer service line, equipment, or facilities for the disposal of wastewater installed or located on any premises and/or within the street right-of-way that transports wastewater from the premises to the public sewer, such as the building sewer and the lateral sewer, an including any structure or facility that exists on the premises.

“Private Wastewater Disposal System” means a septic tank, cesspool or similar device, or part thereof, not connected to a public sewer.

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

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

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

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

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

“Residential Dwelling” means any structure designed for habitation, including but not limited to houses, mobile homes, apartment buildings, condominiums, and townhouses where each dwelling unit contains, at a minimum, sleeping facilities, a toilet, a bath or shower, and a kitchen.

“Sanitary Sewage.” See “domestic waste.”

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

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

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

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

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

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

“Severe Property Damage” means substantial physical damage to property, or damage to treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean an economic loss caused by delays in production.

“Sewage.” See
“wastewater.”

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

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

“Sewer rates, fees and charges” means the rates, fees and charges for use of the POTW as established from time to time by resolution of the City Commission. Such rates, fees and charges include debt service charges required to retire debts resulting from capital or other costs incurred to contract, improve, expand, repair, maintain or replace a part of the POTW and sufficient and proportionate use charges required of all users for the cost of POTW operation, maintenance, repair, replacement, and improvement. Surcharges and other rates and fees may also be charged for wastes in amounts or concentrations regarding extra treatment services or costs or as required for exceeding established limits.

“Shall” is
mandatory

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

“Significant Industrial User” or **“SIU”** means any user: A. Subject to categorical pretreatment standards; or B. Any other user that:

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

The City Manager may determine that a user that meets the criteria of Subsections (B)(1), (B)(2), or (B)(3) of this definition above is not currently an SIU, if the City Manager finds that the user has no reasonable potential to adversely affect the operation of the POTW, to violate any pretreatment standard or requirement, or that a Nondomestic User Permit is not required to meet the purposes and objectives of this Chapter. A determination that a user is not an SIU (or that a permit is therefore not required) shall not be binding and may be reversed

by the City Manager at any time based on changed circumstances, new information, or as otherwise determined necessary by the City Manager to meet the purposes and objectives of this Chapter.

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

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

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

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

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

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

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

“Time-proportional Composite Sample” means a combination of individual samples of equal volume taken at equal intervals of time, without consideration of the volume or rate of flow.

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

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

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

“ug/l” means micrograms per liter.

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

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

“User Permit” means a Nondomestic User Permit or a General User Permit.

“Wastewater” means the liquid and water-carried industrial or domestic waste from residential dwellings, commercial buildings, industrial facilities, and institutions (including, without limitation, contaminated groundwater and landfill leachate), whether treated or untreated, that is contributed, introduced or discharged into the POTW. The term includes any water that has in any way been used and degraded or physically or chemically altered.

“Wastewater Treatment Plant” or **“WWTP”** means the portion of the POTW that is designed to provide treatment (including recycling or reclamation) of wastewater, and that is commonly referred to as a POTW treatment plant. Also known as the Three Rivers WWTP.

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

“Waters of the State” means all rivers, streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface, or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Michigan or any portion thereof, and as otherwise specified by applicable laws and regulations.

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

“WWTP Director” means the person designated by the City to supervise the operation the POTW, including, but not limited to, the WWTP. References to “WWTP Director” shall include the Director’s authorized representatives.

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

19-2. USE OF PUBLIC SEWERS REQUIRED

19-2.01. Findings Regarding Private Sewage Disposal Facilities

The City Commission has previously found, and currently reaffirms, that the use of septic tanks, privies, privy vaults, cesspools, or similar private sewage disposal facilities, is deleterious to the health safety and welfare of the businesses, industries, governmental and charitable agencies, and residents of the City.

19-2.02. Findings Regarding Public Sewer System

The City Commission has previously found, and currently reaffirms, that the health, safety and welfare of the businesses, industries, governmental and charitable agencies and residents is enhanced by the creation of a public sewer system and wastewater treatment plant, with regulation by the City of pollutants and other harmful materials according to local, state and federal standards and requirements.

19-2.03. Unlawful Deposition

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

19-2.04. Discharge Prohibited Without Required Approvals, Permits, and Treatment

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

- A. Polluted water, sewage or wastewater to any natural outlet within the City, to any waters of the State (or waters of the United States), or to any public sewer; or
- B. Unpolluted water of any kind, including, without limitation, storm water, surface water, groundwater, roof runoff, artesian well water, drainage water (surface or subsurface), industrial non-contact cooling water, air-conditioning water, swimming pool water, or unpolluted industrial process waters to any sanitary sewer. Unpolluted water may be discharged only to a sewer that is specifically designated as a storm sewer or to a natural outlet, and only if all applicable permits and approvals have first been obtained from the City and other governmental bodies or agencies, and only if not prohibited by applicable local, state or federal laws or regulations.
- C. If any person drains or discharges any unpolluted water by means of conductors, eaves troughs, roof downspouts, footing drains, or otherwise, directly or indirectly, into a storm sewer, or natural

outlet in violation of applicable laws or regulations, or into a sanitary sewer, the City shall order its disconnection at the property owner's expense, and if the property owner refuses to obey the City's order, then the City shall disconnect the connection and the costs shall be charged to the property owner.

19-2.05. Unlawful Construction

Except as hereinafter provided, and unless specifically authorized by the County Health Department, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of wastewater.

19-2.06. Required Connection to Available Sanitary Sewer

The owner of any house, building, structure, premises, or property used for human occupancy, employment, recreation or other purposes, situated within the City, and abutting on any street, easement, alley, or right-of-way, in which there is located, or may in the future be located, a public sanitary sewer, is hereby required, at the owner's expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this Chapter. Compliance shall be within 180 days after a transfer of ownership occurs or when private sewage disposal facilities on the premises require major repair or replacement.

19-2.07. Waste Discharge Prohibited Except Through Approved Sewer Connection

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

19-3. PRIVATE WASTEWATER DISPOSAL

19-3.08. Private Treatment and Disposal Requirements

If a public sanitary sewer is not available under the provisions of 19-2.06, the building sewer shall be connected to a private sewage disposal system complying with all requirements of this Section, the County Health Department, and any other applicable laws and regulations of the City or the State.

- A. Before commencement of a private sewage disposal system, the property owner shall first apply to the County Health Department for a soil evaluation test. If the soil evaluation test shows positive results, the property owner shall then apply to the County Health Department for a permit for installation for the proposed sewage system. The application shall include plans, specifications and other information as deemed necessary by the County Health Department. All fees for the soil evaluation test and the permit for installation shall be fully paid by the property owner to the County Health Department when and in the amounts specified by the County Health Department.
- B. A permit shall not be issued for any private wastewater disposal system employing subsurface soil absorption facilities if the area of the lot is less than determined necessary by the City, the County Health Department, or the State, as applicable.
- C. A permit for a private sewage disposal system shall not become final and effective until the installation is completed to the satisfaction of the County Health Department. The County Health Department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the County Health Department when the work is ready for final inspection, and before covering any underground portions. Any person receiving a permit for a private sewage disposal system from the County Health Department shall provide the City with copies of the final approved inspection report issued by the County Health Department.
- D. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and requirements of the City, the County Health Department, and the State, as applicable.
- E. No septic tank, cesspool, subsurface disposal facility or another private sanitary sewer system shall be permitted to discharge to any public sewer or natural outlet.
- F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

19-3.09. Additional Public Health Requirements

Nothing in this Section shall be construed to interfere with any additional requirements that may be imposed by the City, the Michigan Department of Public Health, or any other governmental agency.

19-3.10. Public Sewer Becomes Available

At such time as a public sewer becomes available to a property served by a private sewage Disposal system, as provided in Section 19-2.06, a direct connection shall be made to the public.

sewer in compliance with this Chapter at the user's sole expense; and any septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of any sludge, abandoned, and filled with clean bank-run gravel or dirt, at the user's sole expense.

19-4. BUILDING SEWERS AND CONNECTIONS**19-4.11. Permit Required**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any part or appurtenance of the sanitary sewer system without first obtaining a written building sewer connection permit from the City.

19-4.12. Right-Of-Way Construction Permit; Building Sewer Connection Permits; Connection Charges, Tap-In Fees, and Inspection Fees; Plumbing Permits; Street Openings

The property owner or the owner's agent shall make application for a right-of way construction permit on a form furnished by the Building Official. The permit application shall be supplemented by any plans, specifications or other information determined necessary and appropriate by the Building Official.

Before connecting to the sewer system, the property owner or the owner's agent shall also first obtain a connection permit from the Building Official and pay to the City Treasurer, at the time of application, the required Capital Connection Charges and tap-in fees as provided by Section 19A-7 of this Code, and an inspection fee in the amounts as prescribed by the City from time to

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A plumbing permit is also required. If a street opening is required to make the lead connection, an additional attachment to the permit application must be completed. If the plans and specifications are approved by the Building Official, a temporary construction permit shall be issued, subject to a final inspection and approval by the Building Official when construction is completed and ready for connection with the public sewer.

19-4.13. Performance Bonds; Insurance

- A. Before any permit is issued by the City for excavating for plumbing or drain laying in any public street, way, or alley, the person applying for the permit may be required to execute and deposit with the City a performance bond with corporate security in the amount of due care and skill, and in accordance with the laws, rules, and regulations established by the City pertaining to sewers and plumbing. This bond shall state that the person will indemnify and save harmless the City and the owner of the premises against all damages, costs, expenses, outlays, and claims of every nature and kind arising out of mistake or negligence on the person's part in connection with plumbing, sewer line connection, or excavating for plumbing or sewer connection as prescribed in this Section. The bond shall remain in force and must be executed for a period of one year, except that, upon expiration, it shall remain in force as to all penalties, claims, or damages that may have accrued thereunder prior to the expiration.
- B. The person applying for the permit shall also provide public liability insurance for the protection of the City, the property owner, and all persons, to indemnify them for all damages caused by accidents attributable to the work, with minimum limits of \$1,000,000.00 for one person, \$500,000.00 for bodily injuries per accident, and \$250,000.00 for property damages.

19-4.14. Multiple Buildings; Separate Uses within Buildings

A separate and independent building sewer shall be provided for each building. However, if any existing building is located on an interior lot so that a separate, independent building sewer is not available for the building, and one cannot be constructed to the building through an adjoining alley, courtyard or driveway, more than one building may be served with the same building sewer, subject to approval by the City Manager. In areas where laterals have not been made, or where unusual lot splits have occurred, leaving only one lateral for two properties, joint use of this lateral may be approved by the City Manager with the connection to the City sewer being allowed if determined consistent with the purposes and objectives of this Chapter by the City Manager. Independent building sewers and/or control manholes may also be required for separate uses within a building, as determined necessary by the City Manager.

All discharge limits contained in this Chapter shall apply to that portion of the lateral emanating from a single building or from each separate use within a building, as applicable. Compliance with pretreatment standards or local discharge limits prescribed by this Chapter shall be determined based on each separate discharge to the common lateral prior to commingling with discharges from other sources.

19-4.15. Existing Building Sewers

Old building sewers may be used in connection with new buildings only if they are found, on examination and test by the City Manager to meet all requirements of this Chapter and other applicable laws and regulations. If an inspection by the City reveals that a connection may create a health or environmental hazard, nuisance, or otherwise inconsistent with the purposes and requirements of this Chapter, the building sewer shall be reconstructed or repaired at the owner's expense.

19-4.16. Construction Specifications

The pipe size, slope, alignment, materials or construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes, or other applicable rules and regulations as specified and determined by the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No. 9 shall apply.

All newly constructed building sewers shall have a properly sized cleanout at the head of said sewer that is accessible at all times. This cleanout shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sewer.

19-4.17. Building Sewer Elevation and Location

Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three feet of, any bearing wall that might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction shall be made with no less than a forty-five-degree bend. Each bend of forty-five degrees or more shall have an accessible cleanout. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with current ASTM specifications, except that no backfill shall be placed until the City has inspected the work.

19-4.18. Floor Drains; Backwater Valve Devices

Floor drains connected to the building sewer shall be required for all basements or cellars if the elevation of the public sanitary sewer will service the building. All required floor drains shall have check valves or backflow preventers that meet current laws and regulations as determined by the City.

19-4.19. Low Building Sewers

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

19-4.20. Connection Specifications

The connection of the building sewer into the sanitary sewer system shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications, which shall require that the connections shall be made gas-tight and watertight.

All connections and joints, and any deviation from the prescribed procedures and materials, must be approved by the City before installation.

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

19-4.21. Notification; Building Sewer Inspection

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

19-4.22. Protection and Restoration

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

19-4.23. Capacity Required

Connection to a public sewer will not be allowed unless there is capacity available (in both wastewater volume and strength) at the WWTP and in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat and dispose of BOD, TSS, or similar materials as required by applicable local, state or federal laws, rules or regulations, as determined by the POTW.

19-4.24 Connection to Sources of Runoff Prohibited

No person shall connect (or allow to remain connected) roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer. Any such connection shall be permanently disconnected at the sole expense of the owner of the premises.

19-4.25. Pretreatment of Any Discharge May Be Required

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

19-5. CONDITIONS OF SERVICE

19-5.26. Responsibilities and Liabilities For Private Sewer Lines

- A. All costs and expenses incident to the installation, connection, maintenance, and repair of a building sewer, lateral sewer, and any other private sewer lines shall be borne solely by the property owner. Further, the property owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of any private sewer line.
- B. The City or a contractor hired or approved by the City shall construct any needed lateral sewer from the trunk line to the property line. The property owner shall pay all costs of such construction, including costs to construct any portion of the lateral within the public right-of-way.
- C. The property owner shall maintain, clean and repair any private sewer lines on the property at the property owner's expense as necessary to keep the private lines free and clear of obstructions and in good working order, and shall maintain and keep clear of obstructions the lateral sewers servicing the property.
- D. The City shall maintain, clean, and repair as necessary and at the City's expense the sewer trunk lines, but shall not be responsible for cleaning, maintenance, repair of, or liability for, private sewer lines, including, but not limited to, the building sewer and the lateral sewer.
- E. If there is a dispute as to whether needed maintenance, cleaning, or repair of a portion of sewer line is the responsibility of the property owner or the City under the provisions of this Chapter, it shall be the duty of the property owner to establish that the obstruction, disrepair, or defect has occurred

in that portion of the public sewer for which the City is responsible. If the property owner fails to establish the City's responsibility, it shall be the property owner's responsibility to perform the necessary cleaning, maintenance, and repair as provided in this Chapter. If the City's responsibility is established, the City shall perform the necessary cleaning, maintenance, or repair and shall reimburse the property owner for reasonable expenses incurred in locating the defect in the line or in otherwise establishing the City's responsibility.

- F. Any property owner who violates the provisions of this Chapter shall be liable to the City for all costs, expenses, and damages incurred by the City in correcting the problem. Further, if any property owner fails to maintain a private sewer line as required by this Chapter, in addition to the other penalties prescribed, the private sewer may be declared a public nuisance by the County Health Department and the problem may be corrected by the City. Any costs so incurred by the City shall be assessed against the property and become a lien on the property if not timely paid.

19-5.27. Water Meters

All users shall have meters on all water sources that ultimately discharge into the POTW or shall meter the liquid wastes at the point of discharge into the POTW, as determined necessary and appropriate by the City Manager. All meters shall be approved by the City.

19-5.28. Disruption of Service

The City shall not be held responsible for claims made against it by reason of the breaking of any sewer or service laterals, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

19-5.29. Service Inspections

All premises receiving sanitary sewer service shall at all times be subject to inspection by duly authorized personnel of the City.

19-6. REGULATION OF DISCHARGES TO THE POTW

19-6.30. Discharge Prohibitions

No person shall discharge to the POTW except in compliance with this Chapter.

The general discharge prohibitions under Section 19-6.30(A) and the specific discharge prohibitions under Section 19-6.30(B) apply to every person whether or not the person is subject to any other national, state or local pretreatment standards or requirements, and whether or not the discharge is made pursuant to a User Permit issued pursuant to this Chapter.

