

TITLE II: UTILITIES AND SERVICES

CHAPTER 3

SEWER USE ORDINANCE¹

Sec. 2.301. Short title. This Ordinance shall be known as the Sewer Use Ordinance (“Ordinance”).

Sec. 2.301 (a). Purpose. The Charter City of Essexville (“City”) adopts this Ordinance to fulfill its obligations incurred by the City having acquired an ownership interest in the West Bay County Regional Wastewater System.

Sec. 2.301 (b). Repeal of Ordinances. All such portions of other ordinances of the City which are in conflict with this ordinance are hereby repealed.

Sec. 2.301 (c). Intent and Purpose. This Ordinance sets forth uniform requirements for direct and indirect contributors of sewage located within the City of Essexville (“City”) into the West Bay County Regional Wastewater System (“POTW”) and the Local Sewer System and enables the City and the Bay County Department of Water and Sewer of the Bay County Council of County Road Commissioners (the “Department”) (also referred to as the “Control Authority” or the “POTW,” as appropriate to the context herein) to comply with all 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, MCLA §324.3101 et seq., as amended (“Water Resources Protection ”); and the rules, Michigan Administrative Code, R323.2301 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.

Sec. 2.301 (d). The purposes and objectives of this Ordinance are:

(1) To establish standards, rules, and regulations with respect to the use of the Local Sewer and Storm System and discharges to the POTW;

(2) To prevent the discharge of pollutants into the POTW that do not meet applicable pretreatment standards and requirements; that would interfere with the operation of the POTW; that would pass through the POTW into the receiving waters or the atmosphere; that would inhibit or disrupt the POTW’s processing, use, or disposal of sludge; that would cause health or safety problems for any person working on the POTW; or that would result in a violation of the POTW’s NPDES permit or of other applicable laws and regulations;

(3) To improve and maximize the opportunity to recycle and reclaim wastewaters and sludges from the system;

(4) To regulate the discharge of wastewater to the POTW and to enforce the requirements of this Ordinance through the issuance of permits and through other means as provided by this Ordinance;

¹ This Chapter was amended by repealing Sewage Disposal Ordinance which was adopted February 9, 1988 effective February 26, 1988 and replacing it with Sewer Use Ordinance No. 2012-1 adopted January 10, 2012 effective January 25, 2012.

(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.

Sec. 2.302. Scope and Authority.

(1) This Ordinance shall apply to all persons that discharge to the POTW from within the City.

(2) Except as otherwise specifically provided by this Ordinance or other agreement, specifically Section 2.370, wherein the WWTP Superintendent is empowered to act, the City Manager shall administer, implement, and enforce the provisions of this Ordinance on behalf of the City and the POTW.

(3) 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 Ordinance and law. If any user discharges or proposes to discharge wastewaters or pollutants that are prohibited or limited by this Ordinance, authorized representatives of the City and/or the POTW may take any action as provided by this Ordinance or other applicable laws or regulations to assure and require compliance with the provisions of this Ordinance.

Sec. 2.303. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

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

“ASTM” means the American Society for Testing and Materials, an international, nonprofit, technical, scientific and educational society devoted to the promotion of knowledge of the materials of engineering, and the standardization of specifications and methods of testing.

“Authorized Representative of User.” An authorized representative of a User is:

(a) A responsible corporate officer, if the user is a corporation. “Responsible corporate officer” means: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the principal manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures of more than \$25,000,000.00 in second quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) A general partner or proprietor, if the user is a partnership or proprietorship, respectively.

(c) The principal executive officer, ranking elected official, or director having responsibility for the overall operation of the discharging facility, if the user is a federal, state or local governmental entity.

(d) If none of the categories listed in (a), (b) or (c), above, are applicable to the user, then a representative of the industrial user as approved by the WWTP Superintendent.

(e) A duly authorized representative of an individual designated in (a), (b), (c) or (d) 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), (c) or (d) 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 WWTP Superintendent prior to or together with any reports to be signed by the authorized representative.

(2) If an authorization under (e)(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 WWTP Superintendent prior to or together with any reports to be signed by the newly authorized representative.

"BOD" or "Biochemical Oxygen Demand." The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Centigrade, expressed in milligrams per liter (mg/l).

"Building Lead." The portion of building sewer from the soil pipe to the sewer stub.

"Building Sewer." The portion of a sewer from the soil pipe to the wye branch of the sewer main.

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

"Categorical Pretreatment Standard." A national pretreatment standard promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act that specifies quantities or concentrations of pollutants or pollutant properties that may be discharged to a POTW by users in specific industrial subcategories.

"Categorical User." Any non-domestic user subject to a categorical pretreatment standard.

"COD" or "Chemical Oxygen Demand." The quantity of oxygen consumed from a chemical oxidant in a specific test, expressed in milligrams per liter (mg/l).

"Chlorine Demand." The difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter (mg/l).

“Compatible Pollutant.” A pollutant which, as determined by the WWTP Superintendent, 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 Superintendent may consider, among other factors determined relevant by the Superintendent, 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, phosphorus, suspended solids, and fecal coliform bacteria, which are typically considered “compatible” may be determined incompatible, if discharged in concentrations or flows that would cause interference or pass through or exceed the POTW’s capacity. Specifically excluded from the definition of “compatible pollutants” are “heavy” metals, PCBs, and any other pollutants that will likely contribute or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters, as determined by the WWTP Superintendent.

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

“Control Authority.” The Department of Water and Sewer of the Bay County Council of County Road Commissioners acting in its capacity to administer and implement the approved industrial pretreatment program and this ordinance, as provided for in Section 2.302(b).

“Control Authority Enforcement Response Plan” (CAER Plan). The plan prepared by the POTW as required by 40 CFR 403.8(f)(5) that describes how the POTW will investigate and respond to instances of non-compliance and the types of escalated enforcement actions the POTW will take in response to violations of applicable standards and requirements.

“Cooling Water (non-contact).” Water used for cooling purposes only that has no direct contact with any raw material, intermediate, or final product and that does not contain a detectable level of contaminants higher than that of the intake water or exceed local limits.

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

“County.” The County of Bay, Michigan.

“Daily Maximum.” The concentration (or mass loading, expressed in terms of pounds per day) that shall not be exceeded on any single calendar day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged during the day. Sampling for daily maximum shall be a 24-hour flow proportioned composite sample, except that a minimum of 4 grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for pH, cyanide, phenol (T), residual chlorine,

oil and grease, sulfides, volatile organic compounds (and any other parameters specified by the WWTP Superintendent). If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of 4 grab samples may be used in lieu of the flow proportioned composite sample if the user demonstrates to the WWTP Superintendent that a representative sample will be obtained. If the pollutant concentration in any sample is less than the applicable detection limit, that value shall be regarded as zero when calculating the daily maximum concentration (except as otherwise provided in a permit, order or agreement issued under this Ordinance). If a composite sample is required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a single calendar day shall be based on the composite sample collected for that parameter on that calendar day. If grab samples are required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a calendar day shall be based on the average of all grab samples collected for that parameter on that calendar day. If only one grab sample is collected for a parameter on a given day, the determination whether the daily maximum limitation for that parameter has been exceeded for the day shall be based on the results of that single grab sample.

“Department.” The Department of Water and Sewer of the Bay County Council of County Road Commissioners, or the Department’s authorized agents, deputies, or representatives; also referred to as the “Control Authority” or the “POTW” as appropriate to the context herein.

“Director.” The Director of the Department, or the Director’s authorized agents, deputies, or representatives.

“Discharge.” The introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect (including inflow and infiltration).

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

“Domestic Waste.” Water-carried waste of human origin generated by personal activities from toilet, kitchen, laundry, or bathing facilities, or by other similar facilities used for household or 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.

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

“Environmental Protection Agency” (EPA). The United States Environmental Protection Agency, or its duly authorized representatives.

“Footing Drain.” A pipe or conduit placed around the perimeter of a building foundation and that intentionally admits ground water.

“Garbage.” Solid wastes from the preparation, cooking, and dispensing of food, from the handling, storage, processing and sale of produce, or from the canning or packaging of food.

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

“Ground Water.” The subsurface water occupying the saturation zone from which wells and springs are fed.

“Hazardous Waste.” Any substance discharged or proposed to be discharged into the POTW, that, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261.

“Heavy metals.” Heavy metals include, but shall not be limited to, elemental, ionic, or combined forms of antimony, arsenic, barium, cadmium, chromium, cobalt, copper, lead, mercury, molybdenum, nickel, selenium, silver, and zinc, and other metals that may accumulate in sludge, and/or are generally toxic in low concentrations to animal and plant life, as determined by the WWTP Superintendent.

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

“Incompatible Pollutant.” Any pollutant that is not a compatible pollutant.

“Indirect Discharge.” The introduction of pollutants into the POTW, intentionally or unintentionally, from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act (including, without limitation, holding tank waste or trucked or hauled waste discharged into the POTW and pollutants entering the POTW through infiltration or inflow).

“Industrial User .” Any non-domestic user that contributes, causes or permits the contribution or introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect.

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

“Inflow.” Any waters entering the POTW from sources such as, but not limited to, roof leaders; cellar, yard, and area drains; footing drains; foundation drains; cooling water discharges; drains from springs and swampy areas; manhole covers; storm sewers; catch basins; storm waters; surface runoff; street wash waters; or drainage. Inflow does not include, and is distinguished from, infiltration.

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

“Interceptor Sewer.” A sewer intended to receive dry weather flow from a number of transverse sewers or outlets that conducts such waters to a point for treatment or disposal.

“Interference.” A discharge that, alone or in conjunction with a discharge or discharges from other sources: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or (2) 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 there under (or more stringent State or local regulations, as applicable): Section 405 of the Act; the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

“Lateral Sewer.” A sewer that is designed to receive a building sewer.

“Local Sewer System.” All of the sanitary sewer and storm system located within the corporate limits of the City of Essexville which are solely owned and operated by the City including, but not limited to, sewer lines, pump stations and all appurtenances thereto.

“May” is permissive. (See “Shall.”)

“Monthly Average.” The concentration (or mass loading, expressed in terms of pounds per day) that shall not be exceeded for any single calendar month. Where expressed in terms of a concentration, the monthly average limit means the sum of the concentrations of a pollutant obtained through sample analysis during a calendar month divided by the number of samples taken during that calendar month. Where expressed in terms of a mass loading, the monthly average limit means the sum of the daily mass loadings of a pollutant obtained through sample analysis during a calendar month divided by the number of days that mass loading samples were taken during that 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 WWTP Superintendent. Sampling for monthly average shall be by composite samples, except that a minimum of four (4) grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for a single day for pH, cyanide, phenol (T), residual chlorine, oil and grease, sulfide, and volatile organic compounds (and any other parameters specified by the WWTP Superintendent). If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of 4 grab samples may be used in lieu of the flow proportioned composite sample if the user demonstrates to the WWTP Superintendent that representative samples will be obtained. If the pollutant concentration in any sample is less than the applicable detection limit, that value shall be regarded as zero when calculating the monthly average concentration (except as otherwise provided in a permit, order or agreement issued under this Ordinance). 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.

“Natural Outlet.” Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

“New Source.” 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 that will be applicable to the source, if pretreatment standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

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

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

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

“Non-domestic User.” Any user other than a domestic user.

“Normal Strength Domestic Waste. ” A domestic waste flow for which the levels of pollutants (including, without limitation, BOD, TSS, ammonia nitrogen, or phosphorous) are below the surcharge levels for any parameter as established by this Ordinance. Further, to be considered normal strength, the wastewater must have a pH between 6.5 and 9.5, and must not contain a concentration of other constituents that would interfere with POTW treatment processes.

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

“Operation and Maintenance. ” All work, materials, equipment, utilities and other effort required to operate and maintain the POTW consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations.

“Pass Through.” A discharge that exits the POTW into waters of the State (or waters of the United States) in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, 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).

“Person.” Any individual, partnership, co-partnership, firm, company, corporation, association, society, group, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. As used in this Ordinance, the masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

“PH.” The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

“Pollutant.” The term “pollutant” includes, without limitation, all of the following:

(a) Any material that is discharged into water or other liquid, including, without limitation, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste.

(b) Properties of materials, including, but not limited to, pH and heat.

(c) Substances regulated by categorical standards.

(d) Substances discharged to the POTW that are required to be monitored by a user under this Ordinance, are limited in the POTW ’s NPDES permit, or required to be identified in the POTW’s application for an NPDES permit.

