

ORDINANCE NO.   39  

TOWNSHIP OF CHOCOLAY, MARQUETTE COUNTY, MICHIGAN

WASTEWATER COLLECTION SYSTEM ORDINANCE

AN ORDINANCE TO REPEAL EXISTING ORDINANCE NO. 39 (“WASTE WATER COLLECTION SYSTEM ORDINANCE”) AND TO ENACT A NEW ORDINANCE (“CHOCOLAY TOWNSHIP SEWER USE ORDINANCE”) TO PROVIDE FOR THE OPERATION AND MAINTENANCE OF THE CHARTER TOWNSHIP OF CHOCOLAY WASTEWATER COLLECTION SYSTEM; TO PROVIDE FOR THE OWNERSHIP, OPERATION OF, AND MANDATORY CONNECTION TO THE SYSTEM; TO REGULATE THE USE OF AND DISCHARGE OF WATER AND WASTEWATER INTO THE SYSTEM AND IN GENERAL TO REGULATE THE USE OF PUBLIC SEWERS AND DRAINS AND PRIVATE SEWERS AND SEWAGE DISPOSAL; TO PRESCRIBE THE RATES TO BE CHARGED FOR THE CONNECTION TO AND USE OF THE SYSTEM; TO ESTABLISH THE FINANCIAL AND ADMINISTRATIVE PROCEDURES FOR THE SYSTEM; TO REGULATE DISCHARGES FROM THE SYSTEM TO THE MARQUETTE AREA WASTEWATER TREATMENT FACILITY (“MAWTF”); TO REQUIRE PRETREATMENT OF NONDOMESTIC WASTES BY USERS OF THE MAWTF AND PROVIDE FOR USER PERMITS AND MONITORING AND REPORTING REQUIREMENTS FOR MAWTF USERS; AND TO PROVIDE FOR ENFORCEMENT, PENALTIES, AND OTHER RELIEF FOR VIOLATIONS.

THE CHARTER TOWNSHIP OF CHOCOLAY, MARQUETTE COUNTY, MICHIGAN, ORDAINS:

1. Repeal of existing Ordinance No. 39 (“Waste Water Collection System Ordinance”). Existing Ordinance No. 39 (“Waste Water Collection System Ordinance”) is hereby repealed in its entirety.

2. Enactment of a new Ordinance (“Chocolay Township Sewer Use Ordinance”). A new Ordinance (“Chocolay Township Sewer Use Ordinance”) is hereby adopted to read in its entirety as follows:

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**ORDINANCE NO. \_\_\_\_\_**

**CHOCOLAY TOWNSHIP SEWER USE ORDINANCE**

**ARTICLE I. PURPOSE AND SCOPE OF ORDINANCE**

**1.1.1. Purpose and Scope of this Ordinance**

A. The purposes of this Ordinance include, but are not limited to, the following:

(1) With respect to the Township Wastewater Collection System:

- (a) To provide for the ownership, operation, maintenance, and administration of a public wastewater collection system (the “Township Wastewater Collection System”) to be operated by the Charter Township of Chocolay on a public utility basis in accordance with the provisions of Act 94 of the Public Acts of 1933 of the State of Michigan, as amended;
- (b) To provide for the mandatory connection to the Township Wastewater Collection System where available;
- (c) To regulate the use of and discharge of water and wastewater into the Township Wastewater Collection System and in general to regulate the use of public sewers and drains and private sewers and sewage disposal within the Township;
- (d) To prescribe the rates to be charged for the connection to and use of the Township Wastewater Collection System;
- (e) To establish the financial and administrative procedures for the Township Wastewater Collection System; and
- (f) To otherwise protect the public health, safety, and welfare, and the environment.

(2) With respect to wastewater discharged to the Township Wastewater Collection System that is then conveyed to the City Wastewater Collection System and ultimately to the Marquette Area Wastewater Treatment Facility (which collection

systems and treatment facility are collectively referred to herein as the “POTW”) for treatment and disposal:

- (a) To establish uniform requirements for discharges by all users to the POTW, and to enable the City to comply with the City’s NPDES Permit, and applicable State and Federal laws as required by the Federal Water Pollution Control Act (also known as the “Clean Water Act”), as amended, 33 USC 1251, et seq.; the General Pretreatment Regulations (40 CFR Part 403); Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended (“Water Resources Protection”); the rules, Michigan Administrative Code, R 323.2301 et seq., as amended, promulgated pursuant to Sections 3103, 3106 and 3109 of Part 31 of Act 451 of the Public Acts of Michigan of 1994, as amended.
- (b) To prevent the discharge of wastewater or pollutants into the POTW that do not meet applicable pretreatment standards and requirements; that could interfere with the operation of the POTW; that could pass through the POTW into the receiving waters or the atmosphere, the environment, or otherwise be incompatible with the POTW; that could inhibit or disrupt the POTW’s processing, use, or disposal of sludge; that could cause health or safety problems for POTW workers; or that could result in a violation of the City’s NPDES permit or of other applicable laws and regulations.
- (c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the POTW.
- (d) To regulate the discharge of wastewater and/or pollutants to the POTW or the environment and to enforce the requirements of this Ordinance through the issuance of permits and through other means as provided by this Ordinance.
- (e) 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.
- (f) To provide for the equitable distribution and recovery of costs from users of the POTW sufficient to administer regulatory activities.