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

- 1 Concentration Limits. Except as otherwise provided by Section 19-6.30(B)(2), pollutants in concentrations that exceed the maximum concentrations ("Standard Local Limits") listed below in this Subsection:

Parameter (mg/l) ¹	IM (mg/l) ¹	Daily	Max.
Arsenic	---	0.45	

Cadmium	---	0.63
Chromium (T)	---	2.15
Copper	---	4.38
Cyanide	---	0.26
Lead	---	2.6
Mercury	NQ ²	NQ ²
Molybdenum	---	0.41
Nickel	---	0.41
Selenium	---	0.45
Silver	---	0.005
Zinc	---	10.0
Toluene	---	15
BOD5	---	300 ³
Phosphorous (T)	---	10 ⁴
TSS	---	350 ⁵
FOG	---	100
Ammonia Nitrogen (NH3 as N)	---	480 ⁶

*Notes:**IM = Instantaneous Maximum**Limit. T = Total*

1. *Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the POTW. The more restrictive discharge limits will be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge, including, without limitation, the specific compounds, if any, listed in Section 19-6.30(B) of this Chapter.*

Also, see Section 19-6.34, regarding application of most restrictive or additional standards or requirements under local, state, and federal laws and regulations.

A user may request the City to develop alternative limits to the Standard Local Limits for specific pollutants ("Special Alternative Limits" or "SALs") as provided by Section 19-6.30(D).

2. *NQ = Non-quantifiable concentration, defined as at or below the quantification level of 0.2 ug/l using U.S. EPA Method 245.1 (or at or below other quantification levels applicable under alternative test methods required by the POTW or by other applicable laws or regulations). Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user's discharge shall be in accordance with U.S. EPA method 245.1, unless the City Manager requires U.S. EPA Method 1631 (or other appropriate method). The quantification level shall be 0.2 ug/l for Method 245.1 or 0.5 ng/l for Method 1631, unless higher levels are approved by the City Manager because of sample matrix interference. Any discharge of mercury at or above the level of quantification is a specific violation of this Chapter.*
3. *Any discharge of BOD in excess of 250 mg/l shall be subject to surcharge as provided by this Chapter.*
4. *Any discharge of phosphorus (T) in excess of 6 mg/l shall be subject to surcharge as provided by this Chapter.*

- 5. Any discharge of TSS in excess of 200 mg/l shall be subject to surcharge as provided by this Chapter.
- 6. Discharges of ammonia nitrogen shall be subject to surcharge as provided by this Chapter upon establishment by the City of a surcharge threshold concentration for such discharges.

The IMC and daily maximum limits listed above in this Section 19-6.30(B)(1) (or as listed elsewhere in this Chapter or in any User Permit or Order) for each pollutant parameter are the concentrations which may not be exceeded and at which enforcement begins. The surcharge threshold concentrations as specified in notes 3 through 7 (above) are the concentrations above which surcharges may be imposed. Discharges exceeding the surcharge thresholds, but which are less than the IMC and daily maximum limits (and which do not violate any other applicable prohibitions, limitations, standards, or requirements), are not violations of this Chapter, but are subject to surcharges as provided by this Chapter. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements constitute a violation of this Chapter, subject to applicable fines, penalties and other enforcement actions. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Chapter.

(2) Headworks Mass Limits. In place of using the concentration limits provided in Section 19-6.30(B)(1), the City Manager may allocate specified portions of the available total load to individual Users as provided by this Section 19-6.30(B)(2).

- (a) As of the effective date of this Chapter, the following total loads are available for the following pollutant parameters:

<u>Parameter</u>	<u>Daily Maximum</u>
<u>Load Limit</u>	
	(total lbs./day) BOD ₅
	4157*
TSS	
2477*	
Phosphorus	(T)
27*	

* or the maximum allowable MAIL (maximum allowable industrial loading) for this parameter approved by MDEQ.

- (b) The City Manager may allocate portions of the available total load for one or more of the parameters listed above to one or more individual Users. The amounts of the load(s) allocated to each User shall be specified in the User's User Permit, along with any conditions as determined necessary by the City Manager. Any discharge by a User in excess of the loading allocated to the User in the User Permit shall constitute a violation of the User Permit and this Chapter.
- (c) Before allocating any amount of the available total load as provided by this Section, the City Manager must determine that the proposed allocation will not cause the average composite loading of all Users discharging to the POTW to exceed the available total loading for any pollutant as provided by Section 19-6.30(B)(2)(a); will not interfere with the POTW's ability to accept and treat wastewater as required by the POTW's NPDES Permit and other applicable laws and regulations; and that the allocation is otherwise reasonable and appropriate under all of the circumstances.
- (d) If the City Manager allocates a portion of the available total loading for some, but not all, of the pollutants listed in Section 19-6.30(B)(2)(a) to a User, any

pollutants not allocated a portion of the available total loading shall be subject to the concentration limits provided by Section 19-

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- (e) The allocation of a portion of available total load for a pollutant to an individual User shall not affect the applicability of surcharges to the User's discharge of that pollutant as provided by Section 19-6.30(B)(1).
- (f) Except as otherwise expressly provided by this Section, an allocation of load for a pollutant parameter shall not affect a User's obligation to comply with the requirements and standards of this Chapter and other applicable laws and regulations.
- (g) The allocation of load for a pollutant parameter shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state or federal laws or regulations. An allocation may be reviewed, reevaluated, modified, and/or revoked without notice at any time and for any reason determined appropriate by the City Manager. At a minimum, all existing allocations shall be reviewed whenever the POTW's NPDES permit is subject to renewal.
- (3) Pollutants in concentrations that exceed the maximum concentrations listed below in this Subsection:

Parameter:

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

A compliance limit of "non-detect" shall be used for instantaneous maximum and daily maximum discharge limit. Any discharge of PCBs at or above the quantification level is a specific violation of this Chapter.

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

- (4) Any liquid, solid, gas or other pollutant (including, but not limited to, gasoline, benzene, naphtha, fuel or fuel oil) which by reason of its nature or quantity is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to persons, the POTW, or to the operation of the sewerage system, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° F or 60° C using test methods specified in 40 CFR 261.21.
- (5) Pollutants that may cause corrosive structural damage to the POTW, or that due to their corrosive properties are capable of causing injury to persons or POTW personnel or harm to fish, animals or the environment. Discharges that have a pH lower than 6.5 s.u. (instantaneous minimum limit) or greater than 9.5 s.u. (instantaneous maximum limit) shall not be discharged.
- (6) Any solid, insoluble or viscous substance in concentrations or quantities which may cause obstruction to the flow in the POTW, may create an encumbrance to the POTW operations, or which otherwise may result in interference, including, but not limited to,

grease, animal entrails or tissues, bones, hair, hides or fleshings, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes or tumbling and deburring stones; or any material that can be disposed of as trash.

- (7) Any pollutant, including, but not limited to, oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration that may cause pass through or interference with the POTW or constitute a slug load, or is otherwise discharged to the POTW in excessive amounts.
- (8) Wastewater (or vapor) having a temperature that will inhibit biological activity in the POTW or result in interference, or heat in such quantities that the temperature at any lift station or at the WWTP exceeds 104° Fahrenheit (40° C). No discharge to the POTW shall have a temperature less than 40° Fahrenheit (4.4° C) or greater than 135° Fahrenheit (57.2° C), unless approved in advance by the City Manager.
- (9) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that may cause interference or pass through.
- (10) Pollutants that result in the presence of gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems. This prohibition includes, but is not limited to, wastewaters which contain liquids, solids or gases that cause gases, vapors or fumes from the discharge to exceed 10% of the immediately dangerous to life and health (IDLH) concentration. Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the POTW. The more restrictive discharge limits shall be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge.
- (11) Substances that, either alone or by interaction with other substances, cause or substantially contribute to increases in sewer gas hydrogen sulfide levels above 10 parts per million vapor (ppmv) concentration in downstream collection system lift stations, manholes or sewers. If the POTW Superintendent determines that a User's discharge is in violation of this prohibition, the POTW Superintendent may require the User to take whatever actions are determined necessary and appropriate by the POTW Superintendent to reduce the concentration of sewer gas hydrogen sulfide levels to less than 10 ppmv.
- (12) Trucked or hauled pollutants, except those introduced into the system at discharge points designated by the POTW, subject to the prior approval of the City Manager and prior issuance of a User Permit.
 - (a) The City Manager shall determine whether to allow the discharge of trucked or hauled pollutants based on the particular nature, character or quantity of the proposed discharge in accordance with the discharge prohibitions, limitations and requirements provided by this Section.
 - (b) The City Manager may impose any conditions on the discharge determined necessary to ensure compliance with this Section, including, without limitation, conditions regarding the time, place, and manner of discharge, restrictions on the quantity and quality of the discharge, and sampling requirements.
 - (c) The discharge shall not commence without prior notice to, and authorization from, the City Manager, and a representative of the POTW shall be present at all times during the discharge.
 - (d) All trucked or hauled wastes to be discharged to the POTW must be accompanied by a completed waste manifest form signed by the permittee and

the hauler as provided by the minimum requirements of this Section. The permittee shall certify in writing on the manifest as to the source of all wastes in the load proposed to be discharged and that the wastes have been pretreated as required by applicable pretreatment standards and requirements. The hauler shall certify in writing on the manifest that the hauler has accepted no wastes other than those listed on the manifest. The manifest must be reviewed by the City Manager prior to commencing discharge of the load. Failure to accurately record every load, falsification of data, or failure to transmit the form to the City Manager for review prior to discharge shall constitute a violation of the permit and may result in revocation of the permit and/or the imposition of fines and penalties as provided by this Section.

- (e) The permittee's discharge of hauled wastes shall be subject to sampling by the POTW at any time, including, without limitation, prior to and during discharge. The City Manager may require the permittee to refrain from, or suspend, discharging until the sample analysis is complete.
 - (f) Trucked or hauled pollutants will be accepted only if transported to the POTW in compliance with state and federal hazardous waste and liquid industrial waste laws.
 - (g) Each discharge of trucked or hauled pollutants will be accepted only after payment to the POTW of a trucked or hauled pollutant discharge fee as provided by Chapter 6. Additional fees and charges may also be assessed to cover the POTW's administrative, consulting and legal expenses, and any additional treatment, handling or inspection expenses incurred by the POTW in connection with the discharge. Any such additional fees shall be established, paid, and collected as provided for IPP fees by Section 19-23. This discharge fee and any other fees and charges as provided by this subsection shall be in addition to surcharges that are otherwise applicable to the discharge.
- (13) Wastewater with objectionable color or light absorbency characteristics that may interfere with treatment processes or analytical determinations, including, without limitation, dye wastes and vegetable tanning solutions.
 - (14) Any garbage or other solid material that has not been properly shredded.
 - (15) Solvent extractibles, including, without limitation, oil, grease, wax, or fat, whether emulsified or not, in excess of applicable local limits; or other substances that may solidify or become viscous (with a viscosity of 110% of water) at temperatures between 32° Fahrenheit and 150° Fahrenheit in amounts that may cause obstruction to the flow in sewers or other interference with the operation of the POTW.
 - (16) Soluble substances in a concentration that may increase the viscosity to greater than 10% over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.
 - (17) Any substance that exerts or causes a high or unusual concentration of inert suspended solids, as determined by the City Manager, including, but not limited to, lime slurries, diatomaceous earth and lime residues.
 - (18) Any wastewater that contains suspended solids of such character, quantity or concentration that special attention is required, or additional expense incurred, to process such materials at the POTW.
 - (19) Any substance that exerts or causes a high or unusual concentration of dissolved solids, including, but not limited to, sodium chloride or sodium sulfate.
 - (20) Noxious or malodorous liquids, gases, fumes, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance, cause workplace conditions in violation of any applicable workplace health or safety standard, pose a hazard

to life, sufficient to prevent entry into the sewers for maintenance and repair, or cause any hazardous or unsafe conditions for the general public.

- (21) Anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, cleaning solvents, oil-based paint, water-based paint with mercury biocides and paint thinners.
- (22) Any radioactive wastes or isotopes of a half-life or concentration that may exceed limits established by applicable City, state or federal laws, rules or regulations.
- (23) Any pollutant that results in excess foaming during the treatment process. Excess foaming is any foam that, in the opinion of the City Manager, may interfere with the treatment process.
- (24) Wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.
- (25) Any hazardous waste as defined by this Chapter.
- (26) Any medical or infectious wastes, as defined by the MDEQ.
- (27) Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal, or otherwise interfere with the reclamation, reuse, or disposal process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; under the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; or any more stringent state or local regulations, as applicable.
- (28) Any unpolluted water, including but not limited to, non-contact cooling water, air-conditioning water, swimming pool water, storm water, surface water, groundwater, roof runoff, and surface or subsurface drainage (except to a storm sewer as authorized by this Chapter and other applicable local, state, and federal laws and regulations, and subject to the prior approval of the City Manager and the MDEQ).
- (29) Any contaminated groundwater or landfill leachate determined by the POTW to have a reasonable potential to adversely affect the operation of the POTW, to result in pass through or interference, or to violate any pretreatment standard or requirement.
- (30) Any substance that will cause the POTW to violate its NPDES permit, the receiving water quality standards, or associated local, state or federal laws, rules or regulations.
- (31) Any substance in quantities that contribute to a high chlorine demand, including, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulfate.
- (32) Any wastewater that exceeds applicable categorical pretreatment standards, requirements or limits prescribed by local, state or federal laws, rules or regulations.
- (33) Any compatible or incompatible pollutant in excess of the allowed limits as determined by applicable local, state or federal laws, rules or regulations.
- (34) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any person's wastewater or air pollutants.
- (35) Residue (total on evaporation) in an amount that will cause obstruction to the flow in the POTW resulting in interference.

- (36) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment to only such degree that the WWTP effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (37) Any nondomestic wastewater before the POTW has approved a Notice of Intent submitted according to Section 19-8.59.
- (38) Waste not typically discharged to a sanitary sewer system unless specifically authorized by the POTW pursuant to policies and procedures established by the City and subject to limitations set forth in this Chapter.
- (39) Any mass, concentration or volume of a substance in excess of the amount allowed in a User Permit.
- (40) Any discharge with an average daily flow greater than 2% of the POTW's average daily wastewater flow, or having a rate of flow (gallons per day) greater than 10% of the POTW's average daily wastewater flow for a period of one hour or more, except with the prior review and approval of the POTW.
- (41) Any discharge with detectable levels of a fungicide or herbicide.
- (42) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to:
 - (a) create a chemical reaction with any materials of construction to impair the strength or durability of sewer structures;
 - (b) cause a mechanical action that will damage or destroy sewer structures; (c) impede or restrict the hydraulic capacity of the POTW;
 - (d) interfere with normal inspection or maintenance of sewer structures;
 - (e) place unusual demands upon the wastewater treatment equipment or processes by biological, chemical or physical means; or
 - (f) cause a hazard to human life or create a public nuisance.

C. Pollutant Reduction Plans. If the City Manager determines that a user has the reasonable potential to discharge any regulated pollutant (including, but not limited to, mercury or PCBs) to the POTW in quantities or magnitude that may cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause noncompliance with applicable federal or state laws or regulations; cause the POTW to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this Chapter, then the City Manager may require the user to develop, submit for approval, and implement a Reduction Plan ("RP") for the pollutant, as provided by this Section. The RP may be imposed as a condition to a User Permit, or may be required independently and even if a User Permit has not been issued to the user.

- (1) At a minimum, the RP shall contain such requirements and conditions, as determined necessary by the City Manager to ensure that the pollutant reduction efforts will be effective in achieving the goals of this Chapter (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 City Manager).
- (2) The goal of an RP shall be to maintain the amount of one or more pollutants or substances at or below the applicable discharge limits or levels, or such other goals as required by the POTW. The City Manager may, in the City Manager's discretion,

consider cost-effectiveness during the development and implementation of an RP.