(e) Substances for which control measures on industrial 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 West Bay County Regional Wastewater sewage disposal system and “treatment works” (as defined by the Act), including any devices, equipment, structures, property, 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), manholes, inlets, pipes and other conduits and conveyances used to collect or convey wastewater or sewage from any source to the treatment works, as now or hereafter added to, extended or improved, including the Local Sewer System. The term “POTW” is also used to refer to the Department acting in its capacity as the Control Authority to administer and implement the approved industrial pretreatment program and this ordinance, as provided for in Section 2.302(b).

“POTW Treatment Plant.” The portion of the POTW that is designed to provide control and treatment (including recycling or reclamation) of sewage and industrial waste (commonly referred to as the “wastewater treatment plant” or “WWTP”).

“Premises.” A lot or parcel of land, or a building or structure , having any connection, direct or indirect, to the POTW, or from which there is a discharge to the POTW.

“Pretreatment (or Treatment).” The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or other means, except for the use of dilution as prohibited by MAC R 323.2311(6).

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

“Pretreatment Standard. ” Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Section 307(b) and (c) of the Act that applies to industrial users, including prohibitive discharge limits and local limits established under MAC R 323.2303 and categorical standards.

“Private.” Jurisdiction by a non-governmental entity.

“Properly Shredded Garbage. ” The wastes from the preparation, cooking and dispensing of food that have been cut or shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle greater than ½ of an inch in any dimension.

“Public.” Jurisdiction by a governmental entity.

“Public Sewer.” A sewer in which all owners of abutting property have equal rights and that is controlled by public authority.

“Replacement.” The replacement in whole or in part of any equipment or facilities in the POTW to ensure continuous treatment of wastewater in accordance with the NPDES permit and other applicable state and federal regulations.

“Sanitary Sewer. ” A sewer intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not intentionally admitted.

“Septage.” Any human excrement or other domestic waste, including graywater and other material or substance removed from a portable toilet, septic tank, seepage pit, cesspool, holding tank, or other similar enclosure that receives, or is intended to receive, only domestic, non-industrial waste.

“Severe Property Damage. ” Substantial physical damage to property, damage to the 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 economic loss caused by delays in production.

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

“Sewer Stub.” The part of the sewerage system extending from the wye branch on the sewer main to the private property or easement line of the property.

“Shall” is mandatory. (See “May.”)

“Significant Industrial User.” Any industrial user:

(a) Subject to categorical pretreatment standards; or

(b) Any other industrial user that:

(1) discharges to the POTW an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater);

(2) contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) is otherwise designated by the WWTP Superintendent as a significant industrial user on the basis that the industrial user has a reasonable potential to adversely affect the operation of the POTW, to violate any pretreatment standard or requirement, or because the WWTP Superintendent determines that a wastewater discharge permit for the user's discharge is required to meet the purposes and objectives of this Ordinance.

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

“Significant Non-Compliance.” A violation (or group of violations) of applicable pretreatment standards or requirements or any other action (or failure to act) by an industrial user that meets the criteria set forth in Section 2.380 of this Ordinance, or that will otherwise adversely affect the operation or implementation of the POTW's pretreatment program as determined by the WWTP Superintendent.

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

“Soil Pipe.” The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning 5 feet outside the inner face of the building wall.

“State.” The State of Michigan.

“Standard Industrial Classification ” (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

“Storm Sewer” or “Storm Drain.” A sewer intended to carry storm water and surface water, street wash, other wash waters, or drainage, but not wastewater.

“Storm Water.” The excess water running off from the surface of a drainage area during and immediately after a period of rain or snow melt and is that portion of the rainfall or snow melt runoff and resulting surface flow in excess of that which can be absorbed through the infiltration capacity of the surface of the basin.

“Superintendent.” See “WWTP Superintendent.”

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

“Suspended Solids.” The suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and that is removable by laboratory filtering (referred to as non-filterable residue in laboratory testing).

“Toxic Pollutant.” Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed as toxic in regulations promulgated by the Administrator of the EPA under Section 307(a) of the Act or under other laws.

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

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

“TSS.” Total suspended solids.

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

“User.” Any person who contributes, causes or permits the contribution, introduction or discharge of wastewater into the POTW, whether intentional or unintentional, and whether direct or indirect.

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

“Wastewater Discharge Permit.” A permit issued to industrial users as provided by this Ordinance to control the discharge of wastewater to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

“Wastewater Transmission Facilities.” The facilities for collecting, transporting, regulating, pumping and storing of wastewater.

“Wastewater Treatment Works.” The arrangement of devices and structures for treating wastewater, industrial wastes, and sludge.

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

“Waters of the United States.” All waters as defined by 40 CFR 122.2.

“WWTP Superintendent ” (or “Superintendent”). The person designated by the Department to supervise the operation, maintenance, alteration, repair and management of the POTW and who is charged with certain duties and responsibilities by this Ordinance, or the Superintendent's duly authorized agents, deputies or representatives.

“Wye Branch.” The part of the POTW connecting the sewer main and the sewer stub.

Sec. 2.304. Abbreviations. The following abbreviations shall have the following designated meanings:

| | |
|-------|---|
| BOD | Biochemical Oxygen Demand |
| CFR | Code of Federal Regulations |
| COD | Chemical Oxygen Demand |
| EPA | Environmental Protection Agency |
| l | Liter |
| mg | Milligrams |
| mg/l | Milligrams per liter |
| MAC | Michigan Administrative Code |
| NPDES | National Pollutant Discharge Elimination System |
| POTW | Publicly Owned Treatment Work |
| SIC | Standard Industrial Classification |
| SWDA | Solid Waste Disposal Act, 42 USC 6901, et seq. |
| USC | United States Code |
| T | Total |
| TSS | Total Suspended Solids |

Sec. 2.305. Use of Public Sewers . The following requirements shall apply to all connections to the Local Sewer System by users of the Local Sewer System and/or the POTW:

(a) The owner of any house, building, property or premises used for human occupancy, employment, recreation, or other purposes, and from which sanitary sewage originates and which is situated within the City is hereby required at the owner 's expense to install wastewater facilities therein in accordance with law and to connect such facilities directly with the available public sewer in accordance with the provisions of this Ordinance within 90 days after notification from the City or the POTW.

(b) The requirements of this Section shall be in addition to any requirements that may be imposed by the United States and/or the State of Michigan.

(c) Plans and specifications for all sewers (including, but not limited to, sewer mains) to be constructed within the City shall be approved by the City.

(d) Each new sewer for which a sewer stub is not presently available but which is designed and is to be constructed so as to connect with or constitute an integral part of the Sewer System shall not be constructed without a written permit issued by the City.

(e) No person shall uncover, make any connections with or opening into, use, alter, repair or disturb any public sewer or appurtenance thereof including sewer stub, wye branch and sewer main, without first obtaining a written permit from the City.

(f) All permit and inspection fees shall be established from time to time by resolution of the City Council.

(g) No openings shall be made into the Local Sewer System without first obtaining a sewer connection permit on an application form furnished by the City. All applications for a permit shall be made by the owner of the premises, or the owner's authorized agent. Each application for a permit shall be accompanied by an application and inspection fee to defray the cost of processing the application and subsequent inspection of construction or installation. All inspections shall be done in conformance with regulations as adopted and approved by the City. If conditions require more than one inspection or if a full time inspector be required, an additional inspection fee may be charged. The removal of the cookie or stopper and connection to the Sewerage System shall be performed only in the immediate presence of the City's Inspector or an authorized representative of the City. It shall be unlawful for any person, performing work under a permit for the laying of a sewer stub or building lead to cover any portion thereof until such time as same has been inspected and approved by the City's Inspector or an authorized representative of the City. Such person shall notify the City when the work is ready for inspection and shall leave the premises in a condition convenient for examination by the Inspector. The person who applies for the permit shall be responsible to remove and replace all rejected work, restore all public streets and alleys to a similar condition as existed prior to excavation, and shall make all adjustments necessary to fully meet the requirements of this Ordinance, other rules and regulations hereinafter established and the conditions of the permit as required by the City.

(h) All costs and expenses incidental to the installation, connection and maintenance including inspections of the sewer stub and building lead shall be borne by the owner(s). The owner(s) shall indemnify the City and the POTW from any loss or damage that may directly or indirectly be occasioned by the installation, connection and maintenance of the sewer stub and building lead.

(i) A separate and independent building sewer shall be utilized for every building except where one building stands at the rear of another on an interior lot and no building sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the front building may extend a sanitary sewer to the rear building and the whole considered as one building sewer after approval by the City. Old building leads and sewer stubs may be used in connection with new buildings only when they are found, after examination and test by the City to meet all requirements of this Ordinance.

(j) Each person other than an owner or land contract vendee applying for a sewer connection permit shall be approved by the City.

(k) In all buildings in which any soil pipe is too low to permit gravity flow to the public sewer, wastewater carried by such soil pipe shall be lifted by approved means and discharged to the building sewer. All excavations required for the installation of a sewer shall be open trench work unless otherwise approved. Pipe laying bedding and backfill shall be performed in accordance with applicable ASTM specifications. No backfill shall be placed until the work has been inspected and approved.

(l) No person shall make connection of roof downspouts, footing drains, areaway drains, sump pumps, or other sources of surface runoff or groundwater and other sources of uncontaminated water to a sewer stub or building lead which in turn is connected directly or indirectly to a public sewer. If any such connection is determined to exist, the City may order its disconnection at the property owner's expense, and if the property owner refuses to obey the order, then the City may disconnect the connection and the costs shall be charged to the property owner.

(m) All excavations for the wye branch and/or sewer stub 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 construction shall be restored to the same or better condition than prior to excavation.

(n) The type and quality of sanitary sewer pipe and fittings used shall conform to the current City specifications at the time the permit is issued.

Sec. 2.306. Plans, Specifications and Capacity for Sewer Extensions.

(a) Plans and specifications for all sewer main extensions shall be prepared by a registered professional engineer. The plans and specifications shall be reviewed, and, if acceptable, approved by the City.

(b) All sewer stubs and building leads shall be made at the wye branch in the sewer main designated for the property if such branch is available. Any connection not made at the designated wye branch in the sewer main shall be made only as directed by the City.

(c) It shall be unlawful to connect any sanitary sewer to the existing sewer system until it has been tested. Copies of test results and procedures shall be kept on file for inspection.

(d) No sewer extension shall be allowed unless there is capacity available in all downstream sewers, lift stations, force mains, and POTW, including capacity for BOD and suspended solids.

Sec. 2.307. Grease, Oil, Sand and Sediment Traps or Bar Screens.

(a) Grease, oil, sand and sediment traps shall be provided when determined necessary by the City for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, sediment and other harmful ingredients. All traps shall be of a type and capacity approved by the City (or when applicable, by the WWTP Superintendent pursuant to Section 2.370) and shall be located so as to be readily and easily accessible for cleaning and inspection.

(b) Grease and oil traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers that, when bolted in place, shall be gas tight and water tight.

(c) All grease, oil and sand interceptors shall be provided and maintained by the owner, at the owner's expense, in continuous efficient operation at all times.

(d) Bar screens shall be provided when determined necessary by the City or when applicable, by the WWTP Superintendent pursuant to Section 2.370 for the proper removal of rags, plastics, paper products or other materials which may enter the POTW and cause blockage.

Sec. 2.308. Discharge Prohibitions.

The general discharge prohibitions under Section 2.308(a) and the specific discharge prohibitions under Section 2.308(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 wastewater discharge permit issued pursuant to this Ordinance.

(a) General Prohibitions. No person shall discharge, contribute or cause to be discharged or contributed, directly or indirectly to the local sewer system or POTW, any pollutant or wastewater that will pass through or interfere with the operation or performance of the local sewer system or POTW.

(b) Specific Prohibitions. No user shall discharge, contribute, or cause to be discharged or contributed, to the local sewer system or 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 local sewer system or POTW. Additional or more restrictive requirements may be required of particular users under a wastewater discharge permit, or as otherwise authorized or required by this Ordinance or other applicable laws and regulations.