- (3) The City Manager may require any user to submit an RP that describes the control strategy designed to proceed toward achievement of the specified goal and shall at a minimum include, but shall not be limited to, all of the following as determined necessary by the City Manager on a case-by-case basis:
- a. Periodic monitoring for the pollutant in the user's discharge.
 - b. Periodic monitoring of the potential sources of the pollutant in the user's discharge.
 - c. A commitment by the user that reasonable control measures and/or best management practices will be implemented when sources of the pollutant are discovered. Factors to be considered by the POTW may include the following:
 - (i) Significance of sources.
 - (ii) Economic considerations.
 - (iii) Technical and treatability considerations.
 - (iv) Such other factors as determined appropriate by the City Manager.
 - d. An annual status report. The report shall be sent by the user to the POTW and shall include, at a minimum, all of the following:
 - (i) All RP monitoring results for the previous year.
 - (ii) A list of potential sources of the pollutant in the user's discharge.
 - (iii) A summary of all actions taken by the user to reduce or eliminate the identified sources of the pollutant or substance.
- (4) As determined necessary by the City Manager, the City Manager may require a user to develop, submit and implement an RP for any pollutant or substance regulated by this Chapter. The City Manager may also modify an approved RP at any time as determined necessary by the City Manager to meet the goals and objectives of this Chapter.
- (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 Chapter, subject to the fine, penalty, and other enforcement provisions of this Chapter.
- (6) Holding enforcement action in abeyance. Except as provided for in Section 19-6.30(C)(6)(c)(iv) and (vi), if the effluent sample analysis results of a user's discharge exceeds the applicable discharge limit, detection level, or quantification level for a pollutant, the City Manager may, in the City Manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance, subject to the terms, conditions, and requirements of this Section 19-6.30(C)(6), as follows:
- a. If an approved RP is already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is already in place, then the City Manager may, in the City Manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance for the period that the sample represents if the RP (and all terms, conditions and requirements thereof) is being fully and continually performed in good faith by the user, as determined by the City Manager, and subject to all of the requirements and conditions of Section 19-6.30(C)(6)(c).

- b. If an approved RP is not already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is not already in place, then the City Manager may, in the City Manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement regarding the prohibited discharge in abeyance, subject to all of the requirements and conditions of Section 19-6.30(C)(6)(c), and provided further as follows: The user with the non-compliant discharge shall develop and implement an RP approved by the City Manager to minimize the user's discharges of the pollutant in question to the POTW. The RP shall meet all of the requirements of this Section 19-6.30(C).
- c. The following requirements and conditions shall apply to any situation under this Section 19-6.30(C)(6) in which an enforcement action is held in abeyance as provided by this subsection (regardless of whether or not an RP was in place at the time of the non-compliance):
 - i. The user with the non-compliant discharge shall have a POTW-accessible point for monitoring all discharges from the user to the POTW, as approved by the POTW. All costs and expenses for and related to the installation and maintenance of this monitoring point and any required sampling devices shall be paid for solely by the user.
 - ii. The user with the non-compliant discharge shall routinely self-monitor its discharges to the POTW for the pollutant in question using the sampling methods, procedures, preservation and handling, and analytical protocol required by the City Manager and at the frequency specified by the City Manager. All costs and expenses of this sampling and analysis shall be paid for solely by the user.
 - iii. The POTW may collect any additional samples of the user's discharge as determined necessary by the City Manager, all costs and expenses to be paid for by the user.
 - iv. If the user complies with all of the requirements and conditions for the RP as specified by the City Manager; and if the City Manager determines that all reasonable and cost-effective actions based on the economic, technical, and treatability considerations, including, but not limited to, all elements of the user's RP, have been, and continue to be, fully and satisfactorily implemented by the user; and if the user's discharge does not cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause noncompliance with applicable federal or state laws or regulations; cause the POTW to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this Chapter, 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 Section 19-6.30(C)(6) to the contrary, and regardless of whether a user fully complies with all requirements and conditions of this Section and/or of an approved RP, the City Manager shall have the unconditional right to prohibit and terminate any non-compliant discharge at any time and without prior notice, and to take any enforcement action in response thereto, including any enforcement action that had previously been held in abeyance under this Section 19-6.30(C)(6).
 - vi. Notwithstanding any provision of this Section 19-6.30(C)(6) to the contrary, the City Manager shall not hold an enforcement action in abeyance as provided by this subsection for any pollutant parameter other than mercury and PCBs unless the City Manager has first obtained approval from the MDEQ to implement the requirements

of this Section 19-6.30(C)(6) for the specific pollutant parameter in question.

- D. Special Alternative Limits. Notwithstanding the Standard Local Limits provided by Section 19-6.30(B)(1) and the Headworks Mass Limits provided by Section 19-6.30(B)(2), the POTW may, but shall in no case be required to, develop alternative user-specific maximum limits for specific compatible pollutants (“Special Alternative Limits” or “SAL”), as provided by this Section 19-6.30(D).

1. Prerequisites For SAL Development. Special Alternative Limits for specific pollutants may be developed for a user, and the resulting SAL may be implemented, subject to meeting all of the following conditions, as determined by the City Manager:

- a. All costs and expenses, direct and indirect, associated with developing a SAL for a user shall be paid for by the user, including, but not limited to, the costs of reviewing the user’s request for a SAL, all studies and reports, and all monitoring, sampling and generation of data; the full value of any City staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees (including the POTW’s legal counsel and any special legal counsel), associated with developing the SAL for the user.

At any time prior to or during the SAL development process, the POTW may require a user that requests the development of a SAL to post a performance bond (or other form of surety acceptable to the City Manager) sufficient to cover all costs and expenses (direct and/or indirect) that might reasonably be incurred by the POTW as a result of the user’s request, as determined necessary by the City Manager.

- b. A maximum allowable headworks loading (MAHL) study has been done that is representative of the current flow and loading conditions at the POTW and that demonstrates sufficient capacity for the change in the specific pollutant. The MAHL study shall take into consideration the total load from all users and the allocation of load from the study shall be divided as determined appropriate by the City Manager.
- c. Any change to the load limits resulting from the SAL shall not (1) significantly hinder the capacity of the POTW to accept additional waste from new or existing domestic or nondomestic customers; or (2) exceed the capacity of the POTW.
- d. The POTW has determined that the SAL is reasonable and appropriate under all of the circumstances, and that it is consistent with the purposes and objectives of this Chapter, the POTW’s NPDES permit, and other applicable laws and regulations.
- e. The proposed change to the load limits as a result of the SAL has been submitted to the MDEQ and has received MDEQ approval before implementation.

2. SAL Review Process. The process for the POTW to determine whether replacing a Standard Local Limit with a SAL is reasonable and appropriate shall be as follows, as determined applicable by the City Manager:

- a. The user shall request in writing that the POTW develop a SAL for a particular specific compatible pollutant.
- b. The POTW may review the user’s request and may require the user to submit any additional information that the POTW determines will be necessary to adequately evaluate the user’s request. This information

may include, but shall not be limited to, any of the information that is required to be provided in a user permit application as set forth in Section 19-7.39 of this Chapter. If deemed necessary by the POTW, a site inspection may be required.

- c. The POTW may require a review of historical data from sampling and monitoring the user's discharge, including, but not limited to, concentration and flow data. The user may be required to update this data using any means or methods determined necessary by the City Manager. The POTW may also require a review of typical discharge concentrations and flows for similar users, and any applicable categorical standards.
- d. The POTW shall review the status of the current Maximum Allowable Industrial Loadings ("MAIL") for the pollutant for which the SAL is being requested to determine if sufficient loading remains to accommodate all, any part, or none, of the requested SAL.
- e. After the proposed SAL and associated monitoring frequency have been prepared, the POTW shall determine whether or not to approve the SAL, or to approve the SAL only subject to whatever conditions the City Manager deems appropriate.
- f. If approved, or approved subject to conditions, the user may accept or reject the SAL and associated monitoring frequency. If the user accepts the SAL, the City Manager may modify or reissue the user's discharge permit to incorporate the SAL and associated monitoring frequency, and any other conditions or requirements as determined appropriate by the City Manager.
- g. The development of a SAL or implementation of a SAL in a user's discharge permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state or federal laws or regulations. A SAL may be reviewed, reevaluated, modified, and/or revoked without notice at any time and for any reason determined appropriate by the City Manager. At a minimum, all existing SALs shall be reviewed whenever the POTW's NPDES permit is subject to renewal.

19-6.31. Pretreatment Standards and Requirements

- A. Compliance with applicable standards and requirements. The national categorical pretreatment standards as established for specific industries under 40 CFR chapter I, subchapter N are hereby made a part of the requirements of this Chapter in accordance with federal and state laws and regulations, and are incorporated by reference as if fully set forth in this Chapter. A user shall comply with all categorical pretreatment standards and any other pretreatment requirements established under the Act that are applicable to that user. A user shall also comply with all other applicable pretreatment standards and requirements established under this Chapter or under state and federal laws and regulations.
- B. Deadlines for compliance. Compliance by existing sources with categorical pretreatment standards shall be within 3 years of the date the standard is effective unless a shorter compliance time is specified by 40 CFR chapter I, subchapter N. Existing sources that become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of "new source." New sources shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards and requirements.

- C. Alternative categorical limits. Categorical pretreatment standards shall apply to a user subject to categorical standards, unless an enforceable alternative limit to the corresponding national categorical standards is derived using any of the methods specified in MAC R 323.2313 (regarding removal credits, fundamentally different factor variances, net/gross calculations, equivalent mass per day limitations, and combined waste stream formula alternative limitations). The use of any alternative categorical limit shall be subject to the prior approval of the City Manager. If local limits are more stringent than derived alternative categorical limits, the local limits shall control. All costs incurred by the City in determining or applying an alternative limit shall be reimbursed to the City by the user.
- D. Compliance with other applicable laws and regulations. Users of the POTW shall comply with all local, state and federal laws and regulations that may apply to their discharges to the POTW, including, but not limited to, Article II, Air Pollution Control, Part 55 of Act 451 of the Public Acts of Michigan of 1994 (the Natural Resources and Environmental Protection Act).

19-6.32. Right of Revision

Notwithstanding any other provision of this Chapter to the contrary, the City reserves the right to establish more restrictive prohibitions, limitations, standards or requirements for discharges to the POTW to prevent interference or pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the POTW's NPDES permit, or as otherwise determined necessary by the City Manager.

19-6.33. OTW's Right To Refuse or Condition Discharge

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

19-6.34. Most Restrictive Standards and Requirements Apply

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

19-6.35. Dilution Prohibited as Substitute for Treatment

Unless expressly authorized to do so by an applicable pretreatment standard or requirement and subject to the prior approval of the City Manager, no user shall ever increase the use of process water, mix separate waste streams, or in any other way attempt to dilute, thin, or weaken a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a federal, state or local standard, requirement or limitation. The POTW may impose mass limitations on Nondomestic Users that are using dilution to meet applicable pretreatment standards or requirements and in other cases where the imposition of mass limitations is appropriate. No user

intending to use dilution as a substitute for treatment shall do so without the prior approval of the City Manager consistent with the requirements of this Section.

19-7. USER PERMITS

19-7.36. User Permit Required

- A. Nondomestic User Permits. It is unlawful and prohibited for any significant industrial user (SIU), or any other user as determined necessary by the City Manager to carry out the purposes of this Chapter, to discharge to the POTW without a Nondomestic User Permit as provided by this Section.
- B. General User Permits. The City Manager may require any person other than a SIU to obtain a General User Permit to discharge to the POTW, subject to such terms and conditions as are determined necessary and appropriate by the POTW to achieve the purposes, policies and objectives of this Chapter.
 - (1) A General User Permit may contain, but shall not be required to contain, any of the terms and conditions that would apply to a Nondomestic User Permit issued to a SIU as provided by this Section to comply with the general and specific discharge prohibitions of this Chapter, including, but not limited to, discharge limitations, and requirements regarding sampling and monitoring; pretreatment; pollution prevention, minimization or reductions plans; accidental discharge, spill prevention, and containment requirements; flow equalization; and implementation of best management practices or a best management practices plan.
 - (2) To the extent determined appropriate by the City Manager on a case-by-case basis, a General User Permit issued under this Subsection shall be subject to provisions otherwise applicable to permits for SIUs. However, all General User Permits shall be non-transferable, and are subject to the permit fee and permit appeals provisions of this Chapter.
 - (3) It is unlawful and prohibited for any person required by the City Manager to obtain a General User Permit to discharge to the POTW without a General User Permit as provided by this Section.
 - (4) Failure to comply with a General User Permit issued under this Subsection constitutes a violation of this Chapter.
 - (5) In no case shall a General User Permit be construed to authorize the illegal discharge or otherwise excuse a violation of this Chapter.
- C. Notwithstanding any provision of this Chapter to the contrary, if determined necessary by the City Manager to achieve the goals and purposes of this Chapter, the City Manager may issue a User Permit to any person without first requiring the person to submit or complete a permit application.
- D. Any violation of the terms or conditions of a User Permit is a violation of this Chapter, subject to the fine, penalty, and other enforcement provisions of this Chapter. Obtaining a User Permit shall not relieve a person of the obligation to obtain other permits or approvals that may be required by other local, state or federal laws or regulations.
- E. The issuance of a User Permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state or federal laws or regulations.

19-7.37. Determination Of User Status

- A. The POTW may require any person to submit information to the POTW for its use in determining the person's status as a user, including, but not limited to, whether the user is a SIU, as well as to determine changes or the absence or inadequacy of changes in a user's facilities.
- B. The POTW shall notify a Nondomestic User of the POTW's belief that the user is, or may be, a SIU. Upon such notification, the user must complete and submit an application for a Nondomestic

User Permit on a form furnished by the POTW. The failure of the POTW to so notify a Nondomestic User shall not relieve any SIU of the duty to obtain a permit as required by this Chapter.

- C. Upon determination that User Permit is required, no connection to the POTW shall be made and no discharge thereto shall occur until a permit is duly issued; provided, however, that the POTW may at its discretion issue a written authorization in place of a permit, which authorization shall be valid for a period not to exceed 60 days.

19-7.38. Permit Application Deadlines

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

- A. Existing SIUs: Any SIU discharging into the POTW as of the effective date of this Chapter shall submit a completed permit application form to the POTW as provided by this Section within 60 days of being so directed and provided a form by the POTW.
- B. Proposed New SIUs: Any SIU proposing to commence (or recommence) discharging into the POTW after the effective date of this Chapter shall, at least 60 days prior to the anticipated date on which discharging will commence (or recommence), request a permit application form and submit the completed application to the POTW.
- C. Categorical Users Subject to New Standard: A user which becomes subject to a new or revised national categorical pretreatment standard, and which has not previously submitted an application for a permit as required herein, shall apply to the POTW for a Nondomestic User Permit within 90 days after the promulgation of the applicable national categorical pretreatment standard. The POTW may also initiate this action; however, the failure of the POTW so to do shall not relieve a user of its obligation to obtain a permit.
- D. Other users: Any other user directed by the POTW to complete and submit a User Permit application shall do so within 60 days of being so directed by the POTW and provided a form by the POTW. Any user not required to obtain a User Permit for existing discharges must apply for and receive a User Permit prior to changing the user's discharge in such a manner that the resulting discharge would require a User Permit.

The City Manager may also require any other person to file the information required by Section 19-7.39 of this Chapter (whether or not that person is currently a user, and whether or not that person is otherwise currently discharging to the POTW, a storm sewer, or receiving waters), if the City Manager determines that there is a reasonable potential for the person to discharge to the POTW, a storm sewer, or receiving waters, whether due to an accidental spill or for any other reason. Any person directed by the City Manager to submit the required shall do so within the time frame as directed by the City Manager.

The failure or refusal of any person to submit or complete a permit application shall not in any way relieve the person from the duty to comply with a permit issued by the City Manager. In no case shall the receipt or non-receipt of a completed permit application prevent the issuance of a permit by the City Manager or relieve a person from the duty of fully complying with a permit that is issued by the City Manager.

19-7.39. Permit Application Requirements

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

- A. The name, address, and location of the facility or premises from which discharge will be made, including the names of the owner(s) and operator(s) of the facility or premises.
- B. Corporate or individual name, federal employer identification number, address and telephone number of the applicant.
- C. Whether the user is a corporation, partnership, proprietorship, or other type of entity, and the name of the person(s) responsible for discharges by the user.

- D. Name and title of the local authorized representative of the user who will have the authority to bind the applicant financially and legally, and who is authorized by the applicant as its agent to accept service of legal process, and the address and telephone number of such representative.
- E. The Standard Industrial Classification (SIC) numbers of all processes at the location for which application is made, according to the Standard Industrial Classification Manual, as amended (or, if applicable, the North American Industrial Classification System (NAICS) designation).
- F. Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application, including, but not limited to, any pollutants that are limited or regulated by any federal, state, or local standards or requirements. The information provided for such parameters shall include all of the following:
- (1) Pollutants having numeric or narrative limitations as provided by this Chapter.
 - (2) Pollutants limited by National Categorical Pretreatment Standards regulations for similar industries.
 - (3) For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided.
 - (4) For industries subject to National Categorical Pretreatment Standards or requirements, the data required shall be separately shown for each categorical process waste stream and shall include all information required in Section 19-8.52(A) for a Baseline Monitoring Report.
 - (5) Combined waste streams proposed to be regulated by the combined waste stream formula shall be specified.
- G. For purposes of information required by the application, sampling and analysis shall be performed in accordance with the following: Procedures established by U.S. EPA pursuant to Section 304 (g) of the Act and as contained in 40 CFR 136, as amended. If 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures in U.S. EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments or revisions thereto, or where appropriate and applicable, in accordance with any other sampling and analytical procedures approved by EPA, or as otherwise specified by the City Manager.
- H. A listing and description of the following: plant activities, plant facilities, and plant processes on the premises for which the permit is being applied. Processes, which are subject to National Categorical Pretreatment Standards or requirements, shall be so designated, and identification of which pollutants are associated with each process shall be stated.
- I. A listing of raw materials and chemicals that are either used in the manufacturing process or could yield the pollutants referred to in this Section. Any user claiming immunity from having to provide such information shall furnish proof of such immunity that is acceptable to the City Manager and in accordance with all applicable local, state, and federal laws and regulations.
- J. A statement containing information on the spill containment and prevention of Accidental/Spill Discharges program for each of the pollutants referred to in this Section. The information provided shall include the following:
- (1) The approximate average and maximum quantities of such substances kept on the premises in the form of the following: (a) raw materials; (b) chemicals; and/or (c) wastes therefrom; and
 - (2) The containment capacity for each of the above items.

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

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

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

- K. The name and address of each laboratory performing analytical work for the user submitting the application.
- L. A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the 7 days of the week.
- M. Average and maximum 24 hour wastewater flow rates, including 30 minute peak wastewater flow rates, and daily, monthly and seasonal variations, if any; and a list of each national categorical process waste stream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW, and list showing each combined waste stream.
- N. A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW, storm sewer, or receiving waters;
- O. A flow schematic drawing showing which connections receive each national categorical process waste stream or other process waste streams, and which connections receive storm water, sanitary water or cooling water;
- P. A schematic drawing showing which sewers handle each combined waste stream.
- Q. Each product produced by type, amount, process or processes and the rate of production as pertains to processes subject to production-based limits under national categorical standards or requirements shall be specified.
- R. Actual or proposed hours of operation of each pretreatment system for each production process.
- S. A description and schematic drawing showing each pretreatment facility, identifying whether each such facility is of the batch type or continuous process type.
- T. If other than potable water is used, identification of the user's source of intake water together with the types of usage and disposal method of each water source and the estimated wastewater volume from each source.
- U. A statement certified by a qualified professional regarding whether the requirements of this Chapter and the national categorical pretreatment standards and requirements are being met on a consistent basis; and if not, what additional operation and maintenance work and/or additional construction is required for the user to comply with applicable standards and requirements.
- V. A list of all environmental permits (and, if requested by the City Manager, a copy of any environmental permit) held by the user applicable to the premises for which the User Permit is being sought.
- W. Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state and local pretreatment standards and requirements. If additional O&M or additional pretreatment will be required to meet the applicable standards and requirements, then the user shall indicate the shortest time schedule necessary to accomplish

installation or adoption of the additional O&M and/or pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (including, without limitation, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to above shall exceed 9 months, nor shall the total compliance period exceed 18 months.
 - (2) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between submissions of the progress reports to the POTW.
- X. Any other information determined necessary by the POTW to adequately evaluate the application. To the extent that actual data is not available for a new source, the applicant shall supply estimated or expected information.
- Y. All applications (and reapplications) shall be signed and certified by an "authorized representative" of the user as defined by this Chapter.

19-7.40. Permit Issuance, Denial, or Determination that Permit not Required

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

- (c) Pass through the POTW into the receiving waters or the atmosphere;
 - (d) Inhibit or disrupt the POTW's processing, use, or disposal of sludge;
 - (e) Cause health or safety problems for POTW workers; or
 - (f) Result in a violation of the POTW's NPDES permit or of other applicable laws and regulations;
- (7) If the POTW determines that there is not, or will not be, sufficient capacity available (in both wastewater volume and strength) for a proposed discharge in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat and dispose of BOD, TSS, or similar materials as required by applicable local, state or federal laws, rules or regulations; or
- (8) For any other reason determined by the City Manager as necessary and appropriate to protect the POTW or to meet the purposes and intent of this Chapter.

19-7.41. Permit Conditions

- A. User Permits shall be subject to all provisions of this Chapter and all other applicable regulations, user charges, and fees established by the POTW. Further, User Permits incorporate by reference all provisions, regulations and requirements of the Ordinance without setting them forth in full therein.
- B. Nondomestic User Permits shall at a minimum include all of the conditions required by MAC 323.2306(a)(iii). In addition, User Permits shall include any conditions determined reasonably necessary by the City Manager to prevent pass through or interference, to protect the quality of the receiving waters, to protect worker health and safety, to facilitate POTW sludge management and disposal, to protect ambient air quality, to protect against damage to the POTW, or to otherwise achieve the objectives of this Chapter, including, but not limited to, the following:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
 - (2) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.
 - (3) Requirements for installation of pretreatment technology or construction of appropriate containment devices, or similar requirements designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (4) Development and implementation of slug discharge control plans, spill control plans, or other special conditions, including additional management practices necessary to adequately prevent accidental or unanticipated discharges.
 - (5) Requirements for installation, maintenance, repair, calibration and operation of inspection and sampling facilities and discharge flow monitors.
 - (6) Specifications for monitoring programs which shall include, but are not limited to, sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - (7) Compliance schedules.
 - (8) Requirements for submission of technical reports or discharge reports.
 - (9) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the POTW and affording the POTW access to those records.
 - (10) Requirements for notifying the POTW if self-monitoring indicates a violation as provided by Section 19-8.55 of this Chapter, and for repeat sampling and analysis as provided by Section 19-9.68 of this Chapter.

- (11) Requirements for notification of any new introductions of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW, including listed or characteristic hazardous waste for which the user has submitted initial notification under MAC R 323.2310(15).
- (12) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.
- (13) Requirements for notification of accidental or slug discharges, or discharges that exceed a discharge prohibition.
- (14) Requirements for notification and need for prior approval from the City Manager for any proposed change in a sampling location.
- (15) A statement regarding limitations on transferability of the permit.
- (16) A statement of the duration of the permit.
- (17) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable pretreatment standards and requirements, including those that become effective during the term of the permit.
- (18) Requirements for a written certification signed by the permittee that acknowledges that the permittee has read and fully understands all terms and conditions of the permit; and acknowledges that the permittee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the permit as approved.
- (19) A statement of applicable civil and criminal penalties for violation of discharge limitations, pretreatment standards and requirements, and compliance schedules.
- (20) Requirements regarding development by a user of a pollutant prevention, minimization or reduction plan (e.g., for mercury or PCBs) or requirements regarding use of best management practices to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances to the POTW, or otherwise meet the purposes, policies and objectives of this Chapter.
- (21) Other conditions as determined necessary by the City Manager to ensure compliance with this Chapter and other applicable laws, rules and regulations.

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

19-7.42. Permit Modifications

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

- A. To incorporate any new or revised federal, state or local pretreatment standards or requirements, or other applicable requirement of law or regulation.
- B. Material or substantial changes or additions to the permittee's operations, processes, or the character or quality of discharge that were not considered in drafting or issuing the existing permit. It shall be the duty of a user to request an application form and to apply for a modification of the permit within 30 days of any such change(s). The POTW may modify a permit on its own initiative based on its findings or upon reasonable cause to believe that any such change(s) has occurred or threatens to occur.

- C. A change in any condition in the permittee's discharge, facility, production or operations, or in the POTW, that requires either a temporary or permanent reduction or elimination of the permittee's discharge to assure compliance with applicable laws, regulations or the POTW's NPDES permit.
- D. Information indicating that the permitted discharge poses a threat to collection or treatment systems; the POTW's processing, use, or disposal of sludge; POTW personnel; or the receiving waters.
- E. Violation of any terms or conditions of the user's permit.
- F. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required report or notice.
- G. Revision of, or a grant of a variance from, applicable categorical standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the permit.
- I. To reflect transfer of the facility ownership and/or operation to a new owner or operator.
- J. To add or revise a compliance schedule for the permittee.
- K. To reflect changes or revisions in the POTW's NPDES permit.
- L. To ensure POTW compliance with applicable sludge management requirements promulgated by EPA.
- M. To incorporate any new or revised requirements resulting from reevaluation of the POTW's local limits.
- N. To incorporate a request for modification by the permittee, as determined appropriate by the POTW and provided the request does not create a violation of any applicable requirement, standard, law, rule or regulation.

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

19-7.43 Permit Duration

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

19-7.44 Permit Reissuance

- A. To apply for reissuance of an existing User Permit, a user must submit a complete permit application to the POTW accompanied by payment of an application fee at least 90 days prior to the expiration of the user's existing permit (or at least 180 days prior to the expiration of a 5 year permit) . The application shall be submitted in a form prescribed by the POTW. It shall be the responsibility of the user to make a timely application for reissuance.
- B. All User Permits issued to a particular user are void upon the issuance of a new User Permit to that user.

19-7.45 Continuation of Expired Permits

An expired User Permit will continue to be effective until the permit is reissued only if:

(a) the user has submitted a complete permit application at least 90 days prior to the expiration date of the user's existing permit (or at least 180 days prior to the expiration date of a 5 year permit); and

(b) the failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the user: provided, however, in no case may a permit continue for a period of more than 5 years from the date of issuance. In all other cases, discharge to the POTW following expiration of a permit is unlawful.

19-7.46 Permit Suspension and Revocation

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

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

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

19-7.47. Limitations on Permit Transfer

- A. A User Permit is issued to a specific user for discharge from a specific facility and operation and shall not be assigned or transferred or sold to a new or different owner, operator, user, discharger, facility or premises, or to a new or changed facility or operation, without the prior written approval of the POTW. If the transfer of a permit is approved, any succeeding transferee permittee must also comply with the terms and conditions of the existing permit. The POTW shall approve the transfer of a permit only if all of the following conditions are met:
- (1) The transferor (permittee) shall give at least 60 days advance notice to the POTW of the proposed transfer of the permit (unless a shorter notice period is approved to change the facility's operations and processes; (b) identifies the specific date on which the transfer is to occur; (c) acknowledges that the transferee has read and fully understands all terms and conditions of the permit; and (d) acknowledges that the transferee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the existing permit if the transfer is approved.
 - (2) As of the date of the proposed transfer, there are no unpaid charges, fines, penalties or fees of any kind due to the POTW from the transferor or the transferee related to use of the POTW.
 - (3) Except as to the identity of the new discharger (the transferee), the application materials for the permit to be transferred as originally filed by the transferor, as well as the terms and conditions of the permit itself, are completely accurate with respect to, and fully applicable to, the discharge, facilities, and activities of the transferee.
 - (4) The permit transfer fee as established by the POTW has been paid to the City.
- B. If the transfer of a permit is approved and the permit transfer fee has been paid to the City, the POTW shall make the necessary minor modifications to the permit to show the transferee as the permittee, and a copy of the permit shall be provided to the transferee for signature and certification by the transferee as provided by Section 19-8.62 of this Chapter. The transferor (permittee) shall remain liable for any discharges to the POTW from the facility (along with any other persons actually discharging from the facility to the POTW) until a transfer of the permit has been approved as provided by this Section.
- C. This Section is not intended to, and shall not be construed to, limit in any way the transfer of ownership of the property involved.
- D. Any attempt to transfer a User Permit that does not comply with the requirements of this Section renders the permit void as of the date of the invalid transfer.

19-7.48 Duty to Provide Information

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

19-7.49 Permit Appeals

Except as otherwise provided by this Section, an appeal to the Wastewater Board of Appeals ("WBA") of any final decision made by the City Manager in connection with issuing or implementing a User Permit shall be governed by Section 19-18 of this Chapter. An appealing party must specify in its notice of appeal the action of the POTW being appealed and the grounds for the appeal. If a particular permit provision is objected to, the notice of appeal must specify the reasons for the objection, and the alternative provision, if any, sought to be placed in the permit. The effectiveness of a permit or any final decision made by the City Manager shall not be stayed pending a decision by the WBA. If, after considering the record on appeal including any statements provided by the POTW in response to the appeal, the WBA determines that a permit or any provision of a permit

should be reconsidered, the WBA shall remand the matter to the City Manager for further action as determined appropriate by the WBA. Specific provisions of a permit that are remanded by the WBA for reconsideration by the City Manager shall be stayed pending further final action taken by the City Manager as required by the decision of the WBA. A decision of the WBA not to remand any matter shall be considered final administrative action for purposes of judicial review.

19-7.50 Permits Not Stayed

Except as otherwise expressly provided by Section 19-7.49, no action taken or request filed by any permittee shall operate to stay the effect of any permit or of any provision, term or condition of any permit, including, without limitation, a request for permit modification, reissuance, or transfer, or a notification of planned changes or anticipated noncompliance.

19-7.51 Permit Fees

User Permit fees shall be established, paid and collected as provided by this Section and 19-23.

19-8. REPORTING AND NOTICE REQUIREMENTS

All users shall comply with the minimum reporting and notice requirements provided by this Section, as follows:

19-8.52 Reports By Nondomestic Users Regarding Categorical Pretreatment Standards and Requirements

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

19-8.53 Reports Required for Nondomestic Users Not Subject to Categorical Pretreatment Standards

- A. All Nondomestic Users not subject to categorical pretreatment standards shall submit to the POTW periodic reports providing information regarding the quality and quantity of wastewater and

pollutants discharged into the POTW (including, without limitation, information regarding the nature, concentration (or mass), and flow of the discharge). These reports shall be based on sampling and analysis performed in the period covered by the report in accordance with the sampling, analysis and monitoring requirements provided by Section 19-9 of this Chapter (except that historical sampling data shall not be used for the periodic compliance reports required by this Section 19-8.53).

- B. For Significant Industrial Users, the reports shall be submitted at least once every 6 months for the preceding 6 months (during the months of April and October unless alternate months are specified by the POTW), unless required more frequently by the POTW.
- C. If required by the POTW for Nondomestic Users other than Significant Industrial Users, the reports shall be submitted at least once every 12 months for the preceding 12 months (during the month of October unless an alternate month is specified by the POTW), unless required more frequently by the POTW.
- D. The reports for all Nondomestic Users shall be submitted on forms provided by (or in a format required by) the POTW, and shall include, without limitation, the volume of wastewater; the concentration of pollutants; the names of all person(s) responsible for operating and maintaining any pretreatment equipment, pretreatment processes, or responsible for wastewater management at the user's facilities, with a brief description of each person's duties; information regarding materials or substances that may cause interference or pass through; and any other information deemed necessary by the POTW to assess and assure compliance with applicable discharge requirements or to safeguard the operation of the POTW.

19-8.54 Notice by User of Potential Problems

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

19-8.55 Notice by User of Violation of Pretreatment Standards

If sampling performed by a Nondomestic User indicates a violation, the user shall notify the POTW within 24 hours of becoming aware of the violation (and shall comply with other applicable requirements provided by Section 19-9.68 regarding repeat sampling and analysis).