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

| <i>Parameter</i> | <i>Daily Maximum (mg/l)†</i> | <i>Monthly Average (mg/l)†</i> | <i>Instantaneous Maximum (mg/l)†</i> | |
|----------------------|----------------------------------|------------------------------------|--|-----|
| Arsenic | | 0.45 | 0.45 | --- |
| Cadmium | 0.38 | | 0.38 | --- |
| Chromium | 11.70 | | 11.70 | --- |
| Copper | 8.52 | | 8.20 | --- |
| Lead | 1.53 | | 1.53 | --- |
| Nickel | 1.14 | | 1.14 | --- |
| Selenium | 0.24 | | 0.20 | --- |
| Silver | 0.07 | | 0.07 | --- |
| Zinc | 1.94 | | 1.94 | --- |
| Cyanide | 0.20 | | 0.20 | --- |
| 1, 2-Dichlorobenzene | 1.63 | | 1.63 | --- |
| 1, 2-Dichloroethane | 10.41 | | 10.41 | --- |

| <i>Parameter</i> | <i>Daily Maximum (mg/l)†</i> | <i>Monthly Average (mg/l)†</i> | <i>Instantaneous Maximum (mg/l)†</i> | | |
|------------------------------------|----------------------------------|------------------------------------|--|------|-----|
| 4-Isopropyltoluene | 0.00 | 0.00 | 0.00 | 0.00 | |
| Acetone | 340 | 340 | --- | | |
| Benzene | 0.41 | 0.41 | --- | | |
| Carbon Tetrachloride | 0.03 | 0.03 | --- | | |
| Chlorobenzene | | 2.31 | 2.31 | | --- |
| Chloroform | 0.41 | 0.41 | --- | | |
| Cis-1, 2-Dichloroethene | | 0.28 | 0.28 | | --- |
| Methylene Chloride | 2.06 | 2.06 | --- | | |
| o-Xylene | 1.81 | --- | --- | | |
| P&M-Xylene | 1.80 | --- | --- | | |
| Total Xylene | --- | 2.1 | --- | | |
| Toluene | 1.36 | 1.36 | --- | | |
| Vinyl Chloride | 0.0003 | 0.0003 | --- | | |
| BOD ² | 1500 | --- | --- | | |
| TSS ³ 1500 | 1500 | --- | --- | | |
| Phosphorus (T) as P ⁴ | | 30 | --- | | --- |
| Ammonia Nitrogen as N ⁵ | 80 | --- | --- | | --- |

Notes:

† Discharges containing more than one pollutant which may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the WWTP Superintendent. 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 listed in Section 2.308(b)(1) of this Ordinance.

²Any discharge of BOD in excess of 300 mg/l shall be subject to a surcharge at such rates set from time to time by the POTW.

³Any discharge of TSS in excess of 300 mg/l shall be subject to a surcharge at such rates set from time to time by the POTW.

⁴Any discharge of Total Phosphorus as P in excess of 8 mg/l shall be subject to a surcharge at such rates set from time to time by the POTW.

⁵Any discharge of Ammonia Nitrogen as N in excess of 40 mg/l shall be subject to a surcharge at such rates set from time to time by the POTW.

All surcharges shall be in addition to any other fees or charges required by this Ordinance. Surcharges are intended to reimburse the POTW for all costs incurred by the POTW in handling or treating a discharge which contains pollutants in excess of specified surcharge concentrations, loadings or other applicable limits. Any user exceeding applicable surcharge limitations or other applicable limits shall be subject to the imposition of one or more surcharges as provided by this Section to reimburse the POTW for any costs or expenses, direct or indirect, the POTW may incur in handling or treating the discharge, or which may be imposed upon the POTW, where the exceedence of applicable limits causes or contributes to those costs or expenses. All exceedences of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements shall constitute a violation of this Ordinance, subject to applicable fines, penalties and other enforcement actions provided by this Ordinance. In no event shall the imposition of a surcharge for a discharge which does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Ordinance.

This Daily Maximum Limit for BOD of 1400 mg/l was effective until December 31, 2006. Thereafter, the Daily Maximum Limit for BOD shall decrease by 100 mg/l per year as follows: 1300 mg/l (effective 01/01/ 2007 through 12/31/2007) and from that date thereafter, unless and until this Ordinance is subsequently amended as approved by the POTW to provide a different Daily Maximum Limit for BOD).

(2) Pollutants in concentrations that exceed the instantaneous maximum, daily maximum or monthly average concentrations listed below in this subsection:

Mercury. The instantaneous maximum concentration, daily maximum and monthly average discharge limit for mercury is 0.0000026 mg/l. except as otherwise required by the WWTP Superintendent, compliance with this limit shall be determined as follows:

A compliance limit of “non-detect” shall be used for instantaneous maximum concentration, daily maximum and monthly average. Any discharge of mercury at or above the detection limit is a specific violation of this Ordinance. The detection limit shall be established pursuant to the procedure for determination of the method detection limit (“MDL”) as set forth in section 3(a) of Appendix B of 40 CFR part 136. The MDL study used to determine the MDL shall be made available to the POTW immediately upon request. In no case may the detection limit exceed 0.0002 mg/l, unless a higher detection limit is approved by the WWTP Superintendent because of sample matrix interference.

Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user ’s discharge shall be in accordance with EPA method 245.1, unless other sampling procedures, protocol or methods (including, but not limited to, EPA method 1631) are required or approved in advance by the WWTP Superintendent.

If determined necessary by the WWTP Superintendent to prevent interference or pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the POTW ’s NPDES permit, or to otherwise meet the purposes and objectives of this Ordinance, any user determined by the WWTP Superintendent to have a reasonable potential to discharge mercury to the POTW may be required to develop, submit for approval, and implement a Mercury Reduction Plan (“MRP”). At a minimum, the MRP shall contain such requirements and conditions (including, but not limited to, requirements and conditions regarding source identification; best management practices; schedules of compliance; monitoring, sampling and analysis; and reporting), as determined necessary by the WWTP Superintendent to ensure the mercury reduction efforts will be effective in achieving the goals of this Section. Failure to submit an approvable MRP within the specified deadlines or to comply with any condition or requirement of an approved MRP shall constitute a violation of this Ordinance, subject to the fine, penalty, and other enforcement provisions of this Ordinance.

(3) Any liquid, solid, gas or other pollutant which by reason of its nature or quantity is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to persons, the POTW, or to the operation of the sewerage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F or 60 ° C using test methods specified in 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the POTW (or at any point in the POTW) be more than 5% nor any single reading over 10% of the Lower Explosive Limit (LEL) on the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel, fuel oil, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorate, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the POTW, the State or EPA has notified the user is a fire hazard or a hazard to the system.

(4) Pollutants that may cause corrosive structural damage to the POTW, or that due to their corrosive properties are capable of causing injury to persons or POTW personnel or harm to fish, animals or the environment. Discharges that have a pH lower than 6.5 or greater than 9.5 shall not be discharged.

(5) 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.

(6) Pollutants, including, but not limited to, oxygen demanding pollutants, released at a flow rate and/or pollutant concentration that may cause pass through or interference with the POTW or constitute a slug load. In no case shall a slug load have a flow rate or contain concentrations or qualities of pollutants that exceed for any time period longer than 15 minutes, more than 5 times the average 24-hour concentration, quantities or flow during normal production.

(7) Wastewater (or vapor) having a temperature that will inhibit biological activity in the POTW resulting in interference, or heat in such quantities that the temperature at the POTW treatment plant exceeds 104 ° Fahrenheit (40 ° C). No discharge to the POTW shall have a temperature less than 32° Fahrenheit (0° C) or greater than 150° Fahrenheit (65.7° C).

(8) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(9) Pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems. This prohibition includes, but is not limited to, wastewaters which contain liquids, solids or gases that cause gases, vapors or fumes from the discharge to exceed 10% of the immediately dangerous to life and health (IDLH) concentration. Discharges which contain more than one pollutant which may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the WWTP Superintendent. 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.

(10) Trucked or hauled pollutants, except those discharged at the WWTP at the discharge point designated by the WWTP Superintendent, subject to the prior approval of the Superintendent and issuance of a wastewater discharge permit.

(i) The WWTP Superintendent shall determine whether to allow the discharge of trucked or hauled pollutants based on the particular nature or quantity of the proposed discharge in accordance with the discharge prohibitions, limitations and requirements provided by this Ordinance.

(ii) The WWTP Superintendent may impose any conditions on the discharge determined necessary to ensure compliance with this Ordinance, including, without limitation, conditions regarding the time, place, and manner of discharge, restrictions on the quantity and quality of the discharge, and sampling requirements.

(iii) The discharge shall not commence without prior notice to, and authorization from, the WWTP Superintendent, and a representative of the POTW shall be present at all times during the discharge.

(iv) 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 pre-treated as required by applicable pretreatment standards and requirements. The hauler shall certify in writing on the manifest that no wastes other than those listed on the manifest have been accepted by the hauler. The manifest must be reviewed by the WWTP Superintendent prior to commencing discharge of the load. Failure to accurately record every load, falsification of data, or failure to transmit the form to the WWTP Superintendent for review prior to discharge shall constitute a violation of the permit and may result in revocation of the permit and/or the imposition of fines and penalties as provided by this article.

(v) 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 WWTP Superintendent may require the permittee to refrain from, or suspend, discharging until the sample analysis is complete.

(vi) 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.

(vii) For each discharge of trucked or hauled pollutants, the permittee will be required to pay to the POTW a trucked or hauled pollutant discharge fee to cover the POTW's administrative expenses and any additional treatment, handling or inspection expenses incurred by the POTW in connection with the discharge. The fee shall be established, paid, and collected as provided by Section 2.389. This discharge fee shall be in addition to any sewer rates, fees, charges, or surcharges otherwise required by this Ordinance.

(11) Solvent extractables, including, but not limited to, 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.

(12) Noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(13) 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.

(14) 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.

(15) Soluble substances in a concentration that may increase the viscosity to greater than 10% over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.

(16) Any medical or infectious wastes, as defined by the Michigan Department of Environmental Quality, or its successor.

(17) Any pollutant that results in excess foaming during the treatment process. Excess foaming is any foam that, in the opinion of the WWTP Superintendent, may interfere with the treatment process.

(18) Any unpolluted water, non-contact cooling water, storm water, surface water, groundwater, roof runoff or subsurface drainage (except to a storm sewer as authorized by this Ordinance and other applicable laws and regulations) and subject to the prior approval of the WWTP Superintendent.

(19) 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.

(20) Wastewater with objectionable color or light absorbency characteristics that interfere with treatment processes or analytical determinations, including, but not limited to, dye wastes and vegetable tanning solutions.

(21) Wastewater containing any radioactive wastes or isotopes of a half-life or concentration that may exceed limits established by applicable state or federal laws, rules or regulations.

(22) Any contaminated groundwater or landfill leachate determined by the WWTP Superintendent 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.

(23) Septage.

(24) Any hazardous waste as defined by this Ordinance.

(25) Any garbage or other solid material that has not been properly shredded. Garbage or solid materials having a specific gravity greater than 1.2 or a cross-section dimension of one-half inch ($\frac{1}{2}$ ") or greater, or which are sufficient in quantity to cause pass through or interference to the POTW shall be deemed improperly shredded. The installation and operation of any garbage shredder equipped with a motor of 3/4 HP or greater shall be subject to the review and approval of the WWTP Superintendent.

(26) Any substance which exerts or causes a high concentration of inert suspended solids, including, but not limited to, lime slurries, diatomaceous earth and lime residues.

(27) Any substance which exerts or causes a high concentration of dissolved solids, including, but not limited to, sodium chloride.

(28) Any substance which causes a high chlorine demand, including, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulphate.

(29) Any compatible or incompatible pollutant in excess of the allowed limits as determined by applicable local, state or federal laws, rules or regulations.

(30) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any person's wastewater or air pollutants.

(31) Residue (total on evaporation) in an amount that will cause obstruction to the flow in the POTW resulting in interference.

(32) Any wastewater containing polychlorinated biphenyls (PCBs).

(33) Any discharge containing strong acid, iron, pickling waste or concentrated plating solutions whether neutralized or not.

(34) Any discharge containing phenols or other taste or odor-producing substances in such concentrations exceeding limits which may be established by the WWTP Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies having jurisdiction for such discharge to the receiving waters.

(35) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants:

(i) creates a chemical reaction with any materials of construction to impair the strength or durability of sewer structures;

(ii) causes a mechanical action that will damage or destroy sewer structures;

(iii) impedes or restricts the hydraulic capacity of the POTW;

(iv) interferes with normal inspection or maintenance of sewer structures;

(v) places unusual demands upon the wastewater treatment equipment or processes by biological, chemical or physical means; or

(vi) causes a hazard to human life or creates a public nuisance.

Sec. 2.309. Pretreatment Standards and Requirements.

(a) Compliance with applicable standards and requirements. The national categorical pretreatment standards when finalized for specific industries shall become a part of the requirements of this Ordinance in accordance with federal and state laws and regulations. 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 applicable pretreatment standards and requirements established under this Ordinance or under state 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 an industrial user subject to categorical standards, unless an enforceable alternative limit to the corresponding national categorical standards is derived using any of the methods specified in MAC R 323.2313 (regarding removal credits, fundamentally different factor variances, net/gross calculations, equivalent mass per day limitations, and combined wastestream formula alternative limitations). If local limits are more stringent than derived alternative categorical limits, the local limits shall control.

(d) Compliance with other applicable laws and regulations. Users of the POTW shall comply with all local, state and federal laws and regulations that may apply to their discharges to the POTW, including, but not limited to, Article II, Air Pollution Control, Part 55 of Act 451 of the Public Acts of Michigan of 1994 (the Natural Resources and Environmental Protection Act).

Sec. 2.310. Right of Revision. The POTW reserves the right to establish more restrictive prohibitions, limitations or requirements for discharges to the POTW (and to revise or revoke wastewater discharge permits and/or, as a condition to continued discharge to the POTW, to require the City to revise this Ordinance accordingly) as necessary 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 WWTP Superintendent. The POTW will provide reasonable advance notice to the City regarding required revisions to this Ordinance.

Sec. 2.311. POTW's Right to Refuse or Condition Discharge. The POTW may refuse to accept, or may condition its acceptance of, all or any portion of any proposed or existing discharge to the POTW, regardless of whether or not a wastewater discharge permit has been issued for the discharge, if the WWTP Superintendent determines that the discharge has a reasonable potential to adversely affect the operation of the POTW; result in pass through or interference; violate any pretreatment standard or requirement; cause the POTW to violate its NPDES permit; or if the impacts of the discharge on the POTW or the POTW's discharge are uncertain or unknown (because, for example, no local limits or headworks analysis has been conducted for particular pollutants in the discharge). If the WWTP Superintendent 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 WWTP Superintendent. Similarly, if the WWTP Superintendent denies any person permission to commence or continue all or any portion of a discharge to the POTW except subject to conditions determined necessary and appropriate by the WWTP Superintendent, the person shall refrain from commencing or continuing the discharge except in full compliance with those conditions.

Sec. 2.312. Most Restrictive Standards and Requirements Apply. Notwithstanding any provision of this Ordinance to the contrary, the most stringent or restrictive standard or requirement applicable to a user's discharge shall control, whether established by this Ordinance, by any notice, order, permit, decision or determination promulgated, issued or made by the POTW or the WWTP Superintendent under this Ordinance, by state laws or regulations, including the POTW's NPDES permit, or by federal laws or regulations. Further, if state or federal laws or regulations provide for standards and requirements not covered by this Ordinance that are otherwise applicable to a user's discharge, those standards and requirements shall apply to the user in addition to those required by this Ordinance, and the most restrictive of those additional standards or requirements shall control and shall be complied with by the user within the time period required by the law or regulation.

Sec. 2.313. Dilution Prohibited as Substitute for Treatment. Unless expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water, mix separate wastestreams, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a federal, state or local standard, requirement or limitation. The POTW may impose mass limitations on non-domestic users that are using dilution to meet applicable pretreatment standards or requirements and in other cases where the imposition of mass limitations is appropriate as determined by the WWTP Superintendent.

Sec. 2.314. Wastewater Discharge Permits Required.

(a) It is unlawful for any significant industrial user (or any other non-domestic user as determined necessary by the WWTP Superintendent to carry out the purposes of this Ordinance) to discharge to the POTW without a wastewater discharge permit as provided by this Ordinance.

(b) Any violation of the terms or conditions of a wastewater discharge permit is a violation of this Ordinance, subject to the fine, penalty, and other enforcement provisions of this Ordinance. Obtaining a wastewater discharge permit shall not relieve a user of its obligation to obtain other permits or approvals that may be required by other local, state or federal laws or regulations.

(c) The issuance of a wastewater discharge permit shall not convey to a user any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, nor any violation of local, state or federal laws or regulations.

(d) The WWTP Superintendent may require any non-domestic user to obtain a permit to discharge to the POTW, subject to such terms and conditions as are determined necessary and appropriate by the WWTP Superintendent to achieve the purposes, policies and objectives of this Ordinance. A discharge permit issued to a user as provided by this sub-section may contain, but shall not be required to contain, any of the terms and conditions that would apply to a discharge permit issued to a significant industrial user as provided by this Ordinance, including, but not limited to, discharge limitations, and requirements regarding sampling and monitoring, pretreatment, pollution reduction plans, and best management practices, to comply with the general and specific discharge prohibitions of this Ordinance. Failure to comply with a permit issued under this subsection constitutes a violation of this Ordinance. In no case shall a permit issued to a user under this sub-section be construed as authorizing the illegal discharge or otherwise excuse a violation of this Ordinance. To the extent determined appropriate by the WWTP Superintendent on a case-by-case basis, permits issued under this sub-section shall be subject to provisions otherwise applicable to permits for significant industrial users. However, all user permits are non-transferable, and are subject to the permit fee and permit appeals provisions of this Ordinance.

Sec. 2.315. Permit Application; Application Deadlines. Each industrial user must file an application for a wastewater discharge permit within the following deadlines:

(a) Existing users: Any industrial user discharging into the POTW as of the effective date of this Ordinance that has not previously submitted an application and/or obtained a permit to discharge to the POTW shall, within 30 days after the effective date of this Ordinance, apply to the WWTP Superintendent for a wastewater discharge permit as provided by this Ordinance and shall not cause or allow any discharges into the POTW after 120 days from the effective date of this Ordinance, except in accordance with a wastewater discharge permit as determined necessary by the WWTP Superintendent.

(b) New users : Any industrial user proposing to commence (or recommence) discharging into the POTW after the effective date of this Ordinance shall, at least 90 days prior to the anticipated date on which discharging will commence, apply to the WWTP Superintendent for a wastewater discharge permit, and shall not cause or allow any discharges into the POTW to commence, except in accordance with a wastewater discharge permit as determined necessary by the WWTP Superintendent.

Sec. 2.136. Permit Application Requirements. All industrial users shall submit the following information on the wastewater discharge permit application form supplied by the WWTP Superintendent in units and terms as determined necessary by the WWTP Superintendent to adequately evaluate the application, accompanied by payment of a permit application review fee:

(a) The name, address, and location of facility from which discharge will be made, including the names of the owner(s) and operator(s) of the facility.

(b) 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.

(c) SIC code of both the industry (or use) as a whole and any processes for which categorical pretreatment standards have been promulgated.

(d) Wastewater constituents and characteristics, including, without limitation, any pollutants that are limited or regulated by any federal, state, or local standards or requirements. Sampling and analysis shall be performed in accordance with the procedures established by the U.S. EPA and contained in 40 CFR Part 136.

(e) Time and duration of discharges.

(f) Daily maximum and monthly average wastewater flow rates, including daily, monthly, and seasonal variations, if any. All flows shall be measured unless other variable techniques are approved by the WWTP Superintendent due to cost or non-feasibility.

(g) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility (including copies of material safety data sheets for all such materials and chemicals) that are, or could accidentally or intentionally be, discharged to the POTW.

(h) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, floor drains, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(i) Each product produced by type, amount, process and rate of production.

(j) Type and amount of raw materials processed (average and maximum per day) .

(k) Number and type of employees, hours of operation, and proposed or actual hours list of operation of the pretreatment system.

(l) A list of all environmental permits (and, if requested by the WWTP Superintendent, a copy of any environmental permit) held by the user applicable to the premises for which the wastewater discharge permit is being sought.

(m) 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 WWTP Superintendent including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between submission of the progress reports to the WWTP Superintendent.

(n) Any other information determined necessary by the WWTP Superintendent 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.

(o) All site plans, floor plans, or other plans required to be submitted as a part of the application shall be prepared and sealed by a licensed engineer.

(p) All applications shall be signed by an “authorized representative” of the user and certified as provided by Section 2.338 of this Ordinance.

Sec. 2.317. Permit Issuance, Denial, or Determination that Permit not Required.

(a) The WWTP Superintendent shall evaluate the application information furnished by the user and may require additional information as necessary to complete and properly review the application. Within 120 days after the submission of a complete application, the WWTP Superintendent shall; either issue a wastewater discharge permit subject to terms and conditions provided by this Ordinance, deny the application, or determine that a permit is not required as provided by this Ordinance.

(b) A permit may be denied by the WWTP Superintendent if the Superintendent determines that the proposed discharge, or continued discharge, will not comply with all applicable standards and requirements of this Ordinance; if the user refuses to accept the terms and conditions of a permit as proposed to be issued by the WWTP Superintendent; for any reason that would support a suspension or revocation of the permit as provided by this Ordinance; if the WWTP Superintendent determines that the POTW cannot adequately, efficiently, or economically treat the discharge (due to insufficient capacity, quality or quantity of pollutants, for example); or for any other reason as determined necessary by the WWTP Superintendent to meet the intent and purposes of this Ordinance or to ensure compliance by the POTW with its NPDES permit.

Sec. 2.318. Permit Conditions. Wastewater discharge permits shall be subject to all provisions of this Ordinance and all other applicable regulations, user charges, surcharges, and fees established by the City and/or by the POTW. In addition, permits shall include any conditions determined to be reasonably necessary by the WWTP Superintendent 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, and to protect against damage to the POTW. Unless determined by the WWTP Superintendent to be inapplicable to the user in question, all permits shall contain at least the following conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(b) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.

(c) 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.

(d) Development and implementation of spill control plans or other special conditions, including additional management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.

(e) Requirements for installation, maintenance, repair, calibration and operation of inspection and sampling facilities and discharge flow monitors.

(f) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(g) Compliance schedules.

(h) Requirements for submission of technical reports or discharge reports.

(i) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the WWTP Superintendent and affording the POTW access to those records.

(j) 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.

(k) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.

(l) Requirements for notification of accidental or slug discharges, or discharges that exceed a discharge prohibition.

(m) A statement regarding limitations on transferability of the permit.

(n) A statement of the duration of the permit.

(o) 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.

(p) A statement of applicable civil and criminal penalties for violation of discharge limitations, pretreatment standards and requirements, and compliance schedules.

(q) Requirements regarding development by a user of a pollutant reduction plan (e.g., for mercury or PCBs) or requirements regarding use of best management practices to reduce potential discharges of pollutants to the sewer or otherwise meet the purposes, policies and objectives of this Ordinance.

(r) Other conditions as determined necessary by the WWTP Superintendent to ensure compliance with this Ordinance and other applicable laws, rules and regulations.

If it is determined 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.

Sec. 2.319. Permit Modifications. A permit may be modified by the WWTP Superintendent for any reason determined necessary by the WWTP Superintendent to assure compliance with the requirements of this Ordinance and other applicable laws and regulations, including, without limitation, any of the following reasons:

(a) To incorporate any new or revised federal, state or local pretreatment standards or requirements, or other applicable requirement of law or regulation.

(b) Material or substantial changes or additions to the permittee's operations, processes, or the character or quality of discharge that were not considered in drafting or issuing the existing permit.

(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 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/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 WWTP Superintendent 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 WWTP Superintendent to meet applicable laws or to protect human health or the environment.

Sec. 2.320. Permit Duration. Permits shall be issued for a specified time period, not to exceed five (5) years, subject to modification, reissuance, suspension or revocation as provided by this Ordinance. At the discretion of the WWTP Superintendent, a permit may be issued for any period less than five (5) years and may be stated to expire on a specific date.

Sec. 2.321. Permit Reissuance. To apply for reissuance of a permit, a user must submit a complete permit application to the WWTP Superintendent accompanied by payment of an application fee at least 90 days prior to the expiration of the user's existing permit. It shall be the responsibility of the user to make a timely application for reissuance.

Sec. 2.322. Continuation of Expired Permits. An expired permit will continue to be effective until the permit is reissued only if:

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

(b) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the user.

In all other cases, discharge to the POTW following expiration of a permit is unlawful.

Sec. 2.323. Permit Suspension and Revocation. Permits may be suspended or permanently revoked by the WWTP Superintendent for any reason determined necessary by the WWTP Superintendent to assure compliance with the requirements of this Ordinance, the POTW's NPDES permit, or other applicable laws and regulations, including, without limitation, any of the following reasons:

(a) Falsifying self-monitoring reports.

(b) Tampering with monitoring equipment.

(c) Failure to allow reasonable access to the permittee's premises and records by representatives of the POTW for purposes authorized by this Ordinance, including, without limitation, inspection or monitoring.

(d) Failure to meet effluent limitations.

(e) Failure to pay fines or penalties.

(f) Failure to pay sewer charges.

(g) Failure to pay permit fees.

(h) Failure to meet compliance schedules.

(i) Failure to comply with any term or condition of the permit, an order, the requirements of this Ordinance, or any final judicial order entered with respect thereto.