19-8.56 Notice by User of Changed Discharge or Change in User Status

- A. A Nondomestic User shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in its discharge, or of any facility expansion, production increase, or process modifications that could result in a substantial change in the volume or character of pollutants in its discharge.
- B. For purposes of this Section, "promptly" means as soon as reasonably possible, but in no event less than 60 days before the change.
- C. For purposes of this Section, "substantial change" includes, without limitation, any of the following:
 - (1) The discharge of any amount of a pollutant not identified in the user's permit application or in the permit issued.
 - (2) An increase in concentration (or degree) of any pollutant that exceeds 10% of the concentration (or degree) for the pollutant as indicated in any report required under Section 19-8.52 or 19-8.53;

- (3) An increase in discharge volume that exceeds 20% of the volume as indicated in any report required under Section 19-8.52 or 19-8.53.
 - (4) Any increase in the amount of any hazardous wastes discharged, including, without limitation, the hazardous wastes for which the user has submitted initial notification under Section 19-8.57 of this Chapter.
 - (5) The discharge of any ground waters purged for a removal or remedial action.
 - (6) The discharge of any pollutants that are present in the discharge due to infiltration.
 - (7) A change in discharge that may convert a Nondomestic User into a Significant Industrial User, or a Nondomestic User into a Categorical User.
 - (8) A change in discharge that would cause a change in the categorical standards that apply to the user.
- D. In determining whether to accept any changed discharge, or, if so, under what conditions, the POTW shall evaluate the changed discharge pursuant to the general and specific discharge prohibitions under Section 19-6.30 and other applicable provisions of this Chapter. The user may be required to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a User Permit application.
- E. No user shall implement the planned changed conditions until and unless the City Manager or his/her designee has responded to the user's notice.
- F. This Section shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation provided by this Chapter or a permit.

19-8.57 Notice By User Regarding Wastes That Are Otherwise Hazardous

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

19-8.58 Notice by User Regarding Installation of New Pretreatment Facilities

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

19-8.59 Notice of Intent

- A. At least 60 days before commencing or changing a discharge, each of the following persons shall submit a Notice of Intent to the POTW for approval by the City Manager:
- (1) A person proposing to discharge any nondomestic wastewater not previously reported to the POTW.
 - (2) A person taking possession or control of an existing facility that discharges or may discharge process wastewater into the POTW.
 - (3) A person constructing a new facility that will discharge process wastewater into the POTW.

- (4) A person commencing or modifying a discharge of hazardous wastes that requires reporting under Section 19-8.57.
- B. The Notice of Intent shall be submitted in writing on a form provided by the POTW and shall be accompanied by a payment of any fees established by the City. It shall include sufficient information to allow the City Manager to evaluate the effect of the proposed discharge on the POTW and operations and to assure compliance with this Chapter.

19-8.60 Other Reports and Notices Required by this Section or by Other Applicable Laws and Regulations

Users shall comply with all other reporting or notice requirements as provided by this Chapter, by any notice, order or permit issued under this Chapter, or as required by any other applicable law or regulation, including, without limitation, the reporting and notice requirements in connection with accidental discharge (Section 19-10), upset (Section 19-11), bypass (Section 19-12), and any other reports or notice requirements determined necessary by the POTW to assess and assure compliance with the requirements of this Chapter.

19-8.61 Requirements Applicable to All Required Reports, Notifications, and Applications

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

- A. All reports, notifications, applications and requests for information required by this Chapter shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, notification, application or request. The data shall be representative of conditions occurring during the applicable reporting period. If a pretreatment standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the POTW or the applicable standard to determine compliance with the standard.
- B. If a user monitors any pollutant (or measures flow) more frequently than required by this Chapter or a User Permit, using the monitoring, sampling and analytical procedures as required by Section 19-9.63, the results of all such additional monitoring shall be included in any report or notification submitted pursuant to this Chapter.
- C. The City Manager may require that reports, notifications, and other required documents and data be submitted in a standardized format, as specified by the City Manager.
- D. If the POTW instead of a user collects all of the information, including flow data, required for a report required by Sections 19-8.52 or 19-8.53, the City Manager may in his or her discretion waive the requirement that the report be submitted by the user.
- E. The reports, notifications, and other documents and data required to be submitted or maintained by this Chapter shall be subject to all of the provisions as specified by MAC R 323.2310(13).
- F. Written reports, notifications, and applications will be deemed to have been submitted to the POTW, unless otherwise specified by the City Manager, as follows:
 - 1. If mailed, on the date postmarked.
 - 2. The date of receipt of the report shall govern for reports, notifications, or applications which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, including, but not limited to, reports, notifications, or applications that are hand-delivered, faxed, or emailed.
 - 3. Written reports, notifications, and applications may be submitted to the POTW by fax or email (or by any means other than mail or hand-delivery) only with the prior approval of the POTW on a case-by-case basis. The report or notification shall be sent to the fax number or email address specified by the POTW.

- G. All written reports, notifications, and applications submitted by mail or hand-delivery shall be sent or delivered to the address stated in the User Permit, or if there is no User Permit, then to the following address:

City of Three Rivers
WWTP
333 West Michigan Avenue
Three Rivers, MI 49093
Attn: WWTP Director

- H. Failure to provide the reports, notifications, and applications required by this Chapter constitutes an independent violation of this Chapter. However, compliance with applicable reporting and notification requirements shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such report or notification relieve a user of any fines, penalties, or other liability that may be imposed by applicable laws or regulations. Further, the reporting and notification requirements required by this Chapter shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Chapter or other applicable laws or regulations.

19-8.62 Signature and Certification Requirements

All written reports, notifications, and applications required by this Chapter shall be signed and certified as follows:

- A. Required Signatures. The reports, notifications, and applications shall be signed by an "authorized representative" of the user as defined in Section 1.2 of this Chapter.

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

19-9 SAMPLING, ANALYSIS AND MONITORING REQUIREMENTS

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

19-9.63 Sampling and Analytical Techniques and Procedures

All sampling, measurements, tests, and analyses of the characteristics of discharges to the POTW shall be performed in accordance with the procedures approved by the U.S. EPA contained in 40 CFR Part 136. If, as determined by the City Manager, the sampling and analytical techniques contained in 40 CFR Part 136 are not available, do not apply to the discharge or pollutants in question, are not appropriate under the circumstances for application to the discharge or pollutants in question, or where one or more alternate techniques are available under 40 CFR Part 136, sampling and analysis shall be performed using validated sampling and analytical methods and procedures approved or required by the City Manager.

19-9.64 Sampling Frequency

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

19-9.65 Sample Types

Where representative samples are required to be taken for facilities for which historical sampling data does not exist (or if otherwise requested by the City Manager), a user shall take a minimum of 4 grab samples for pH, temperature, cyanide, phenols (T), residual chlorine, oil and grease, sulfide, and volatile organics (and any other parameters designated by the City Manager), unless a greater number of grab samples is required in advance by the City Manager. For facilities for which historical sampling data is available, or under other circumstances determined appropriate by the City Manager, the City Manager may authorize a lower minimum number of grab samples (except that historical data shall not be used for periodic compliance reports as required by Section 19-8.53). In all cases, users shall take the minimum number of grab samples determined necessary by the POTW to assess and assure compliance by users with applicable pretreatment standards and requirements. Grab samples may be required to show compliance with instantaneous minimum or instantaneous maximum discharge limits. For all other pollutants and sampling, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the POTW, as appropriate.

19-9.66 Sampling Methods, Equipment and Location

- A. General. A user shall use the sampling methods, sampling equipment, and sampling location specified by the user's User Permit, or, in the absence of a permit, as otherwise required by the City Manager.
- B. Contaminated groundwater. For discharges to the POTW from remedial actions related to leaking underground storage tanks or other sources of contaminated groundwater, the City Manager may require the following analyses or such other analyses as determined appropriate by the City Manager:
 - (1) Samples shall be analyzed for benzene, ethylbenzene, toluene and xylene using the latest methods approved by U.S. EPA.
 - (2) For total petroleum hydrocarbons, samples shall be analyzed according to the latest methods approved by U.S. EPA.

19-9.67 Costs of Monitoring, Sampling and Analyses

All required monitoring, taking of samples, and sample analyses, whether performed by the POTW or by a user, including, but not limited to, the costs or fees associated with inspection or surveillance, shall be at the sole cost of the user. For users with more than one outfall, each outfall monitored shall be charged separately.

19-9.68 Self-monitoring

- A. Except as otherwise provided by this Chapter, self-monitoring shall be conducted by each Nondomestic User to insure compliance with all applicable requirements of this Chapter and other applicable laws and regulations.

- B. A user performing its own sampling shall submit the samples for analysis to a laboratory (which may include the user's own laboratory) approved by the POTW.
- C. A user performing its own sampling or monitoring shall record and maintain for all samples and monitoring (including any sampling and monitoring associated with Best Management Practices) the date, exact location (which shall match sampling locations identified in the user's User Permit, as applicable), time (including start time and stop time) and method of sampling or measurement, and the name(s) of person(s) taking the samples or measurements; sampler programming information; the sample preservation techniques or procedures used; the full chain-of-custody for each sample; the dates the analyses were performed and completed; who performed the analyses; the analytical techniques and methods used; the detection limits and/or quantification level used per parameter; quality assurance/quality control (QA/QC) procedures used and QA/QC data; and the results of the analyses.
- D. If sampling performed by a user indicates a violation, the user shall notify the City Manager within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within 30 days after becoming aware of the violation. If the POTW has performed the sampling and analysis in lieu of the user, the POTW must perform the repeat sampling and analysis unless the POTW notifies the user of the violation and requires the user to perform the repeat sampling and analysis. The user shall not be required to resample if (a) the POTW performs sampling at the user at a frequency of at least once per month, or (b) the POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user or the POTW receives the results of the sampling that indicates the violation.
- E. If a user uses its own laboratory for sample analysis, the City Manager may require the user to send split samples to an independent laboratory at a frequency specified by the City Manager as a quality control check.
- F. Users required to do monthly sampling shall submit sample results to the City Manager by the 10th day of the following month, unless specified otherwise in the user's User Permit.

19-9.69 Sampling and Analyses Performed by POTW

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

19-9.70 Split Samples and Sample Results

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

19-9.71 Maintenance, Repair and Calibration of Equipment

- A. A user who performs self-monitoring shall contract with an independent company (unless the requirement to use an independent company is waived in advance by the City Manager as

determined appropriate by the City Manager) to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the user.

- B. The maintenance, repair, and calibration shall be performed as often as necessary to ensure that monitoring data is accurate and representative, and consistent with the accepted capability of the type of equipment used, and shall be at the sole cost of the user.
- C. A user shall keep a complete and accurate written record of all calibrations, inspections and maintenance done (including, without limitation, the date and time of the activity, a description of what was done and the methods used, the names of persons conducting the activity, and any required or recommended follow-up). The record shall also include a description of all problems discovered regarding the equipment whether in response to a regularly scheduled inspection or otherwise.
- D. The POTW, in any event, may inspect and test a user's sampling and flow measurement equipment and instruments at all times.
- E. In no case shall a user's failure to keep its equipment, instruments and facilities in good working order constitute grounds for the user to claim that sample results are not representative of its discharge.

19-9.72 Required Sampling Structures and Devices

- A. The POTW may require any user to install suitable control structures (such as sampling manholes or sampling vaults) and necessary measuring and sampling devices (including automatic devices) to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW. The POTW may require the user to install control structures and measuring and sampling devices at every discharge point and/or outfall. Further, multiple separate and discrete building sewers, control structures, and measuring and sampling devices may be required for a single user, premises, building, facility or user, as determined necessary by the City Manager. The structures and devices shall be maintained at all times in a safe, clean and proper operating condition at the sole expense of the user.
- B. There shall be ample room in or near the control structure to allow accurate monitoring, measuring, sampling and preparation of samples for analysis, as determined necessary by the City Manager. At a minimum, all sewers shall have an inspection and sampling manhole or structure with an opening of no less than 24 inches in diameter and an internal diameter of no less than thirty-six 36 inches containing flow measuring, recording and sampling equipment as required by the City Manager to assure compliance with this Chapter.
- C. Any temporary or permanent obstruction for safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the verbal or written request of the POTW and shall not be replaced. The costs of clearing such access shall be borne solely by the user.
- D. The location and complexity of the required control structure or devices may vary with sampling requirements determined necessary by the City Manager to protect the POTW and to comply with applicable laws and regulations.
- E. The required sampling structures and devices shall be constructed and installed at the user's sole expense in accordance with plans submitted to the POTW, and in compliance with all applicable local construction standards and specifications. Users shall submit to the POTW plans and specifications for construction or modification of monitoring facilities at least 30 days before the proposed commencement of construction or modification. If a user constructs or modifies monitoring facilities before POTW approval or without an inspection during construction and the POTW determines that the monitoring facilities are not acceptable, then the user shall at its cost reconstruct or modify the monitoring facilities according to the requirements of the POTW. Construction shall be completed within 90 days following written notification by the POTW, or within such other shorter or longer time period specified by the City Manager as required by the particular circumstances to meet the requirements of this Chapter. The structures and devices shall be operated and maintained by the user at the user's sole expense so as to be safe and accessible to POTW personnel at all times and so as to provide accurate and representative monitoring data. If a user fails to install or maintain a required structure or device, the POTW may do so and charge

the costs to the user. No person shall use a required control structure for any purpose other than the sampling and monitoring activities specifically approved by the POTW.

- F. The sampling structures and devices must be provided on the user's premises as approved by the POTW, but the POTW may, if it determines that such a location would be impractical or cause undue hardship to the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- G. Samples shall be taken at a control structure approved by the POTW. However, in the absence of a suitable control structure as required by this Section, samples shall be taken immediately downstream from pretreatment facilities if pretreatment facilities exist, or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with a regulated process waste stream prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined waste stream formula under MAC R 323.2311(7) or other methods required by the POTW to evaluate compliance with applicable pretreatment standards and requirements.
- H. No user shall change monitoring points or monitoring methods without first notifying and receiving the approval of the City Manager. The City Manager shall not approve any change in a user's monitoring point or points that would allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.
- I. A user shall allow the POTW access to all sampling and monitoring facilities as provided by Section 17(B) of this Chapter.

19-9.73 Determination of Flow

The City may use any of the following methods to determine the amount of wastewater flow discharged to the POTW from a user's Premises, as determined appropriate by the City:

- (A) If the premises are metered, the amount of water supplied to the premises by the City or a private water company as shown by the water meter;
- (B) If the premises are supplied with river water or water from private wells, the City may estimate the amount of water supplied from such sources based on the water, gas or electric supply to the Premises;
- (C) If the premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be (or is not) entirely discharged to the POTW, the City may estimate the amount of wastewater discharged to the POTW based on the water, gas or electric supply to the Premises;
- (D) The City may determine the amount of wastewater discharged to the POTW based on measurements and samples taken by the City from a manhole installed by the owner of the premises, at the owner's sole expense, as required by the City under this Chapter; or
- (E) The City may determine the amount of wastewater discharged to the POTW from a premises using a combination of any of the above methods, or using any other method determined appropriate by the City.

19-10 ACCIDENTAL DISCHARGES

19-10.74 General

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

- A. Each Nondomestic User shall provide and continuously maintain protection from accidental discharge of materials or other substances regulated by this Chapter as provided by this

Section. The City may refuse to accept current or proposed discharges from any user that fails to comply with the requirements of this Section.

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

19-10.75 Designation of Person in Charge of Discharge Operations

Each Nondomestic User shall designate at least one person to be in charge of and responsible for the user's discharges to the POTW, including responsibility for maintaining pretreatment facilities and operations, if any, and prevention of accidental discharges ("person in charge"). The person so designated shall be an individual with knowledge of all toxic wastes or hazardous substances routinely or potentially generated by the user, and of all process alterations that could, in any manner, increase or decrease normal daily flow or waste strength to the POTW. The names of the person (or persons) designated as provided by this Section and a phone number where the person can be reached for 24-hour contact shall be submitted by each user to the POTW.

19-10.76 Description of Chemicals Stored, Used or Manufactured by User; User Discharges; User Premises

Unless the City Manager determines that all of the following information has already been appropriately provided to the POTW pursuant to other requirements of this Chapter, each Nondomestic User shall:

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

19-10.77 Segregation of Wastewaters Requiring Pretreatment

Nondomestic Users shall segregate wastewaters requiring pretreatment (including, without limitation, spent concentrates, toxics, and high strength organic wastes) as necessary to prevent pollutants from interfering

with or passing through the POTW. All sludges generated by pretreatment shall be used and disposed of only as permitted by applicable local, state and federal laws and regulations.

19-10.78 Secondary Containment Requirements

- A. Each Nondomestic User must provide and maintain at the user's sole expense secondary spill containment structures (including diking, curbing or other appropriate structures) adequate to protect all floor drains from accidental spills and discharges to the POTW of any pollutants or discharges regulated by this Chapter.
- B. The containment or curbing shall be sufficient to hold not less than 150% of the total process area tank volume and not less than 150% of liquid polluting material stored or used, unless a lesser containment area or alternate control measures are approved in advance by the City Manager.
- C. The containment area shall be constructed so that no liquid polluting material can escape from the area by gravity through the building sewers, drains, or otherwise directly or indirectly into the POTW. All floor drains found within the containment area must be plugged and sealed.
- D. Spill troughs and sumps within process areas must discharge to appropriate pretreatment tanks.
- E. Emergency containment shall also be provided for storage tanks that may be serviced by commercial haulers and for chemical storage areas.
- F. Solid pollutants shall be located in security areas designed to prevent the loss of the materials to the POTW.
- G. Detailed plans showing facilities and operating procedures to provide the protection required by this Section shall be submitted to the City Manager for review, and shall be approved by the City Manager before construction. Construction of approved containment for existing sources shall be completed within the time period specified by the City Manager.
- H. No new source shall be permitted to discharge to the POTW until emergency containment facilities have been approved and constructed as required by this Section.
- I. The City Manager may order a user to take interim measures for emergency containment as determined necessary by the City Manager under the circumstances.

19-10.79 Submission of Pollution Incident Prevention Plan

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

19-10.80 Posting of Accidental Discharge Information

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

19-10.81 Notice of Accidental Discharge

- A. In the case of an accidental discharge, a user shall immediately notify the POTW of the incident by telephone.
- B. The notification shall include the name of the person placing the call, the name of the user, and all available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken and required, and other available information as necessary to determine what impact the discharge may have on the POTW.

- C. A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the user to prevent similar future discharges) shall also be provided by the user to the City Manager within 5 days of the incident.
- D. Providing notice of an accidental discharge shall not relieve a 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 notice relieve a user of any fines, civil penalties, or other liability which may be imposed by this Chapter or other applicable law.

19-10.82 Slug Control Plan

- A. Each Significant Industrial User shall prepare and implement an individualized slug control plan. Existing Significant Industrial Users shall submit a slug control plan to the POTW for approval within 90 days of the effective date of this Chapter. New sources that are Significant Industrial Users shall submit a slug control plan to the POTW for approval before beginning to discharge. Upon written notice from the POTW, Nondomestic Users that are not Significant Industrial Users may also be required to prepare and implement a slug control plan, and the plan shall be submitted to the POTW for approval as specified in the notice. All slug control plans shall contain at least the following elements:
 - (1) A description of discharge practices, including non-routine batch discharges;
 - (2) A description of stored chemicals, raw materials, and waste;
 - (3) The procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this Section, and procedures for follow-up written notification within 5 days of the discharge;
 - (4) The procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.
- B. If a user has submitted to the POTW plans or documents pursuant to other requirements of local, state or federal laws and regulations which meet all applicable requirements of Section 19-10.82(A), the POTW may in its discretion determine that the user has satisfied the slug plan submission requirements of this Section.

19-11. UPSET AND ADDITIONAL AFFIRMATIVE DEFENSES

19-11.83 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 19-11.83(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 Chapter. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- A. Conditions Necessary to Demonstrate Upset. A user seeking to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, all of the following:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - (3) The user has submitted the following information to the POTW within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission containing the same information must be provided within 5 days of becoming aware of the upset):

- (a) A description of the discharge and cause of non-compliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) The steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- B. User Responsibility in Case of Upset. The user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable limits upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

19-11.84 Additional Affirmative Defenses

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions under Section 19-6.30(A) and specific prohibitions under Sections 19-6.30(B)(6), (7), (8) or (9) if the user can demonstrate that all of the conditions necessary to establish the defense under MAC R 323.2303(3)(a) and (b) are met. However, even if the affirmative defense is established, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Chapter. In any enforcement proceeding, the user seeking to establish the affirmative defenses provided by MAC R 323.2303(3) shall have the burden of proof.

19-12 BYPASS

19-12.85 Bypass Not Violating Applicable Pretreatment Standards or Requirements

A Nondomestic User may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if the bypass is for essential maintenance to assure efficient operation. A bypass that meets the requirements of the preceding sentence of this Section is not subject to the provisions in Sections 19-12.86, 19-12.87, and 19-12.88. However, nothing in this Section shall be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Chapter or other applicable laws or regulations; nor to relieve a user for any expense, loss, damage, or liability that may be incurred as a result of the bypass, such as damage to the POTW, fish kills, or any other damage to person or property; nor to relieve the user of any fines, penalties or other liability that may be imposed by applicable laws or regulations as a result of the bypass.

19-12.86 Bypass Prohibited

Except as provided by Section 19-12.85, the bypass of industrial wastes from any portion of a user's facility is prohibited, and shall be subject to enforcement action, unless all of the following apply:

- A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
- B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance.)
- C. The user submitted the notices as required under Section 19-12.87.

19-12.87 Required Notices

- A. Anticipated bypass. If a user knows in advance of the need for a bypass, it must submit prior notice of the bypass to the POTW. Such notice shall be submitted to the POTW as soon as the user becomes aware of the need for the bypass, and if possible, at least 10 days before the date of the bypass.
- B. Unanticipated bypass. A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not

been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City Manager may waive the written report on a case-by- case basis if the oral report has been received within 24 hours.

19-12.88 POTW Approved Bypass

The City Manager may approve an anticipated bypass after considering its adverse effects, if the City Manager determines that it meets the conditions set forth in Sections 19-12.86(A), 19-12.86(B) and 19-2.86(C). It shall be a violation of this Chapter for a user to allow an anticipated bypass to occur without the prior approval of the City Manager.

19-13 CONFIDENTIAL INFORMATION

19-13.89. Confidential Information

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

- A. Information and data regarding a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests at the time of submission and is able to demonstrate to the satisfaction of the City Manager, and in accordance with applicable state and federal laws and regulations, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
- B. Information submitted by a user for which confidentiality is requested shall be clearly marked on each page as to the portion or portions considered by the user to be confidential and shall be accompanied by a written explanation of why the user considers the information to be confidential or why the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
- C. Information that may disclose trade secrets or trade secret processes, and for which the user has requested, and been granted, confidentiality as provided by this Section, shall not be made available for inspection by the general public; however, that information shall be made available upon written request to governmental agencies for uses related to matters regulated by this Chapter and shall be made available for use by the state, any state agency, or the POTW in judicial review or enforcement proceedings that involve the user that furnished the information. The POTW shall notify the user 10 days in advance if it intends to release confidential information to another governmental agency as authorized by this Section.
- D. Information furnished to the POTW on the volume or characteristics of wastewater or pollutants discharged or proposed to be discharged into the POTW shall be available to the public or other governmental agency without restriction.
- E. If a user has mass-based limits as allowed by certain categorical pretreatment standards on a production basis, the production data necessary to determine compliance must also be provided by the user to the POTW, and shall be available to the public. If application of the combined waste stream formula is necessary to apply categorical pretreatment standards to a user, the flow measurements and other data used in the calculation must be provided by the user to the POTW, and shall be available to the public.
- F. Observations made by POTW inspectors shall be subject to the confidentiality provisions of this Section as if they were in writing if the user specifies to the POTW in writing for which particular observations made by the inspector the user seeks confidentiality.
- G. All confidential information and/or data with respect to a particular user that is on file with the POTW shall be made available upon written request by that user or its authorized representative during regular business hours.

19-14 RECORDS RETENTION

19-14.90 Maintenance of Records

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

- A. Discharge Records. A Nondomestic User shall retain, preserve, and make available to the POTW for inspection and copying, for the period specified in Section 19-14.90(C) all records related to matters regulated by this Chapter, including, without limitation, all documents, memoranda, correspondence and similar materials; copies of all required reports, notifications, and applications; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of results of all sampling, monitoring, measurements and analyses; all documentation associated with Best Management Practices; and records of all data used to complete the application for a permit. Any Nondomestic User subject to the sampling, monitoring, analysis, or reporting requirements of this Chapter shall maintain copies of all records and information pertaining to those requirements or resulting from any monitoring activities (whether or not such monitoring activities are required by this Chapter). For all samples, the records shall include, at a minimum, the information required to be recorded by Section 19-9.68 of this Chapter.
- B. Hazardous or Solid Waste. A Nondomestic User shall retain and preserve all records regarding its generation, treatment, storage, or disposal of hazardous waste or solid waste for the period specified in Section 19-14.90(C), and shall make them available to the POTW for inspection and copying, subject to the provisions in this Chapter regarding confidential information. (As used in this Section, the terms "hazardous waste" and "solid waste" shall have the same definition as provided in the state hazardous waste management act, Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended, and the rules promulgated under that act.)
- C. Retention Period. Users subject to the reporting requirements of this Chapter (or of any permit or order issued pursuant to this Chapter) shall retain the records specified in Sections 19-14.90(A) and 19-14.90(B) for a period of at least 3 years from (a) the date the record was created or (b) the date the record was first used or relied upon by the user, whichever is later. The 3 year retention period shall be extended during any administrative or judicial action, enforcement proceeding or litigation regarding matters regulated by this Chapter (or regarding discharges of the POTW under its NPDES permit), until all such actions, proceedings, or activities have concluded and all periods of limitation with respect to any and all appeals have expired. The 3-year retention period may also be extended at any time at the request of the POTW, the MDEQ, or the U.S. EPA. The POTW shall retain all records, notices and other information regarding discharges to the POTW submitted to it by Nondomestic Users of the POTW for a period of not less than 3 years.

19-15 ADMINISTRATION OF THE POTW

19-15.91 Operation and Management of POTW

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

19-15.92 Powers of City Manager

As directed by the City, the City Manager shall (either directly, through, or in conjunction with other authorized representatives of the City) take the following actions:

- A. Supervise the implementation of this Chapter.
- B. Review plans submitted by users for pretreatment equipment.

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

19-16 USER POLLUTION CONTROLS

19-16.93 Provision by Users of Necessary Pretreatment Facilities

Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation, and as required to comply with the requirements of a User Permit or order issued pursuant to this Chapter. All facilities required to pretreat discharges shall be provided, operated, and maintained at the user's sole expense. Detailed, professionally signed and sealed plans showing the pretreatment facilities, specifications, and operating procedures shall be submitted to the POTW for review and approval prior to construction. The POTW may approve, approve with conditions, or disapprove the plans, specifications and operating procedures. A user shall not begin discharging from the treatment facilities until facilities have been approved and all conditions and requirements of the approval have been met as determined by the POTW. The review and approval by the POTW of such plans and operating procedures does not in any way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the POTW under the provisions of this Chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW prior to the user's initiation of the changes. (Users shall notify the POTW regarding the installation of new pretreatment facilities or modification of existing facilities as provided by Section 19-8.58 of this Chapter.)

19-16.94 Proper Operation and Maintenance

A user shall at all times properly operate and continuously maintain, at the user's sole expense, all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the user to comply with the requirements of this Chapter. Proper operation and maintenance includes, without limitation, effective performance, adequate funding (including replacement costs), adequate operator staffing, and adequate quality assurance/quality control (QA/QC) procedures for sampling and analysis, so as to provide adequate wastewater collection and treatment on a continuing basis, to conform with all local, state and federal laws and regulations, and to assure optimum long-term management of the facilities and system.

19-16.95 Removed Substances

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

19-16.96 Duty to Halt or Reduce Activity

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

19-16.97 Duty to Mitigate

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

19-16.98 Duty to Pretreat Prior to Discharge to POTW

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

19-16.99 Implementation of Best Management Practices or Best Management Practices Plan

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

7. A description of operating and maintenance processes and procedures.
 8. Inventory of raw materials and a list of waste sources, including a list of all chemicals used or stored at the facility.
 9. A description of employee training programs, policies and procedures; continuing education programs; and participation.
 10. A description of documentation, including record keeping and forms.
 11. A description of monitoring activities.
 12. Information log of facility personnel, organization chart, emergency phone numbers, contact persons and maintenance or service representatives.
 13. Certification by a qualified professional that the plan is adequate to prevent spills, leaks, slug loads, or non-customary discharges of regulated substances, directly or indirectly, to the POTW.
 14. Such other information, documents or diagrams as required by the City Manager, including, but not limited to, any of the information required under Section 19-7.39 of this Chapter.
- C. The BMPs or BMPP required of a user or approved for a user shall be incorporated in a User Permit issued to the user. If the user already has a User Permit, the existing permit may be modified to incorporate the BMP requirements. If the user does not currently have a User Permit, a permit shall be issued for that purpose.
- D. The City Manager may require revisions to users BMPP if the City Manager determines that the plan contains elements that are inadequate, or as otherwise determined necessary by the City Manager to ensure compliance with applicable requirements of this Chapter. Review of a BMPP by the City Manager shall not relieve the user from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

19-16.100. FOG Interceptors; Alternate FOG Pretreatment Technology; Sand Traps.

- A. General Requirements Applicable To All FOG Interceptors; Alternate FOG Pretreatment Technology; and Sand Traps.
1. Any user required to install a FOG interceptor, an Alternate FOG Pretreatment Technology ("AFPT"), or a sand trap to prevent the discharge of fats, oils, grease, sand, or other materials to the POTW shall comply with the minimum requirements as provided by this Section or as otherwise specified by the City Manager.
 2. Interceptors, AFPTs, and traps that are required by this Section shall be provided, cleaned, maintained in proper operating condition, and kept in continuously efficient operation at all times, at the sole expense of the owner of the premises.
 3. All interceptors, AFPTs, and traps shall be of a design, type, construction, and capacity approved in advance by the City Manager.
 4. The installation of all interceptors, AFPTs, and traps shall be subject to the City Manager's review and approval.
 5. All interceptors, AFPTs, and traps shall be located so as to be readily and easily accessible for maintenance, cleaning and inspection.
 6. All users required to install and maintain an interceptor, AFPT, or trap shall develop and carry out a system of maintenance and cleaning for the interceptor, AFPT, or trap, and shall keep accurate, detailed written records of the following:
 - (a) The maintenance and cleaning schedule;

- (b) The names of the persons who maintained and cleaned the interceptor, AFPT, or trap, and the dates that the interceptor, AFPT, or trap was maintained and cleaned; and
 - (c) The method of cleaning and disposal location for removed materials for each maintenance and/or cleaning.
7. At a minimum, all interceptors, AFPTs, and traps shall be inspected, cleaned and maintained according to the manufacturer's specifications or as otherwise provided by this Section, whichever requirements are more stringent, at the property owner's expense.
 8. All written records and documentation required to be kept by this Section with regard to interceptors, AFPTs, and traps shall be kept by the user on the premises for at least 3 years and shall be available for review by the City Manager during all operating hours. The user shall provide copies of required records to the City Manager upon the City Manager's request at the user's sole cost.
 9. Any problems with or damage to an interceptor, AFPT, or trap shall be reported immediately to the property owner and to the City Manager.
 10. Any problems with or damage to an interceptor, AFPT, or trap shall be rectified and/or repaired immediately by the property owner at the owner's sole cost.
 11. Interceptor, AFPT, or trap clean-out material, including, but not limited to, accumulated fats, oils, grease, and sand, shall not be discharged into the POTW.
 12. Bacteriological, chemical, or enzymatic products shall not be used to maintain or clean interceptors, AFPTs, or traps.
- B. Requirements For FOG Interceptors and AFPTs.

A FOG interceptor or AFPT shall be required for all food service establishments (FSEs), and may also be required for any other user, premises, or establishment determined by the City Manager to have a reasonable potential to adversely affect the POTW due to discharges of FOG.

1. Outdoor FOG Interceptors.

- a. Outdoor FOG Interceptors Required. All FSEs shall install, operate, and maintain an outdoor FOG interceptor of a type, design, construction, and size approved in advance by the POTW; provided that if the City Manager determines that installation of an outdoor FOG interceptor would not be economically and/or technically feasible due to existing circumstances unique to the premises in question, the City Manager may instead allow the installation of Alternate FOG Pretreatment Technology as provided by Section 19-16.100(B)(2). In all cases, the user shall bear the burden of demonstrating to the City Manager, at the user's sole cost, that the installation of an outdoor FOG interceptor is not feasible and that an alternate FOG pretreatment technology should instead be allowed.

b. Compliance Schedule.