(j) Failure to comply with any reporting or notice requirement.

(k) Failure to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresentation of any relevant fact at any time.

(l) As determined by the WWTP Superintendent, 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 WWTP Superintendent as provided by this Ordinance. The WWTP Superintendent may reissue a revoked permit upon a showing satisfactory to the WWTP Superintendent 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.

Sec. 2.324. Limitations on Permit Transfer.

(a) A wastewater discharge 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 WWTP Superintendent as provided by this Section.

(b) The WWTP Superintendent may deny any request for approval of a proposed transfer of a permit and require the proposed transferee to apply for a new permit as provided by this Ordinance, as determined appropriate by the Superintendent.

(c) 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 Superintendent may approve the transfer of a permit only if all of the following conditions are met:

(1) The transferor (permittee) shall give at least 90 days advance notice to the Superintendent of the proposed transfer of the permit (unless a shorter notice period is approved by the Superintendent in advance). The notice shall include a written certification signed by the proposed transferee that (a) states that the transferee has no present intent to change the facility's operations and processes; (b) identifies the specific date on which the transfer is to occur; (c) acknowledges that the transferee has read and fully understands all terms and conditions of the permit; and (d) acknowledges that the transferee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the existing permit if the transfer is approved.

(2) As of the date of the proposed transfer, there are no unpaid charges, fines, penalties or fees of any kind due to the POTW or the City 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.

(d) If the transfer of a permit is approved, the WWTP Superintendent 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 2.338 of this Ordinance. The transferor (permittee) shall remain liable for any discharges to the local sewer system and POTW from the facility (along with any other persons actually discharging from the facility to the local sewer system and POTW) until a transfer of the permit has been approved as provided by this Section.

(e) This section is not intended to, and shall not be construed to, limit in any way the transfer of ownership of the property involved.

Sec. 2.325. Duty to Provide Information. Users shall furnish to the WWTP Superintendent any available information that the WWTP Superintendent requests to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, to determine compliance with a permit, or to determine whether a permit is required. Users shall also, upon request, furnish to the WWTP Superintendent copies of any records required to be kept by a permit. The information and records requested by the WWTP Superintendent shall be provided by the user to the WWTP Superintendent within 24 hours of the request, unless an alternative time frame is specified by the WWTP Superintendent when making the request or unless the WWTP Superintendent 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 WWTP Superintendent within 24 hours (or within any alternate time period approved by the WWTP Superintendent as provided by this Section) shall constitute a violation of this Ordinance.

Sec. 2.326. Permit Appeals. Except as otherwise provided by this Section, an appeal to the WWTP Council of Appeals of any final decision made by the WWTP Superintendent in connection with issuing or implementing a wastewater discharge permit shall be governed by Section 2.388 of this Ordinance. An appealing party must specify in its notice of appeal the action of the WWTP Superintendent 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 WWTP Superintendent shall not be stayed pending a decision by the WWTP Council of Appeals. If, after considering the record on appeal including any statements provided by the WWTP Superintendent in response to the appeal, the Council of Appeals determines that a permit or any provision of a permit should be reconsidered, the Council of Appeals shall remand the matter to the WWTP Superintendent for further action as determined appropriate by the Council of Appeals. Specific provisions of a permit that are remanded by the Council of Appeals for reconsideration by the WWTP Superintendent shall be stayed pending further final action taken by the Superintendent as required by the decision of the Council of Appeals. A decision of the Council of Appeals not to remand any matter shall be considered final administrative action for purposes of judicial review.

Sec. 2.327. Permits Not Stayed. Except as otherwise expressly provided by Section 2.326, 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.

Sec. 2.328. Permit Fees. Wastewater discharge permit fees shall be established, paid and collected as provided by this Ordinance. The City Council is authorized by this Ordinance to establish such wastewater discharge permit fees from time to time.

Sec. 2.329. Reports By Industrial Users Regarding Categorical Pretreatment Standards and Requirements.

(a) Baseline 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 industrial 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 industrial 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 an industrial user pursuant to MAC R 323.2310(2)(a) through (e) shall be submitted by the user to the POTW within 60 days 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 industrial 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 industrial 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 WWTP Superintendent), unless required more frequently by the applicable pretreatment standard, by the WWTP Superintendent, or by the State. The reports shall include a record of all average and maximum daily flows during the reporting period, except that the WWTP Superintendent may require more detailed reporting of flows. All flows shall be reported on the basis of actual measurement unless the WWTP Superintendent agrees, due to cost or non-feasibility, to accept reports of average and maximum flows estimated using techniques approved by the WWTP Superintendent.

Sec. 2.330. Reports Required for Industrial Users Not Subject to Categorical Pretreatment Standards. All industrial 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 this Ordinance. For significant industrial users, the reports shall be submitted at least once every 6 months for the preceding 6 months (during the months of June and December unless alternate months are specified by the WWTP Superintendent), unless required more frequently by the WWTP Superintendent. For all industrial 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 December unless an alternate month is specified by the WWTP Superintendent), unless required more frequently or less frequently by the WWTP Superintendent. The reports for all industrial users shall be submitted on forms provided by (or in a format required by) the WWTP Superintendent, 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 WWTP Superintendent to assess and assure compliance with applicable discharge requirements or to safeguard the operation of the POTW.

Sec. 2.331. Notice by User of Potential Problems . All industrial users, whether or not subject to categorical pretreatment standards, shall notify the POTW immediately of all discharges by the user that could cause problems to the POTW, including, without limitation, slug loadings, or discharges that exceed a discharge prohibition or limitation provided by this Ordinance.

Sec. 2.332. Notice by User of Violation of Pretreatment Standards _____. If sampling performed by a user indicates a violation, the user shall notify the WWTP Superintendent within 24 hours of becoming aware of the violation (and shall comply with other applicable requirements provided by Section 2.344 regarding repeat sampling and analysis).

Sec. 2.333. Notice by User of Changed Discharge or Change in User Status _____. An industrial user shall promptly notify the WWTP Superintendent 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. For purposes of this Section, “substantial change” includes, without limitation, 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 15% of the concentration (or degree) for the pollutant as indicated in any report required under Section 2.329 or Section 2.330; (3) an increase in discharge volume that exceeds 15% of the volume as indicated in any report required under Section 2.329 or Section 2.330; (4) any increase in the amount of any hazardous wastes discharged, including, without limitation, the hazardous wastes for which the industrial user has submitted initial notification under Section 2.334 of this Ordinance; (5) the discharge of any ground waters purged for a removal or remedial action; (6) the discharge of any pollutants that are present in the discharge due to infiltration; or (7) a change in discharge that may convert an industrial user into a significant industrial user. This section shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation provided by this Ordinance or a permit. In determining whether to accept any changed discharge, or, if so, under what conditions, the WWTP Superintendent shall evaluate the changed discharge pursuant to the general and specific discharge prohibitions of Section 2.308 and other applicable provisions of this Ordinance.

Sec. 2.334. Notice By User Regarding Wastes That Are Otherwise Hazardous . Any industrial 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, MCLA §§ 324.11101 et seq., as amended) shall notify the WWTP Superintendent, the U.S. EPA Region V Waste Management Division Director, and the Chief of the Waste Management Division of the Michigan Department of Environmental Quality, of the discharge as required by MAC R 323.2310(15).

Sec. 2.335. Notice by User of Installation of New Pretreatment Facilities . Within 5 days after completing installation of new pretreatment facilities, the user shall notify the WWTP Superintendent in writing of the time and date when it intends to commence operation of the new facilities, and the identity of the person who will conduct any tests to be performed. The pretreatment facilities shall not be placed in regular operation until adequate tests have been conducted to establish that the discharges will comply with the requirements of this Ordinance and other applicable laws and regulations. Upon prior written request by the WWTP Superintendent, 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.

Sec. 2.336. Other Reports and Notices Required by this Ordinance or by Other Applicable Laws and Regulations . Users shall comply with all other reporting or notice requirements as provided by this Ordinance, by any notice, order or permit issued under this Ordinance, or as required by any other applicable law or regulation, including, without limitation, the reporting and notice requirements in connection with accidental discharge (Section 2.359), upset (Section 2.361), bypass (Section 2.364), and any other reports or notice requirements determined necessary by the WWTP Superintendent to assess and assure compliance with the requirements of this Ordinance.

Sec. 2.337. Requirements Applicable to All Reports and Notifications . All reports and notifications submitted by a user to the POTW as required by this Ordinance (or by any order, permit or determination issued or made pursuant to this Ordinance) shall meet the following requirements:

(a) All reports required by this Ordinance shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report. The data shall be representative of conditions occurring during the applicable reporting period.

(b) If a user monitors any pollutant (or measures flow) more frequently than required by this Ordinance or a wastewater discharge permit, using the monitoring, sampling and analytical procedures as required by Section 2.340, the results of all such additional monitoring shall be included in any report or notification submitted pursuant to this Ordinance.

(c) The POTW may require that reports, notifications, and other required documents and data be submitted in a standardized format, as specified by the Superintendent.

(d) If the POTW instead of a user collects all of the information, including flow data, required for a report required by Sections 2.329 or 2.330, the WWTP Superintendent may in its discretion waive the requirement that the report be submitted by the user.

(e) The reports, notifications, and other documents and data required to be submitted or maintained by this Ordinance shall be subject to all of the provisions as specified by MAC R 323.2310(13).

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

Sec. 2.338. Signature and Certification Requirements. All written reports and notifications required by this Ordinance shall be signed and certified as follows:

(a) Required Signatures. The reports and notifications shall be signed by an “authorized representative” of the user as defined in Section 2.303 of this Ordinance.

(b) Required Certification. The reports and notifications shall include the following certification statement:

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

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

Sec. 2.339. Sampling, Analysis and Monitoring. The sampling, analysis and monitoring requirements are applicable to all users of the POTW. However, it does not apply to domestic users except as may be determined appropriate by the POTW in specific cases. All users required by this Ordinance (or by any permit, order, decision or determination issued or made under this Ordinance) to sample, monitor and analyze their discharges to the POTW shall do so according to the minimum requirements provided by this Ordinance. Additional or more restrictive sampling, analytical or monitoring requirements may be required for a particular user by a permit, order, decision or determination issued or made under this Ordinance.

Sec. 2.340. 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 WWTP Superintendent, 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 WWTP Superintendent.

Sec. 2.341. Sampling Frequency. Users shall sample their discharges to the POTW at a frequency necessary to assess and assure compliance with the requirements of this Ordinance, any permit or order issued pursuant to this Ordinance, all applicable pretreatment standards and requirements, other applicable state and federal laws and regulations, or as otherwise determined necessary by the WWTP Superintendent consistent with the purposes and intent of this Ordinance. At a minimum, all users shall sample their effluent 2 times per year and report the results to the POTW unless otherwise provided by the user's wastewater discharge permit. Each discharge point to the POTW shall be sampled and reported individually.

Sec. 2.342. Sample Types. Where representative samples are required to be taken, a user shall take a minimum of 4 grab samples for pH, cyanide, phenols (T), residual chlorine, oil and grease, sulfide, and volatile organics (and any other parameters designated by the WWTP Superintendent). For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques. The WWTP Superintendent may waive flow-proportional composite sampling for any user that demonstrates to the satisfaction of the WWTP Superintendent that flow-proportional sampling is infeasible. If flow-proportional sampling is waived, samples may instead be obtained through time-proportional composite sampling techniques, or through a minimum of 4 grab samples, if the user demonstrates to the satisfaction of the Superintendent that this will provide a representative sample of the effluent being discharged.

Sec. 2.343. Sampling Methods, Equipment and Location. A user shall use the sampling methods, sampling equipment, and sampling location specified by the user's wastewater discharge permit, or, in the absence of a permit, as required by the WWTP Superintendent.

Sec. 2.344. Costs of Monitoring, Sampling and Analyses. All required monitoring, taking of samples, and sample analyses shall be solely at the user's cost.

Sec. 2.345. Self-monitoring. Except as otherwise provided by this Ordinance, self-monitoring shall be conducted by each user to insure compliance with all applicable requirements of this Ordinance and other applicable laws and regulations. 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 WWTP Superintendent. A user performing its own sampling or monitoring shall record and maintain for all samples and monitoring the date, exact place, 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; who performed the analyses; the

analytical techniques and methods used; quality assurance/quality control (QA/QC) procedures used and QA/QC data; and the results of the analyses. If sampling performed by a user indicates a violation, the user shall notify the WWTP Superintendent 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 (unless a shorter time period is specified by the WWTP Superintendent to the user), except that the user shall not be required to resample if (a) the POTW performs sampling at the user at a frequency of at least once per month, or (b) the POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of the sampling that indicates the violation. If a user uses its own laboratory for sample analysis, the WWTP Superintendent may require the user to send split samples to an independent laboratory at a frequency specified by the Superintendent as a quality control check.