Existing FSEs/Users: Any FSE discharging into the POTW as of the effective date of this Chapter (and any other existing user determined by the City Manager to have a reasonable potential to adversely affect the POTW due to discharges of FOG) shall, upon notification from the City Manager, submit plans for an outdoor FOG interceptor for approval by the City Manager, and shall install and begin operation of the interceptor, in compliance with the schedule specified by the City Manager.

New FSEs/Users: Any FSE that proposes to commence discharging into the POTW after the effective date of this Chapter (and any other new user determined by the City Manager to have a reasonable potential to adversely affect the POTW due to discharges of FOG) shall submit plans for an outdoor FOG interceptor to the City Manager for the City Manager's approval, and shall install and begin operation of the interceptor in compliance with the schedule specified by the City Manager. In all cases, the interceptor plans must be approved by the City

Manager prior to submitting plans to the City for a building permit; and the City shall not issue a building permit for the premises until the POTW has approved the proposed interceptor plans. Further, the City shall not issue a certificate of occupancy for the premises until the interceptor has been installed and deemed acceptable by the City Manager.

- c. Minimum Design and Installation Requirements For Outdoor FOG Interceptors. Outdoor FOG interceptors shall comply with all of the following minimum design and installation requirements:
- (i) The interceptor shall provide a minimum capacity of 1500 gallons, unless the City Manager determines that a smaller minimum capacity is adequate for the premises.
 - (ii) The interceptor shall have a minimum of two compartments with fittings designed for FOG retention.
 - (iii) The interceptor shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.
 - (iv) The interceptor shall be installed at a location, subject to the prior approval of the City Manager, where it can be easily accessible for inspection, cleaning, and removal of intercepted FOG, but shall not be located in any part of a building where food is handled.
 - (v) Access manholes, with a minimum diameter of 24 inches, shall be provided over each outdoor FOG interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade, and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, FOG removal, and sampling which, when bolted into place, shall be gastight and watertight.
- d. Minimum Inspection, Maintenance, and Cleaning Requirements for Outdoor FOG Interceptors. Outdoor FOG interceptors shall comply with all of the following minimum maintenance, cleaning, and inspection requirements:
- (i) At a minimum, an outdoor FOG interceptor shall be inspected monthly by the property owner, or more often if dictated by site-specific conditions or if required more frequently by the City Manager.
 - (ii) Pump-out of all accumulated FOG, water, and sludge shall occur quarterly at a minimum, or more often if the combined height of floatables and settled solids (including both the top and bottom layers of solids) exceed 25% of any interceptor compartment operating depth; if there is a visible discharge of FOG; or if required more frequently by the City Manager. The operating depth of a trap shall be determined by measuring the internal depth from the outlet water elevation to the bottom of the trap.
 - (iii) Each pump-out of the interceptor shall be complete and remove all contents, including removal of the entire grease mat, liquids, sludges, and solids from screens, baffles, air-relief chambers, and wash down of interior walls. The interceptor shall be refilled with clear water before being returned to service.

- (iv) The interceptor shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could reduce the effective volume for FOG and sludge accumulation.
- (v) Water removed during pump-out shall not be returned to the interceptor, and accumulated FOG and sludge shall not be re-introduced into any drainage piping leading to the public sewer.
- (vi) Sanitary wastes shall not be discharged to sewer lines serviced by an outdoor FOG interceptor without specific prior approval by the City Manager.
- (vii) The pump-out operation and disposal of the accumulated FOG, water, and sludge shall be done only by a licensed contractor. The City Manager shall be notified prior to any scheduled pump-out so that the operation can be witnessed if desired.

2. Alternate FOG Pretreatment Technology.

If the City Manager determines that installation of an outdoor FOG interceptor is not required as provided by Section 19-16.100(B)(1)(a), then the City Manager may instead authorize the installation of an Alternate FOG Pretreatment Technology ("AFPT") approved by the City Manager as provided by this Section.

The design, type, construction, capacity, installation, operation, and maintenance requirements for an AFPT for a user's proposed or existing discharge shall be as determined by the City Manager based on nature of the discharge and the unique circumstances applicable to the premises in question.

- a. **Indoor Grease Traps.** If the AFPT approved by the City Manager is an indoor grease trap, the following requirements shall apply:
 - (i) Indoor grease traps shall be installed in all waste lines from sinks, drains, and other fixtures or equipment where grease may be discharged to the POTW; provided that no food waste disposal unit, dishwasher, wastewater or other liquid in excess of 140 degrees Fahrenheit (60 degrees Centigrade) shall be discharged into an indoor grease trap. Further, no acidic or caustic cleaners shall be discharged into an indoor grease trap.
 - (ii) Traps shall never be operated without the flow restrictor supplied by the unit's manufacturer.
 - (iii) Sizing and installation of the indoor grease traps shall be subject to the POTW's prior review and approval.
 - (iv) Traps shall be inspected and cleaned at least once per week, or more often if dictated by site-specific conditions, as needed to be maintained in fully functional and efficient operation, or as otherwise specifically required by the City Manager.
 - (v) FSEs with indoor grease traps shall employ kitchen Best Management Practices (BMPs) for pre-cleaning of plates, pots, pans, and similar methods to minimize grease loadings to the drainage system.
- b. **Other AFPT.** If the proposed AFPT is a technology other than indoor grease traps, the FSE shall submit design plans, installation details, and operation and maintenance procedures to the City Manager for prior review and approval.

C. Sand and Oil Interceptors and Traps.

Oil and sand interceptors and traps may be required by the City Manager in any premises where the City Manager has determined that there is a reasonable potential for sand, oil, flammable wastes, or other harmful ingredients to enter the premise's discharges. If a plug or backup occurs that is caused by

sand and/or oil, the City Manager may require that premises to install an oil and sand interceptor or trap. Oil and sand interceptors and traps shall be required for all premises engaged in the washing of motor vehicles.

D. Failure to comply.

1. The City shall have the right to enter and inspect any premises where an interceptor, AFPT, or trap is required to be installed for purposes of determining compliance with the requirements of this Section and as otherwise provided by Section 19-17.102 of this Chapter.
2. If a user fails to provide or maintain a required interceptor/AFPT, the City may do so (or cause the same to be done) and charge all of the costs to the user.
3. The failure of any premises where an interceptor/AFPT is required to comply with this Section may subject the violator to enforcement action and the remedies that are available by law and the terms of this Chapter, including, but not limited to, termination of the discharges from the premises to the POTW.

E. Permits.

The City Manager may issue and/or require user discharge permits for any user discharging FOG or sand to the POTW. The user discharge permits may include requirements that are more stringent than, or in addition to, the requirements specified by this Section, as determined appropriate by the City Manager.

19-16.101. Additional Pretreatment Measures

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

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

19-17. ENFORCEMENT

19-17.102. 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 Chapter, and with other applicable laws and regulations. This authority includes, without limitation, the authority:
 - (1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.
 - (2) To determine compliance with the terms, conditions and requirements of this Chapter or of any permit, order, notice or agreement issued or entered into under this Chapter.
 - (3) To support enforcement actions taken by the POTW against non-compliant users.
 - (4) To determine if users have corrected problems identified in previous inspections.

- (5) To identify which (and to what degree) users influence the quality of the POTW's influent, effluent and sludge quality.
- (6) To evaluate the impacts of the POTW's influent on its treatment processes and receiving stream.
- (7) To evaluate the need for revised local limits. (8)
To maintain current data on each user.
- (9) To assess the adequacy of each user's self-monitoring program and User Permit.
- (10) To provide a basis for establishing sampling and monitoring requirements for users.
- (11) To evaluate the adequacy of each user's operation and maintenance activities on its pretreatment system.
- (12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.
- (13) To gather information for User Permit development.
- (14) To evaluate compliance with existing enforcement actions.
- (15) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.
- (16) To determine compliance with requirements regarding implementation of best management practices; accidental discharge controls and protections; spill prevention or containment measures; and pollution prevention, minimization or reduction measures.

B. Right of entry. The City Manager and other authorized representatives of the City bearing proper credentials and identification are authorized to enter a user's premises (and any other person's premises, as determined necessary by the City Manager) to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this Chapter, and in that regard shall have, without limitation, the following minimum authority:

- (1) To enter into any premises of any person in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this Chapter, 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 person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the person to do so, at the person's sole expense.
- (3) To randomly sample and analyze the discharge from any person or premises and conduct surveillance activities to identify occasional and continuing noncompliance with applicable standards and requirements. The POTW shall inspect and sample the discharge 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 Chapter, could originate, be stored, or be discharged to the POTW.
- (5) To enter all private properties through which the POTW, 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 within the easement.

POTW representatives entering a person's premises for purposes authorized by this Chapter shall comply with the person's plant safety requirements regarding such matters as entry into confined spaces, use of

safety glasses, and hearing protection requirements, as requested by the person. Entry shall be commenced and completed as expeditiously as practicable, consistent with the purposes for which the entry was made.

- C. Access without delay required. Persons shall allow the POTW ready access at all times to all parts of the person's facility or premises where wastewater governed by this Chapter is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this Chapter 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 person has security measures in force that would require proper identification and clearance before entry into the premises by the POTW, the person 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 person's premises, POTW representatives shall inform the person or the person's employees that inspections, sampling, compliance monitoring, metering or other POTW procedures are to be performed and that the person has the right to accompany the POTW employee/representative during the performance of the person's duties.
- D. Refusal to allow entry. If a person 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 Chapter, the City Manager may order the termination of the discharge of wastewater to the POTW; order the person to permit access within a time certain; issue the person a notice of violation of this Section; or take other appropriate action as provided by this Chapter and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this Section shall constitute a violation of this Chapter.

19-17.103. Notice of Violation

- A. Any person found to be violating a provision of this Chapter may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by Section 19-17.105 of this Chapter.
- B. Unless otherwise specified by the NOV, the following provisions shall apply: Within at least 30 days of the date of the NOV, the person shall submit to the POTW a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the person of liability for any violations occurring before or after receipt of the Notice of Violation.
- C. Nothing in this Section shall limit the authority of the City or the POTW to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation, or otherwise require the City or the POTW to first issue a Notice of Violation before initiating a civil or criminal action against a person for violating this Chapter. Further, receipt, or non-receipt, of a Notice of Violation shall in no way relieve the affected user of any and all liability associated with any violation.
- D. Failure to comply with any requirement of a notice of violation shall constitute a separate violation of this Chapter.

19-17.104. Orders and Supplemental Enforcement Tools

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

- A. Service. An order shall be served upon a person and shall contain the information as provided by Section 19-17.105 of this Chapter. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment, or the POTW, may be oral and may be served by telephone, to be followed within 5 days by written confirmation of the oral order by the City Manager.

B. Types of Orders. The City Manager may issue the following types of orders:

- (1) Order to Immediately Cease and Desist Discharge. The City Manager may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Chapter. The order shall have immediate effect if the City Manager determines that the actual or threatened discharge to the POTW presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment; or causes, or may cause, interference or pass through; or may cause the POTW to violate any term or condition of its NPDES permit. The City Manager shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The person shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Chapter.
- (2) Order to Cease Discharge Within a Time Certain. The City Manager may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Chapter by a certain time and date. The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the City Manager, an order may be issued under this Section for the failure to pay applicable permit fees or to comply with any term of a User Permit.
- (3) Order to Effect Pretreatment. The City Manager may issue an order to a user requiring the user to pretreat its discharge in accordance with this Chapter. 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 Chapter. The plan shall be submitted to the City Manager within a reasonable period as specified in the order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the City Manager. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the City Manager:
 - (a) Retain a qualified engineer and/or consultant.
 - (b) Obtain any engineering or scientific investigation or surveys deemed necessary.
 - (c) Prepare and submit a preliminary plan to achieve pretreatment.
 - (d) Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.
 - (e) Establish a time to let any contract necessary for any construction. (f) Establish completion times for any construction necessary.
 - (g) Establish a time limit to complete full pretreatment pursuant to the final order.
 - (h) If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phases or unit.
- (4) Order to Affirmatively Respond. The City Manager may issue an order requiring a person to perform any action required under this Chapter, including, without limitation, requiring a person to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.
- (5) Order to Terminate Sewer Services. The City Manager may issue an order to terminate the sewer services of a user, including, but not limited to, immediate physical blockage of the user's sewer connection, for reasons including, without limitation, the following:

- (a) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.
- (b) Failure of a user to notify the POTW of any discharge as described in Section 19-17.104(B)(5)(a) of which the user was aware or reasonably should have been aware.
- (c) Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the City Manager.
- (d) A knowing, willful violation of any term, condition or requirement of an order or User Permit, or any provision of this Chapter.
- (e) A negligent violation of any major term, condition or requirement of an order or User Permit. For purposes of this Section, a "major" term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment, the POTW, or cause the POTW to violate its NPDES permit.

If the POTW determines that physical blockage is necessary, the POTW shall make a reasonable attempt to deliver to the person who appears to be in control of the user's facility a written notice describing the reason for the physical blockage order. After delivery of the notice (or after a reasonable attempt to deliver the notice, even if delivery was unsuccessful), the POTW may immediately install the physical blockage. No person shall remove or tamper with a physical blockage installed by the POTW without prior written permission from the City.

- (6) Order to Show Cause. The City Manager may issue an order requiring a person to appear and explain any noncompliance with the requirements of this Chapter or any permit, order, decision or determination promulgated, issued or made under this Chapter, and to show cause why more severe enforcement actions against the person should not go forward. A show cause hearing shall be held within 10 days after the order to show cause is issued, as follows:
 - (a) The Wastewater Board of Appeals shall conduct the hearing and take evidence. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.
 - (b) Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.
 - (c) After reviewing the evidence taken at the hearing, the Wastewater Board of Appeals shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, without limitation, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this Chapter.
- C. Immediate Response To Order By User May Be Required. Any user issued an order as provided by this Section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this Chapter, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the user that the noncomplying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the City Manager within 15 days of the occurrence.
- D. Noncompliance Due to Factors Beyond User's Control. If noncompliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a user, and the user can demonstrate the conditions necessary for demonstration of an upset as provided by Section 19-11.83(A), the City

Manager may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

- E. Amendment, Suspension and Revocation of Orders. An order shall be subject to amendment, suspension or revocation as determined appropriate by the City Manager. Notice of the amendment, suspension or revocation shall be served upon the person 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 Chapter.
- F. Consent Orders and Agreements. The City Manager may enter into a consent order or agreement with a person to resolve disputed claims and address identified and potential deficiencies in the person's compliance status. The order or agreement shall be in the form of a written agreement with the person and may contain appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.
- G. POTW Authority to Require Financial Assurances. The City Manager may require any user to post a performance bond (or other form of surety acceptable to the City Manager) sufficient to cover expenses (direct and/or indirect) that might reasonably be incurred by the POTW as a result of the user's discharges to the POTW (including, but not limited to, the costs to restore or repair any damage to the POTW) or sufficient to achieve consistent compliance with applicable laws and regulations, as determined necessary by the City Manager. Further, any person that has in the prior 2 years been responsible for causing interference or pass through at the POTW may be required to obtain liability insurance sufficient to cover the reasonable costs of responding or restoring the POTW in the event of a second such incident. These financial assurance requirements may also be made conditions of a User Permit.