Sec. 2.346. Sampling and Analyses Performed by POTW.

(a) The sampling and analysis required by this Ordinance may be performed by the POTW instead of the user, as determined necessary by the WWTP Superintendent for purposes of this Ordinance. The POTW shall provide the user with copies of analytical results prepared by the POTW. If the results of any sampling and analysis performed by the POTW instead of the user show that a pretreatment standard has been violated, the POTW shall provide the user with copies of the analytical results within 10 days after the results are available.

(b) If the POTW performs the required sampling and analysis for a user, the user shall pay a sampling fee to the POTW to fully reimburse the POTW for the sampling, including administrative and overhead costs. The POTW may contract with an independent firm to perform the sampling and analysis and the user shall fully reimburse the POTW for amounts paid by the POTW to the independent firm.

Sec. 2.347. Split Samples.

(a) If requested by the WWTP Superintendent, the POTW shall be provided with splits of any sample taken by a user.

(b) In cases of disputes arising over split samples, the portion taken and analyzed by the POTW shall be controlling unless proven invalid by the user at the user's sole cost.

Sec. 2.348. Maintenance, Repair and Calibration of Equipment _____. A user who is performing self-monitoring shall contract with an independent company (unless the requirement to use an independent company is waived in advance by the WWTP Superintendent as determined appropriate by the Superintendent) to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the user. 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. 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 followup). The record shall also include a description of all problems discovered regarding the equipment whether in response to a regularly scheduled inspection or otherwise. The POTW, in any event, may inspect and test a user's sampling and flow measurement equipment and instruments at all reasonable times.

Sec. 2.349. Required Sampling Structures and Devices.

(a) The WWTP Superintendent may require any user to install at each discharge point a suitable control structure (such as a manhole or sampling vault) and necessary measuring and sampling devices (including automatic devices) to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW.

(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 WWTP Superintendent. 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 WWTP Superintendent to assure compliance with this Ordinance.

(c) The location and complexity of the required control structure or devices may vary with sampling requirements determined necessary by the WWTP Superintendent to protect the POTW and to comply with applicable laws and regulations.

(d) The required sampling structures and devices shall be constructed and installed at the user's sole expense in accordance with plans submitted to the WWTP Superintendent, and in compliance with all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the WWTP Superintendent, or within such other shorter or longer time period specified by the WWTP Superintendent as required by the particular circumstances to meet the requirements of this Ordinance. The structures and devices shall be operated and maintained by the user at the user's sole expense so as to be safe and accessible to POTW personnel during all reasonable times and so as to provide accurate and representative monitoring data. If a user fails to install or maintain a required structure or device, the POTW may do so and charge the costs to the user.

(e) The sampling structures and devices must be provided on the user's premises as approved by the WWTP Superintendent, but the Superintendent may, if the Superintendent 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.

(f) Samples shall be taken at a control structure approved by the WWTP Superintendent. However, in the absence of a suitable control structure as required by this Section, samples shall be taken immediately downstream from pretreatment facilities if pretreatment facilities exist, or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with a regulated process wastestream prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined wastestream formula under MAC R 323.2311(7) or other methods required by the WWTP Superintendent to evaluate compliance with applicable pretreatment standards and requirements.

Sec. 2.350. Accidental Discharges. The minimum requirements for industrial users to prepare for, respond to, and report, accidental discharges to the POTW are set forth herein. Additional or more restrictive requirements may be required for particular users under a wastewater discharge permit, a slug control plan, or by other applicable laws and regulations.

(a) Each user shall provide and continuously maintain protection from accidental discharge of materials or other substances regulated by this Ordinance.

(b) Detailed plans showing facilities and operating procedures to provide the protections required by this Ordinance shall be submitted to the WWTP Superintendent for review. All existing users shall submit the required plans and information with their permit applications or upon request of the WWTP Superintendent. For new sources, facilities and operating procedures to provide the protections required by this Ordinance shall be approved by the WWTP Superintendent prior to commencing discharge. No user who commences discharging to the POTW after the effective date of this Ordinance shall be permitted to introduce pollutants into the system until accidental discharge facilities and procedures as provided by this Section are in place and have been approved by the WWTP Superintendent.

(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 WWTP Superintendent of plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this Ordinance. Compliance with the requirements of this Ordinance shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, or for any other damage to persons or property, or for any other liability that may be imposed under this Ordinance or under other applicable laws and regulations.

(d) No change shall be made in any plan or procedure approved by the WWTP Superintendent as provided by this Section without the prior review and approval of the WWTP Superintendent.

(e) All users shall notify the WWTP Superintendent 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).

Sec. 2.351. Designation of Person in Charge of Discharge Operations. Each industrial user shall designate at least 1 person to be in charge of and responsible for the user's discharges to the POTW, including responsibility for maintaining pretreatment facilities and operations, if any, and prevention of accidental discharges ("person in charge"). The person so designated shall be an individual or a position with knowledge of all toxic wastes or hazardous substances routinely or potentially generated by the user, and of all process alterations that could, in any manner, increase or decrease normal daily flow or waste strength to the POTW. The names of the person (or persons) designated as provided by this Section and a phone number where the person can be reached shall be submitted by each user to the POTW.

Sec. 2.352. Description of Chemicals Stored, Used or Manufactured by User. Each industrial user shall 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.

Sec. 2.353. Description of User Discharges. Each industrial user shall 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, and other types of discharges.

Sec. 2.354. Description of User Premises. Each industrial user shall provide to the POTW a sketch of the user's plant building(s), including the location of pretreatment equipment, process and chemical storage areas, floor drains located near process and storage areas, manhole or other control structures, and sewer locations at the user's point of discharge into the POTW.

Sec. 2.355. Segregation of Wastewaters Requiring Pretreatment. Industrial users shall segregate wastewaters requiring pretreatment (including, without limitation, spent concentrates, toxins, 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.

Sec. 2.356. Secondary Containment Requirements. Each industrial user must provide and maintain at the user's expense secondary spill containment structures (including diking, curbing or other appropriate structures) adequate to protect all floor drains from accidental spills and discharges to the POTW of any pollutants or discharges regulated by this Ordinance. 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 WWTP Superintendent. 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. Spill troughs and sumps within process areas must discharge to appropriate pretreatment tanks. Emergency containment shall also be provided for storage tanks that may be serviced by commercial haulers and for chemical storage areas. Solid pollutants shall be located in security areas designed to prevent the loss of the materials to the POTW. Detailed plans showing facilities and operating procedures to provide the protection required by this Section shall be submitted to the WWTP Superintendent for review, and shall be approved by the Superintendent before construction. Construction of approved containment for existing sources shall be completed within the time period specified by the WWTP Superintendent. 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. The WWTP Superintendent may order an industrial user to take interim measures for emergency containment as determined necessary by the Superintendent under the circumstances.

Sec. 2.357. Submission of Pollution Incident Prevention Plan. Each industrial 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, MCLA §§ 324.3101 et seq., as amended), shall submit a copy of that plan to the WWTP Superintendent. The PIP Plan shall be submitted to the Superintendent within 60 days of the effective date of this Ordinance for an existing source, or 30 days prior to the date of discharge for a new source.

Sec. 2.358. Posting of Accidental Discharge Information. All industrial 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 industrial users shall instruct their employees on the applicable reporting and notice requirements of this Section.

Sec. 2.359. Notice of Accidental Discharge. In the case of an accidental discharge, an industrial user shall immediately notify the WWTP Superintendent of the incident by telephone. 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 the WWTP Superintendent within 5 days of the incident.

Sec. 2.360. 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 WWTP Superintendent for approval within 90 days of the effective date of this Ordinance. New sources that are significant industrial users shall submit a slug control plan to the WWTP Superintendent for approval before beginning to discharge. Upon written notice from the WWTP Superintendent, industrial 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 WWTP Superintendent for approval as specified in the notice. All slug control plans shall contain at least the following elements:

- (1) A description of discharge practices, including non-routine batch discharges;
- (2) A description of stored chemicals;
- (3) The procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this Ordinance, 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 WWTP Superintendent plans or documents pursuant to other requirements of local, state or federal laws and regulations which meet all applicable requirements of Subsection 2.360(a), the WWTP Superintendent may in the Superintendent's discretion determine that the user has satisfied the slug plan submission requirements of this Section.

Sec. 2.361. 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 2.361(a), below, are met. However, in the event of an upset, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Ordinance. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(a) Conditions Necessary to Demonstrate Upset. A user seeking to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, all of the following:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
- (3) The user has submitted the following information to the POTW within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission containing the same information must be provided within 5 days of becoming aware of the upset):
 - (i) A description of the discharge and cause of non-compliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (iii) 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.

Sec. 2.362. 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 2.308(a) and specific prohibitions under Sections 2.308(b)(5), (6), (7) or (8) if the user can demonstrate that all of the conditions necessary to establish the defense under MAC R 323.2303(3)(a) and (b) are met. However, even if the affirmative defense is established, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Ordinance. In any enforcement proceeding, the user seeking to establish the affirmative defenses provided by MAC R 323.2303(3) shall have the burden of proof.

Sec. 2.363. Bypass Not Violating Applicable Pretreatment Standards or Requirements. An industrial 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 2.364, 2.365 and 2.366. However, nothing in this Section shall be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Ordinance or other applicable laws or regulations; nor to relieve a user for any expense, loss, damage, or liability that may be incurred as a result of the bypass, such as damage to the POTW, fish kills, or any other damage to person or property; nor to relieve the user of any fines, penalties or other liability that may be imposed by applicable laws or regulations as a result of the bypass.

Sec. 2.364. Bypass Prohibited. Except as provided by Section 2.363, the bypass of industrial wastes from any portion of an industrial 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 industrial user submitted the notices as required under Section 2.365.

Sec. 2.365. Required Notices.

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

Sec. 2.366. POTW Approved Bypass. The WWTP Superintendent may approve an anticipated bypass after considering its adverse effects, if the Superintendent determines that it meets the conditions set forth in Sections 2.364(a), (b) and (c). It shall be a violation of this Ordinance for a user to allow an anticipated bypass to occur without the prior approval of the Superintendent.

Sec. 2.367. Confidential Information. The following provisions shall apply regarding the treatment by the POTW of confidential information submitted to or obtained by the POTW in the administration of this Ordinance:

(a) Information and data regarding a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests at the time of submission and is able to demonstrate to the satisfaction of the WWTP Superintendent 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 confidentiality as provided by this Section, shall not be made available for inspection by the general public; however, that information shall be made available upon written request to governmental agencies for uses related to matters regulated by this Ordinance and shall be made available for use by the state, any state agency, the City 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 inspectors in writing for which particular observations made by the inspector the user seeks confidentiality.

Sec. 2.368. Maintenance of Records. All industrial users shall retain and preserve records, including, without limitation, all books, documents, memoranda, reports, correspondence and similar materials, related to matters regulated by this Ordinance as provided by the minimum requirements of this Section or as provided by a permit or order issued pursuant to this Ordinance.

(a) Discharge Records. An industrial user shall retain, preserve, and make available to the POTW for inspection and copying, for the period specified in Section 2.368(c), all records related to matters regulated by this Ordinance, including, without limitation, all documents, memoranda, correspondence and similar materials; copies of all required reports and notifications; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of results of all sampling, monitoring, measurements and analyses; and records of all data used to complete the application for a permit. Any industrial user subject to the sampling, monitoring, analysis, or reporting requirements of this Ordinance shall maintain copies of all records and information pertaining to those requirements or resulting from any monitoring activities (whether or not such monitoring activities are required by this Ordinance). For all samples, the records shall include, at a minimum, the information required to be recorded by Section 2.345 of this Ordinance.

(b) **Hazardous or Solid Waste.** An industrial 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 2.368(c), and shall make them available to the POTW for inspection and copying, subject to the provisions in this Ordinance regarding confidential information. (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, MCLA §§ 324.11101 et seq., as amended, and the rules promulgated under that act.)

(c) **Retention Period.** Users subject to the reporting requirements of this Ordinance (or of any permit or order issued pursuant to this Ordinance) shall retain the records specified in Sections 2.368(a) and (b) for a period of at least 3 years from (a) the date the record was created or (b) the date the record was first used or relied upon by the user, whichever is later. The 3 year retention period shall be extended during any administrative or judicial action, enforcement proceeding or litigation regarding matters regulated by this Ordinance (or regarding discharges of the POTW under its NPDES permit), until all such actions, proceedings, or activities have concluded and all periods of limitation with respect to any and all appeals have expired. The 3 year retention period may also be extended at any time at the request of the POTW, the City, the Michigan Department of Environmental Quality, or the U.S. EPA.

Sec. 2.369. **Operation and Management of POTW.** Except as otherwise expressly provided by this Ordinance, the operation, maintenance, alteration, repair and management of the POTW shall be under the supervision and control of the WWTP Superintendent. The WWTP Superintendent is charged with the duty of investigating, preventing and abating violations and enforcing the provisions of this Ordinance, and may establish any rules, regulations and procedures as determined necessary to assure the efficient management and operation of the POTW.

Sec. 2.370. **Powers of WWTP Superintendent.** After request by the WWTP Superintendent to the City to take action regarding a below enumerated circumstance, and upon the failure of the City after a designated amount of time to do so, the WWTP Superintendent is empowered, either directly, through authorized representatives, or in conjunction with the City, to take the following actions:

(a) Supervise the implementation of this Ordinance consistent with the provisions of Section 2.302 (b).

(b) Review plans submitted by users for pretreatment equipment.

(c) Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered sampling, metering, or pretreatment equipment to determine compliance with the provisions of this Ordinance.

(d) Verify the completeness, accuracy and representativeness of self-monitoring data submitted and/or maintained by users.

(e) Investigate complaints of violations of this Ordinance, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.

(f) Issue orders and notices of violation and take other actions as necessary to require compliance with this Ordinance.

(g) Assess civil administrative fines for violations of this Ordinance or of any permit, order, decision or determination promulgated, issued or made under this Ordinance.

(h) 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 industrial users. The CAER Plan and any associated regulations developed by the WWTP Superintendent shall become effective upon approval by the Director.

(i) With the approval of the Director and notice to the City, and, as necessary, in conjunction with the POTW's legal counsel and/or the City and 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 Ordinance to prosecute violations of this Ordinance, to compel the abatement or prevention of violations, to compel compliance with this Ordinance and any order, determination, permit or agreement issued or entered into under this Ordinance, and to pursue other necessary or advisable judicial relief or remedies with respect to violations of this Ordinance.

(j) Issue municipal civil infraction citations and municipal civil infraction violation notices for violations of this Ordinance.

(k) Perform any other actions authorized by this Ordinance, or as necessary or advisable for the supervision, management and operation of the POTW and the enforcement of this Ordinance and other applicable laws and regulations (subject to the rights, powers and duties in respect thereto that are reserved by law to the other officials or governmental bodies).

Sec. 2.371. Provision by Users of Necessary Pretreatment Facilities. Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation. All facilities required to pre-treat wastewater shall be provided, operated, and maintained at the user's sole expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the WWTP Superintendent for review, and shall be acceptable to the WWTP Superintendent before construction of the facility. The review of such plans and operating procedures does not in any way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the WWTP Superintendent under the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the WWTP Superintendent prior to the user's initiation of the changes. (Users shall notify the WWTP Superintendent regarding the installation of new pretreatment facilities as provided by Section 2.335 of this Ordinance.)

Sec. 2.372. Proper Operation and Maintenance. A user shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the user to comply with the requirements of this Ordinance, as determined necessary by the WWTP Superintendent. Proper operation and maintenance includes, without limitation, effective performance, adequate funding, adequate operator staffing, and adequate quality assurance/quality control (QA/QC) procedures for sampling and analysis.

Sec. 2.373. 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.

Sec. 2.374. Duty to Halt or Reduce Activity. Upon reduction of efficiency of operation, or loss, or failure of all or part of a user's pretreatment equipment or facility, the user shall, to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable standards, requirements, and limits, control its production and all discharges until operation of the equipment or facility is restored or an alternative method of treatment is provided. This requirement applies in situations, including, without limitation, where the primary source of power for the pretreatment equipment or facility is reduced, lost, or fails. It shall not be a defense for a user in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Ordinance.

Sec. 2.375. Duty to Mitigate. A user shall take all reasonable steps to minimize or correct any adverse impact to the POTW or the environment resulting from noncompliance with this Ordinance, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

Sec. 2.376. Duty to Pre-treat Prior to Discharge to POTW. Except as otherwise expressly required by this Ordinance, by a wastewater discharge permit or order pursuant to this Ordinance, or other applicable law or regulation, the prohibitions and limitations provided by this Ordinance or a wastewater discharge 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.

Sec. 2.377. Inspection, Surveillance and Monitoring Authority; Right of Entry.

(a) In general. With reasonable advance notice to the City, 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 industrial users or any other persons, compliance or noncompliance with applicable pretreatment standards and requirements, with this Ordinance, and with other applicable laws and regulations. This authority includes, without limitation, the authority, either directly, or in conjunction with the City:

(1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.

(2) To determine compliance with the requirements of this Ordinance or with wastewater discharge permits.

(3) To support enforcement actions taken by the POTW against non-compliant users.

(4) To determine if users have corrected problems identified in previous inspections.

(5) To identify which (and to what degree) users influence the quality of the POTW's influent, effluent and sludge quality.

(6) To evaluate the impacts of the POTW 's influent on its treatment processes and receiving stream.

(7) To evaluate the need for revised local limits.

(8) To maintain current data on each user.

(9) To assess the adequacy of each user 's self-monitoring program and wastewater discharge permit.

(10) To provide a basis for establishing sampling and monitoring requirements for users.

(11) To evaluate the adequacy of each user 's operation and maintenance activities on its pretreatment system.

(12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.

(13) To gather information for industrial user permit development.

(14) To evaluate compliance with existing enforcement actions.

(15) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.

(b) Right of entry. The WWTP Superintendent and other authorized representatives of the POTW or the City bearing proper credentials and identification are authorized to enter a user's premises to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this Ordinance, and in that regard shall have, without limitation, the following minimum authority:

(1) To enter into any premises of any user in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this Ordinance, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis, and inspecting and making copies of required records.

(2) To set up and maintain on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the discharger to do so, at the discharger's sole expense.

(3) To randomly sample and analyze the effluent from users and conduct surveillance activities to identify occasional and continuing noncompliance with applicable standards and requirements. The POTW shall inspect and sample the effluent from each significant industrial user at least once a year.

(4) To inspect any production, manufacturing, fabrication, or storage area where pollutants, subject to regulation under this Ordinance, could originate, be stored, or be discharged to the POTW.

(5) To enter all private properties through which the City, POTW, 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.

Representatives of the POTW entering a user's premises for purposes authorized by this Ordinance shall comply with the user's plant safety requirements regarding such matters as entry into confined spaces, use of safety glasses, and hearing protection requirements, as requested by the user.

(c) Access without delay required. Users shall allow POTW representatives ready access at all reasonable times to all parts of the user's facility where wastewater governed by this Ordinance is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this Ordinance could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the POTW's duties. If a user has security measures in force that would require proper identification and clearance before entry into the premises by the POTW, the user shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the POTW (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(d) Refusal to allow entry. If a user refuses to permit access to an authorized POTW representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this Ordinance, the WWTP Superintendent may order the termination of the discharge of wastewater to the POTW; order the user to permit access within a time certain; issue the user a notice of violation of this Section; or take other appropriate action as provided by this Ordinance and other applicable laws and regulations.

Sec. 2.378. Notice of Violation. Any person found to be violating a provision of this Ordinance may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation shall be served and shall contain the information as provided by Section 2.380 of this Ordinance.

Sec. 2.379. Orders. The WWTP Superintendent may, either directly or in conjunction with the City, issue an order to any user as determined by the Superintendent 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 discharger.

(a) Service. An order shall be served upon a user and shall contain the information as provided by Section 2.380 of this Ordinance. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment or the POTW, may be oral and may be served by telephone (to be followed within 5 days by written confirmation of the order by the WWTP Superintendent).

(b) Types of Orders. The WWTP Superintendent may issue the following types of orders:

(1) Order to Immediately Cease and Desist Discharge. The WWTP Superintendent may issue an order to cease and desist from discharging any wastewater, incompatible pollutant, or discharge not in compliance with this Ordinance. The order shall have immediate effect if the actual or threatened discharge of pollutants to the system presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes, or may cause, interference or pass through. The WWTP Superintendent shall implement whatever action is necessary to halt the illegal discharge. The user shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Ordinance.

(2) Order to Cease Discharge Within a Time Certain. The WWTP Superintendent may issue an order to cease and desist from discharging any wastewater, incompatible pollutant, or discharge not in compliance with this Ordinance by a certain time and date. The proposed time for remedial action shall be specified in the order. In addition to other circumstances as determined appropriate by the WWTP Superintendent, the failure to pay applicable permit fees or to comply with any term of a wastewater discharge permit constitutes sufficient cause to issue an order under this Section.

(3) Order to Effect Pretreatment. The WWTP Superintendent may issue an order to a user requiring the user to pre-treat its discharge in accordance with this Ordinance. Any user subject to an order to pre-treat shall prepare a plan to pre-treat its discharge so that the discharge complies with the requirements of the order and this Ordinance. The plan shall be submitted to the WWTP Superintendent within a reasonable period as specified in the order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the WWTP Superintendent. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the WWTP Superintendent:

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

(vii) Establish a time limit to complete full pretreatment pursuant to the final order.

(viii) If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phases or unit.

(4) Order to Perform Affirmative Action . The WWTP Superintendent may issue an order requiring a user to perform any action required under this Ordinance, including, without limitation, requiring a user to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.

(5) Order to Terminate Sewer Services . The WWTP Superintendent may issue an order to terminate the sewer services of a user, including physical blockage of the user's sewer connection, for reasons including, without limitation, the following:

(i) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.

(ii) Failure of a user to notify the POTW of any discharge as described in Section 2.379(b)(5)(i) of which the user was aware or reasonably should have been aware.

(iii) Failure of a user to sample, monitor, pre-treat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the WWTP Superintendent.

(iv) A knowing, willful violation of any term, condition or requirement of an order or wastewater discharge permit, or any provision of this Ordinance.

(v) A negligent violation of any major term, condition or requirement of an order or wastewater discharge permit. For purposes of this Section, a "major" term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment or the POTW.

(c) Immediate Response to Order by User may be Required. Any user issued an order as provided by this Section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this Ordinance, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the user that the non-complying discharge has been eliminated or will not reoccur.

A detailed written statement submitted by the user describing the causes of the non-complying discharge and the measures taken to prevent any further occurrence shall be submitted to the WWTP Superintendent within fifteen (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 2.361(a), the WWTP Superintendent may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(e) Amendment, Suspension and Revocation of Orders. An order shall be subject to amendment, suspension or revocation as determined appropriate by the WWTP Superintendent. Notice of the amendment, suspension or revocation shall be served upon the user in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Ordinance.

(f) Consent Orders and Agreements. The WWTP Superintendent may enter into a consent order or agreement with a user to resolve disputed claims and address identified and potential deficiencies in the user's compliance status. The order or agreement shall be in the form of a written agreement with the user and may contain appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.

(g) POTW Authority to Require Financial Assurances. The POTW may require a noncompliant industrial user to post a performance bond (or other form of surety acceptable to the POTW) sufficient to cover expenses that might reasonably be incurred as a result of future violations. Industrial users that have in the prior two (2) years been responsible for causing interference or pass through at the POTW may be required to obtain liability insurance sufficient to cover the reasonable costs of responding or restoring the POTW in the event of a second such incident. These requirements may also be made conditions of an industrial user's permit.

Sec. 2.380. Service of Notices of Violations, Orders and Notices of Assessments. Except as otherwise expressly provided by this Ordinance, all orders, notices of violations and notices of assessments shall be served upon persons and shall contain the information as provided by this Section.

(a) Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable. The person served shall sign and date the order or notice and shall return the signed original copy to the POTW; provided, that the failure to do so shall not affect the person's obligation to comply with the order or notice.

(b) Contents. All orders and notices shall contain at least the following information, as applicable to the situation and to the extent known by the POTW or the City:

(1) The name and address of the violator;

(2) The location and time that the violation occurred or was observed, and the duration of the violation;

(3) The nature of the violation, including the provisions of this Ordinance or of any permit, order, decision, determination or agreement violated;

(4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, or other basis);

(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 WWTP Superintendent regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

Sec. 2.381. Publication of Users in Significant Noncompliance. The POTW shall publish once per year in the largest daily newspaper in the County, a list of users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards or requirements. For the purposes of this Section, a user shall be considered to be in significant noncompliance if its violations meet one or more of the following criteria:

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

(b) Technical review criteria (TRC) violations, defined as results of analyses in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);

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

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

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide any required reports within 30 days after the due date;

(g) Failure to accurately report noncompliance; or

(h) Any other violation or group of violations that the WWTP Superintendent determines will adversely affect the POTW or the operation or implementation of the POTW's pretreatment program.