19-17.105. Service of Notices of Violations, Orders and Notices of Assessments

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

- A. Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable, at the person's last known address as shown by POTW's 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 in any way the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not actually be received by the person, but this shall not nullify in any way any enforcement action subsequently taken by the POTW against the person under authority of this Chapter. Receipt, or non- receipt, of a notice or order shall not in any way relieve the affected person of any liability associated with the violation. Further, the issuance of a notice or order will not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected person.
- B. Contents. All orders and notices shall contain at least the following information, to the extent known by the POTW and as determined by the POTW to be applicable to the situation:
 - (1) The name and address of the violator;
 - (2) The location and time that the violation occurred or was observed, and the duration of the violation;
 - (3) The nature of the violation, including the provisions of this Chapter or of any permit, order, decision, determination or agreement violated;
 - (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
 - (5) The amount of the fine, penalty or charge assessed or due, if any;
 - (6) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;

- (7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.
 - (8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.
 - (9) The date and time the order or notice was issued.
- C. Request for Additional Information. A person served may request additional information from the City Manager regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

19-17.106. Publication of Users in Significant Noncompliance

The POTW shall publish once per year in the largest newspaper circulated in the City, a list of Categorical Industrial Users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards or requirements. For the purposes of this Section, a user shall be considered to be in significant noncompliance if its violations meet one or more of the following criteria:

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

19-17.107. Municipal Civil Infractions

- A. Violation; Municipal Civil Infraction. Except as provided by Section 19-17.108, and notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this Chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Chapter) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.
- B. Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this Section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Chapter (i) committed by a person within any 90-day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Chapter shall be as follows:
 - (1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.

- (2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.
- C. Amount of Fines. Subject to the minimum fine amounts specified in Sections 19-17.107(A) and 19-17.107(B), the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Chapter: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- D. Authorized Local Official. Notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this Chapter (or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): the City Manager, any sworn law enforcement officer, and any other persons so designated by the City.
- E. Other Requirements and Procedures. Except as otherwise provided by this Section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.

19-17.108. Criminal Penalties; Imprisonment

Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this Chapter, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Chapter; 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 Chapter, or in any other correspondence or communication, written or oral, with the POTW regarding matters regulated by this Chapter; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Chapter; or (4) commits any other act that is punishable under state law by imprisonment for more than 93 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 93 days, or both in the discretion of the court.

19-17.109. Continuing Violation

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

19-17.110. Number of Violations

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

- A. Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a user may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.
- B. Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each day on which the violation occurs or continues.

- C. Each violation of an instantaneous minimum or instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each such occurrence, and there may be multiple violations for each day on which such a violation occurs or continues.
- D. Each violation of a monthly average limit (or of some other average limit period) for a single pollutant or sampling parameter shall constitute a separate violation for each day of the month (or other stated period) during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)
- E. Except with regard to violations of average limits as provided by Section 19-17.110(D), a violation will be deemed to have continued to occur each day beginning with the first day the violation occurred to the day the user is able to demonstrate through appropriate sampling results that the violation is no longer occurring.
- F. If for any period a user has violated both a daily maximum limit and an average limit for a particular pollutant parameter, then the total number of violations is the sum of the days on which the daily maximum limit was violated plus the number of days in the averaging period.
- G. If a User Permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this Section.
- H. If a user is discharging a waste stream that is required to be monitored and analyzed under continuous monitoring procedures then all of the following shall apply:
 - (1) If at any time during a daily 24-hour period the continuous monitoring shows that the monitored parameter exceeded the instantaneous minimum, instantaneous maximum, or daily maximum limit for that parameter, then a violation has occurred.
 - (2) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum or instantaneous maximum, during that period, then each such exceedance shall be considered a separate violation.
 - (3) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum, instantaneous maximum, or daily limit into the next daily 24-hour period (i.e., the exceedance occurs both before and after midnight), then the exceedance will be considered a separate violation on both days.
 - (4) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds instantaneous minimum, instantaneous maximum, or the daily limit for more than 66% of the 24-hour, as determined in minutes of the day, then the user will be considered to be in significant non-compliance.
- I. One (1) violation occurs on: each day that a report is late; and each day after an action required to be completed is not completed.

19-17.111. Nuisance

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

19-17.112. Reimbursement

- A. Any person who discharges to the POTW (including, but not limited to, any person who causes or creates a discharge that violates any provision of this Chapter, produces a deposit or obstruction, or otherwise damages, injures, or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW, whether any such act is intentional or unintentional) shall be liable to and shall fully reimburse the POTW for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the POTW as a result of or associated with any such discharge, deposit, obstruction, damage, injury,

impairment, violation, exceedance, noncompliance, or act. The costs that must be reimbursed to the POTW shall include, but shall not be limited to, all of the following:

- (1) All costs incurred by the POTW in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, or noncompliance.
- (2) All costs to the POTW of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, or noncompliance.
- (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW, or any POTW representative, by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, or noncompliance.
- (4) The full value of any City staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the POTW's legal counsel and any special legal counsel), associated with reviewing, responding to, investigating, verifying, and/or prosecuting any discharge, violation, or noncompliance or otherwise incurred by the POTW in administering and enforcing the requirements of this Chapter.

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

B. In determining the amounts to be reimbursed, the POTW may consider factors such as, but not limited to, the following:

- (1) The volume of the discharge.
- (2) The length of time the discharge occurred. (3)
The composition of the discharge.
- (4) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of the discharge.
- (5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.
- (6) The direct and indirect costs incurred by the POTW, or imposed upon the POTW to treat the discharges, including sludge handling and disposal costs.
- (7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the POTW, including the POTW's costs of defense of actions, or suits brought or threatened against the POTW by governmental agencies or third parties.
- (8) Such other factors, including the amount of any attorney's fees; engineering, consultant, and expert fees; expenses, costs, sampling and analytical fees; repairs; as the POTW deems appropriate under the circumstances.

C. Costs to be reimbursed to the POTW as provided by this Section may be assessed to the user as provided by Section 19-17.105 of this Chapter, or as otherwise determined appropriate by the City Manager in conjunction with an enforcement action.

D. The failure by any person to pay any amounts required to be reimbursed to the POTW as provided by this Section shall constitute an additional violation of this Chapter.

19-17.113. Review or Approval by City

In no case shall the review and/or approval by the City of a user's plans, specifications or operating procedures entitle a user to relief from enforcement actions for failure to achieve compliance with the applicable pretreatment standards and requirements.

19-17.114. Severance or Suspension of Sewer and/or Water Service

If a user violates or continues to violate any provision of this Chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Chapter), or if the City determines that the user's actual or proposed discharge may present an imminent or substantial endangerment to the health or welfare of persons or the environment, the City Manager may immediately, and without notice, sever or suspend sewer and/or water service provided to the user by the City. If severed or suspended, the sewer and/or water service shall recommence only after the user has satisfactorily demonstrated to the City Manager the user's ability to comply with all applicable provisions of this Chapter, and only at the user's sole expense.

19-17.115. Judicial Relief

With the approval of the City, in conjunction with the City's legal counsel, the City Manager may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Chapter or of any permit, order, notice or agreement issued or entered into under this Chapter. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity that a court may order. The City Manager may also seek collection of surcharges, fines, penalties and any other amounts due to the POTW that a person has not paid.

19-17.116. Cumulative Remedies

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

19-18. ADMINISTRATIVE REVIEW AND APPEALS

19-18.117. Procedures Available

Any person aggrieved by a Notice of Violation, Order, or other action taken by the City Manager under this Chapter may request review and reconsideration by the City Manager and/or may appeal to the Wastewater Board of Appeals as provided by this Section. If review and reconsideration or appeal is not properly and timely requested in connection with an action as provided by this Section, the action shall be deemed final. The person requesting the appeal shall pay an appeal fee in the amount determined from time to time by the City. The appeal fee shall be paid at the time that the appeal is requested.

19-18.118. Review and Reconsideration by the City Manager

A request for a review and reconsideration by the City Manager must be made in writing within 7 days from the date of the City Manager's action in question. The request must state the reasons for the review and shall include all supporting documents and dates. A hearing on the request shall be scheduled at the earliest practicable date as determined by the City Manager. The hearing shall be conducted on an informal basis at the WWTP or at another location designated by the City Manager. The City Manager shall conduct the hearing. Following the informal hearing, the City Manager may affirm or reverse, in whole or in part, the action appealed from, or may make any order, requirement, decision or determination as, in the City Manager's opinion, ought to be made in the case under consideration. The City Manager shall notify the aggrieved person of the decision on the request within 14 days of the hearing. The City Manager may request additional information and extend the time for his/her decision by an additional 7 days following the submission of the additional information. The decision of the City Manager may be appealed to the Wastewater Board of Appeals as provided by Section 19-18.119. All supporting documentation and information shall be provided solely by the person requesting the appeal.

19-18.119. Appeal to Wastewater Board of Appeals

A. The City Commission of the City of Three Rivers shall serve as a Wastewater Board of Appeals ("WBA"). The WBA shall consider appeals from final decisions of the City Manager (and other appeals as expressly provided by this Chapter). The WBA shall adopt its own rules of procedure, and keep a record of its proceedings, showing findings of fact, the action of the board, and the vote of each member upon each question considered. The presence of five members of the WBA shall be necessary to constitute a quorum.

- B. The following provisions shall govern appeals of final decisions of the City Manager made to the WBA under this Chapter:
- (1) An appeal from any final action of the City Manager must be made to the WBA within 7 days from the date of the action appealed. The appeal may be taken by any person aggrieved by the action. The appellant shall file a written notice of appeal with the City Manager and with the WBA. The notice of appeal shall specify the grounds for the appeal and shall be accompanied by a non-refundable appeal fee of \$500.00. Failure to file a timely notice of appeal shall be deemed to be a waiver of the right to appeal.
 - (2) Prior to a hearing before the WBA regarding an appeal, the City Manager shall transmit to the WBA a written summary of all previous action taken in connection with the action being appealed. The WBA may, at the WBA's discretion, request the City Manager to provide further information regarding the action that is the subject of the appeal.
 - (3) The WBA shall fix a reasonable time for the hearing of the appeal. Notice of the hearing shall be provided at least 10 days in advance of the hearing to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. The appellant must submit an exhibit and witness list to the WBA at least 5 days before the hearing or as directed by the WBA.
 - (4) The WBA shall conduct the hearing. At the hearing, attorneys may represent the parties and they may file briefs, present evidence, and call, examine and cross-examine witnesses. Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.
 - (5) The WBA shall admit all testimony having reasonable probative value and shall exclude irrelevant or unduly repetitious testimony, as determined by the WBA. The WBA shall not be bound by common law or statutory rules of evidence. The appellant shall have the burden of proof and persuasion for showing that the City Manager's decision was clearly erroneous.
 - (6) Within 30 days after the completion of the hearing, the WBA shall mail or otherwise deliver to all of the parties a written decision granting, denying or modifying the decision appealed and/or relief being sought. The decision of the WBA on the matter shall be final, and shall be a final determination for purposes of judicial review.

19-18.120. Payment of Charges, Penalties, Fines, and Other Costs or Fees Pending Outcome of Appeal

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

19-18.121. Finality of Action

If an appeal is not demanded as provided by this Section within the periods specified by this Section, the City Manager's action shall be deemed final. If an appeal is properly demanded, the action appealed shall be suspended until a final determination has been made by the WBA, except for orders to immediately cease and desist discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; and as otherwise expressly provided by this Chapter (such as for permit appeals, Section 19-7.49).

19-18.122. Appeals from Determination of WBA

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

19-19. PROTECTION FROM DAMAGE

19-19.123. Protection from Damage

It is a misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment that is part of the POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct; shall, upon conviction, be guilty of a misdemeanor

punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 93 days, or both in the discretion of the court; and shall be subject to other sanctions and remedies as provided by this Chapter, including, but not limited to, reimbursement of the POTW as provided by Section 19-17.112 of this Chapter.

19-20. MUNICIPAL LIABILITY

19-20.124. Municipal Liability

Neither the POTW nor the City (including, but not limited to, City staff, employees, and officials) shall be responsible for interruptions of service due to natural calamities, equipment failures, or the actions of users. It shall be the responsibility of the users that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

19-21. USE OF PUBLIC SEWERS CONDITIONAL

19-21.125. Use of Public Sewers Conditional

The use of the public sewer is conditional upon the user complying with all applicable provisions of this chapter, the rules and regulations promulgated pursuant to this Chapter, User Permits and all other applicable Federal, State and local laws, rules, regulations, standards and requirements. Use of the public sewer is also conditional upon the payment of all applicable charges, surcharges, rates, fees and penalties

19-22. VACATION OF HAZARDOUS PROPERTY

19-22.126. Vacation of Hazardous Property

If the City determines that there is a health or welfare hazard created by the emanation of sewage being exposed to the surface of the ground or the draining of sewage from property under the surface of the ground or into any ditch, storm sewer, lake or stream, and that the continuance of the use of the private sewage works by the property poses an immediate threat to humans, the City Manager may order and require the occupants to vacate any structure on the property forthwith.

19-23. INDUSTRIAL PRETREATMENT PROGRAM FEES

19-23.127. Purpose

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

19-23.128. IPP Fees

IPP fees payable by users shall be established by the City, and shall be subject to amendment or revision by the City from time to time. Such fees shall be sufficient to meet the costs to administer and implement the City's IPP and any associated regulations and written procedures as provided by this Chapter and authorized by applicable law. IPP fees may include, but shall not be limited to, any of the following:

- A. Fees to reimburse the POTW for the costs of development and operation of an Industrial Pretreatment Program, and fees to reimburse the POTW for monitoring, inspections and surveillance procedures, including expenses incurred for analysis of samples.
- B. Fees for reviewing discharge reports, and for related enforcement procedures.
- C. Fees associated with permit applications, permit renewals, and permit transfers. D. Fees for reviewing accidental discharge procedures and construction.
- E. Fees for appeals filed under this Chapter.
- F. Such other charges or fees that the City deems necessary or required to fully perform the provisions of applicable Federal and State laws or regulations, this Chapter, and other City laws or regulations.

19-23.129. IPP Fee Amounts

- A. IPP fees shall be paid by users to the POTW in amounts determined necessary by the POTW from time to time to reimburse the POTW for all costs and expenses incurred by the POTW in administering the

IPP. To the extent practical, the fees shall be set in an amount to include at least the POTW's average total costs for that purpose. With regard to IPP activities undertaken by the POTW with regard to particular users, the fees shall be charged to the users on a time and materials basis, including, but not limited to, the full value of any City staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, testing fees, and actual attorney fees and defense costs, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken for each user.

- B. If the POTW determines that it is necessary to evaluate the ability or capacity of the POTW to accept any current or proposed discharge by means, including, but not limited to, a headworks analysis or treatability study, all such evaluation and analysis or other required work shall be at the sole cost of the user. Such costs shall be paid in full by the user according to the timetable and subject to any terms or conditions established by the City Manager, and shall be paid whether or not the discharge (or any part thereof) is ultimately approved. The City Manager may require the user to post a deposit or other form of surety, as determined sufficient and appropriate by the City Manager, to ensure payment by the user of all such costs.

19-23.130. Surcharges

- A. Surcharges are intended to reimburse the POTW for all costs incurred by the POTW in handling or treating a discharge that contains pollutants in excess of specified surcharge concentrations, loadings or other applicable limits. These costs may include, but are not limited to, the actual cost of treatment including chemical, equipment, and personnel costs.
- B. Any user exceeding applicable surcharge limitations or other applicable limits shall be subject to the imposition of one or more surcharges as provided by this Section to reimburse the POTW for any costs or expenses, direct or indirect, the POTW may incur in handling or treating the discharge, or which may be imposed upon the POTW, where the exceedance of applicable limits causes or contributes to those costs or expenses.
- C. Surcharge rates for BOD, COD and TSS and any other pollutant parameter for which a surcharge is established by the City shall be as provided in Chapter 6 of this Code. These rates shall be reviewed annually and shall be calculated and determined from time to time, as determined appropriate by the City.
- D. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements shall constitute a violation of this Chapter, subject to applicable fines, penalties and other enforcement actions provided by this Chapter. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Chapter.

19-23.131. Billing and Collection of IPP Fees

User Permit application fees shall be due upon submission of permit applications. Except as otherwise required by the POTW, all other IPP fees shall be due within 30 days of the date of the activity or service for which the fee is required. For fees not paid at the time of service, the amount of the fee shall be added to the user's sewage disposal service charges or billed separately. IPP fees provided for by this Section shall be billed, collected and enforced pursuant to the procedures as provided by the City for sewer service charges, rates, and fees as provided by Chapter 19A of the City Code and other applicable City laws or regulations.

19-24. SEWER SERVICE CHARGES, RATES, AND FEES

19-24.132. Sewer Service Charges, Rates, and Fees

The charges, rates, and fees for the use of and connection to the City's sewer system shall be established, billed, and collected as provided by Chapter 19A of the City Code and other applicable City laws or regulations.

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