Sec. 2.382. Continuing Violation. Each act of violation, and each day or portion of a day that a violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance is permitted to exist or occur, constitutes a separate violation and shall be subject to fines, penalties and other sanctions as provided by this Ordinance.

Sec. 2.383. 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 single violation for each day on which the violation occurs or continues.

(c) Each violation of an instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each such exceedence, 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 for a single pollutant or sampling parameter shall constitute a violation for each day of the month during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)

(e) If a wastewater discharge permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this Section.

Sec. 2.384. Nuisance. A violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance, is deemed to be a public nuisance.

Sec. 2.385. Reimbursement of POTW and/or City.

(a) Any person who violates any provision of this Ordinance; or who discharges or causes a discharge that produces a deposit or obstruction or otherwise damages or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW; or whose discharge (or proposed discharge) to the POTW requires the POTW and/or the City to incur any expenses, costs, losses or damages over and above amounts covered by standard fees and charges provided by this Ordinance, shall be liable to and shall fully reimburse the POTW and/or the City, as applicable, for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the POTW and/or the City as a result of any such discharge, violation, exceedence or noncompliance. The costs that must be reimbursed to the POTW and/or the City shall include, but shall not be limited to, all of the following:

(1) All costs incurred by the POTW and/or the City 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, exceedence or noncompliance.

(2) All costs to the POTW and/or the City of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance.

(3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW and/or the City 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, exceedence or noncompliance.

(4) The full value of any POTW and/or City staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the POTW's attorney, the City's attorney, and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance or otherwise enforcing the requirements of this Ordinance.

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

(b) In determining the amounts to be reimbursed, the POTW and/or the City, as applicable, 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 and/or the City 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 and/or the City, or imposed upon the POTW and/or the City 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 and/or the City, including the costs of defense of actions, or suits brought or threatened against the POTW and/or the City by governmental agencies or third parties.

(8) Such other factors, including but not limited to the amount of any attorney's fees, consultant and expert fees, expenses, costs, sampling and analytical fees, and repairs, as the POTW and/or the City deem appropriate under the circumstances.

(c) The failure by any person to pay any amounts required to be reimbursed to the POTW and/or the City as provided by this Section shall constitute an additional violation of this Ordinance.

Sec. 2.386. Judicial Relief. The City may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The City may also seek collection of surcharges, fines, penalties and any other amounts due to the POTW or the City, as applicable, that a user has not paid. The City may also institute legal proceedings and seek all appropriate legal relief for violations of this Ordinance as provided by this Section.

Sec. 2.387. Cumulative Remedies. The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance, shall not preclude the imposition by the POTW, the City, 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.

Sec. 2.388. Procedures Available. Any person aggrieved by any action taken by the WWTP Superintendent under this Ordinance may request an informal hearing before the Superintendent or an appeal to the WWTP Board of Appeals. If an informal hearing or appeal is not properly and timely requested as provided by this Section, the WWTP Superintendent's action shall be deemed final.

(a) Informal Hearing Before the WWTP Superintendent. A request for an informal hearing before the WWTP Superintendent must be made in writing within 7 days from the date of the Superintendent's action in question. The request must state the reasons for the appeal and shall include all supporting documents and dates. The informal hearing shall be scheduled at the earliest practicable date, but not later than 7 days after receipt by the WWTP Superintendent of the request, unless the 7 day time period is extended by the mutual written agreement of the aggrieved party and the WWTP Superintendent. The hearing shall be conducted on an informal basis at the Wastewater Treatment Plant or at another location designated by the WWTP Superintendent. Following the informal hearing, the WWTP Superintendent 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 Superintendent's opinion, ought to be made in the case under consideration. The decision of the Superintendent may be appealed to the WWTP Board of Appeals.

(b) Appeal to WWTP Board of Appeals. A WWTP Board of Appeals shall be established as provided by this Section to consider appeals from final decisions of the WWTP Superintendent and to determine, in particular cases, whether any deviation from strict compliance will violate the purposes and intent of this Ordinance or endanger public health, safety or welfare, the environment, or the POTW. The WWTP Board of Appeals shall consist of the Engineer/Manager of the Bay County Road Commission and one representative from each Local Unit as appointed by resolution of each Local Unit's legislative body to serve on the Board of Appeals. The Engineer/Manager may vote only to break a tie. A tie vote shall defeat the pending motion unless broken by the Engineer/Manager. The following provisions shall govern appeals of final decisions of the WWTP Superintendent made to the WWTP Board of Appeals under this Ordinance:

(1) An appeal from any final action of the WWTP Superintendent must be made to the WWTP Board of Appeals within 7 days from the date of the action appealed. The appeal may be taken by any person aggrieved by the action. The appellant shall file a notice of appeal with the WWTP Superintendent and with the Board of Appeals. The notice of appeal shall specify the grounds for the appeal. 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 WWTP Board of Appeals regarding an appeal, the WWTP Superintendent shall transmit to the Board of Appeals a written summary of all previous action taken in connection with the action being appealed. The Board of Appeals may, at the Council's discretion, request the WWTP Superintendent to provide further information regarding the action that is the subject of the appeal.

(3) The WWTP Board of Appeals shall fix a reasonable time for the hearing of the appeal. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript. The Board of Appeals shall decide the appeal within a reasonable time.

(4) The WWTP Board of Appeals may reverse or affirm, in whole or in part, the action appealed from, or may make any order, requirement, decision or determination as, in its opinion, ought to be made in the case under consideration. To that end, the Board of Appeals shall have all the powers of the official from whom the appeal is taken.

(5) The final disposition of the appeal shall be in the form of a ruling by the WWTP Board of Appeals, either reversing, modifying, or affirming, in whole or in part, the action of the WWTP Superintendent. The action of the WWTP Superintendent shall not be reversed or modified, in whole or in part, and the WWTP Board of Appeals shall not otherwise find in favor of the appellant except by a majority vote of the Board of Appeals. The decision of the Board of Appeals shall be final.

(c) Payment Pending Outcome of Appeal. All service charges, penalties, fines, fees, surcharges, costs or expenses outstanding during any appeal process shall remain due and payable to the POTW and/or the City, as applicable. Upon resolution of any appeal, the amounts due and payable shall be adjusted accordingly. The POTW may terminate wastewater treatment services if a corrective course of action is not taken by a user or if service charges, penalties, fines, fees, surcharges, costs or expenses are not paid by a user.

(d) Finality of Administrative Action. If an appeal is not demanded as provided by this Section within the periods specified by this Section, the administrative 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 WWTP Board of Appeals, except for orders to immediately cease and desist discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; and as otherwise expressly provided by this Ordinance (such as for permit appeals, Section 2.326).

(e) Appeals from Determination of WWTP Board of Appeals. Appeals from the determination of the WWTP Board of Appeals may be made to a state court of appropriate jurisdiction as provided by law. All findings of fact made by the WWTP Board of Appeals, if supported by the evidence, shall be deemed conclusive.

Sec. 2.389. Supplemental Fees. It is the purpose of this Ordinance to provide for the recovery from users of the POTW of all costs incurred by the POTW for the administration and implementation by the POTW of the industrial pretreatment program (IPP) established by this Ordinance. IPP fees will be assessed which are separate from, and in addition to, amounts chargeable to users for sewage disposal services by the City, extra-strength surcharges, and costs required to be reimbursed to the POTW and/or the City under any other provisions of this Ordinance or other laws and regulations.

(a) IPP Fees. The POTW may adopt IPP fees including, without limitation, fees for reviewing and processing wastewater discharge permit applications, processing permit renewal applications, and processing permit transfer requests; fees for performing compliance monitoring, sampling, analysis, inspections and surveillance (scheduled or unscheduled); fees for reviewing accidental discharge procedures and construction; fees for filing appeals; fees for consistent removal by the POTW of pollutants subject to state and federal pretreatment standards and requirements; and other fees as deemed necessary by the WWTP Superintendent to carry out the IPP requirements of this Ordinance.

(b) IPP Fee Amounts. IPP fees shall be paid by users to the POTW in amounts determined necessary by the POTW from time to time to reimburse the POTW for all expenses incurred by the POTW in administering the IPP. To the extent practical, the fees shall be set in an amount to include at least the POTW's average total costs for that purpose. With regard to IPP activities undertaken by the POTW with regard to particular users, the fees shall be charged to the users on a time and materials basis, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken.

(c) Billing and Collection of IPP Fees. All fees shall be due and payable as specified by this Ordinance or as otherwise specified by the POTW, but in no case later than within 30 days of the date of the IPP activity for which the fee is required. For fees not paid at the time of service, the amount of the fee shall be added to the user's waste service charge or billed separately.

(d) No Free Service Permitted. No free service shall be rendered by the POTW to any person, firm or corporation, public or private, or any public agency or instrumentality.

Sec. 2.390 Liability. Neither the POTW nor the City shall be responsible for interruptions of service due to natural calamities, equipment failures, or actions of the system users. It shall be the responsibility of the user that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

Sec. 2.391. Agreements Allowed. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the POTW and any significant industrial user whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern and subject to National Pretreatment Standards.

Sec. 2.392. Interference With Wastewater Facilities Prohibited. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment, which is a part of the wastewater works. Only authorized personnel shall be permitted to alter, uncover, or tamper with any structure, which is part of the wastewater works. Any person violating this provision shall be deemed to be a disorderly person and shall be subject to criminal prosecution as hereinafter provided. Violation of this provision shall be deemed to constitute a nuisance per se.

Sec. 2.393. Records of Local Sewer System To Be Maintained. The City shall maintain records of all public sewers and appurtenances, of all permits issued, and all inspections made. The City Manager is empowered to require the abandonment and removal of connections to the public storm sewers, which violate the provisions of this Ordinance.

Sec. 2.394. Invalidity Of Ordinance. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Sec. 2.395. Lien For Charges. Pursuant to Section 21, Act 94, of Public Acts of Michigan 1933, as amended, whenever the charges for service against any piece of property shall be delinquent for six months, such charges shall be made a lien on the premises serviced by the sanitary sewer system. The City official or officials in charge of the collection of such charges for service shall certify annually, to the tax assessing office of the City, the facts of such delinquency. Such charge shall be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced, in the same manner as General City taxes against such premises are collected and the lien thereof enforced.

Sec. 2.396. Discontinuance Of Water. In addition to the foregoing, and any other lawful enforcement methods, the payment of charges for sanitary sewer service to any premises may be enforced by discontinuing the water and sanitary sewer service. Such services shall not be re-established until all delinquent charges and penalties and a turn-on charge to be assessed by the City have been paid. Further, such charges and penalties may be recovered by the City by court action.

Sec. 2.397a. Municipal Civil Infractions.

(a) Violation; Municipal Civil Infraction. Except as provided by Section 2.397b, and notwithstanding any other provision of the City's ordinances to the contrary, a person who violates any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW and/or the City under this Ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.

(b) Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this Section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

(1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.

(2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.

(c) Amount of Fines. Subject to the minimum fine amounts specified in Section 2.397a, (a) and (b), the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

(d) Authorized Local Official. Notwithstanding any other provision of 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 for violations of this Ordinance: the WWTP Superintendent; any representative of the City designated by the City; and any police officer.

(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.

Sec. 2.397b. Criminal Penalties: Imprisonment. Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the POTW and/or the City under this Ordinance; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the POTW and/or the City regarding matters regulated by this Ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or (4) maliciously or willfully breaks, damages, destroys, uncovers, defaces or tampers with any structure, appurtenance, or equipment that is part of the POTW; or (5) commits any other act that is punishable under state law by imprisonment for more than 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 90 days, or both in the discretion of the court.

Sec. 2.398. Penalties. In addition to any other penalty set forth in the Codes adopted by this Chapter, any person who shall violate the provisions of the Codes adopted herein shall be guilty of a misdemeanor and shall suffer the penalties of not more than Five Hundred Dollars (\$500.00) and the cost of prosecution or by both imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense. In addition to the foregoing penalties, the City may enjoin or abate any violation of this Code by appropriate action. No appeal filed by any person in violation of the adopted Codes to any other forum shall delay or stay the right of prosecution for violations of the provisions of the Codes adopted herein.

Sec. 2.399 – 2.400 Reserved