- (g) To otherwise protect the public health, safety, and welfare, and the environment.
- B. This Ordinance applies to all discharges by any person to the Township Wastewater Collection System and/or to the POTW.
- C. This Ordinance also applies to any person owning, using, constructing or maintaining any private system or facility intended or used for the disposal of sewage or wastewater within the Township or under the Township’s jurisdiction.
- D. It shall be unlawful for any person to discharge any wastewater or pollutant to the Township Wastewater Collection System, the POTW, or to any storm sewer or natural outlet within the Township, or in any area under the jurisdiction of the Township, except in accordance with the provisions of this Ordinance and other applicable laws and regulations.
- E. If any person discharges or proposes to discharge wastewaters or pollutants that are prohibited or limited by this Ordinance, the Township and/or other Authorized Local Unit Representatives as defined herein 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.

**ARTICLE II. TOWNSHIP WASTEWATER COLLECTION SYSTEM**

**DIVISION 1. GENERAL PROVISIONS**

**2.1.1. Management and Operation of Township Wastewater Collection System; Administration**

- A. The management and operation, maintenance, alteration, and repair of the Township Wastewater Collection System shall be under the supervision and control of the Chocolay Township Board of Trustees, subject to applicable provisions of the Contracts entered into between the Township and other Local Units, as periodically amended from time-to-time. The Township Board of Trustees may employ such persons in such capacities as the Board deems advisable to carry on the efficient management and operation of the System and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the System.



- B. The Township Public Works Administrator is charged with the responsibility to administer the Township Wastewater Collection System and implement this Ordinance as provided herein; and to perform such other duties as may be assigned by the Township Board from time-to-time.

### **2.1.2. Definitions**

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

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

**“Amalgam separator”** means a device designed to remove dental amalgam waste particles from dental office wastewater.

**“Authorized Local Unit Representative”** means (1) the Township and the Township’s authorized representatives and designees, including, but not limited to, the Township Public Works Administrator; and/or (2) the representatives and designees of the Marquette Area Wastewater Treatment Advisory Board as authorized by the applicable Contracts (which may include, among other persons, the City Director of Municipal Utilities, the City Director of Public Works, and/or the City Engineer). The appropriate Authorized Local Unit Representative(s) with regard to any particular matter will depend on the context in which the term is used in this Ordinance, or as otherwise provided by the Contracts or agreed upon by the Local Units.

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

- A. If the user is a corporation, a responsible corporate officer. “Responsible corporate officer” means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control

mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- B. If the user is a partnership or proprietorship, a general partner or proprietor, respectively.
- C. If the user is a federal, state or local governmental entity, the principal executive officer, ranking elected official, or director having responsibility for the overall operation of the discharging facility.
- D. A duly authorized representative of an individual designated in (A), (B) or (C) above, if the representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.
  - (1) To be considered “duly authorized,” the authorization must be made in writing by an individual designated in (A), (B) or (C) above. The authorization must specify either an individual or a position having responsibility for the overall operation of the facility (such as the position of plant manager, operator of a well or well field, or a position of equivalent responsibility, or having overall responsibility for the environmental matters for the company or entity). The written authorization must be submitted to the Authorized Local Unit Representative prior to or together with any reports to be signed by the authorized representative of the user.
  - (2) If an authorization under (D)(1) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company or entity, a new written authorization must be submitted to the Authorized Local Unit Representative prior to or together with any reports to be signed by the newly authorized representative of the user.

**“Available Public Sanitary Sewer System”** means any gravity portion of the Township Wastewater Collection System which is located on a street, road, highway, right-of-way, easement, or public or private way which crosses, adjoins, abuts or is contiguous to the real estate or land affected and which passes or is located not more than 200 feet at the nearest point from a structure on the premises in which sanitary sewage originates.

**“Background Sewage Concentrations”** or **“Background Concentrations”** means, in general, the estimated background influent pollutant loads from influent sources such as domestic users, and nondomestic users not subject to User Permits or other controls, as determined pursuant to the MAWTF’s most recent MAHL study.

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

**“BOD”** means biochemical oxygen demand.

**“BOD5”** means the quantity of dissolved oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees C., expressed in terms of weight and concentration (milligrams per liter).

**“Building Drain.”** See definition of “Sewer.”

**“Building Sewer.”** See definition of “Sewer.”

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

**“Calendar Day”** means the full 24-hour period beginning at 12 o’clock midnight of a day and ending at 12 o’clock midnight of the following day.

**“Calendar Month”** means the full period of calendar days beginning at 12 o’clock midnight of the first calendar day of a month and ending at 12 o’clock midnight of the last calendar day in that same month.

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

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

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

“**CFR**” means Code of Federal Regulations.

“**Chlorine demand**” means 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).

“**City**” means the City of Marquette, Marquette County, Michigan, and/or the City’s designees and authorized representatives.

“**City Director of Municipal Utilities**” means the City Director of Municipal Utilities or the City Director of Municipal Utilities’ designees and authorized representatives.

“**City Director of Public Works**” means the City’s Director of Public Works, or the Director of Public Work’s designees and authorized representatives.

“**City Engineer**” means the City’s City Engineer or the City Engineer’s designees and authorized representatives.

“**City Sanitary Sewer System**” means the portions of the POTW that are owned by and located within the City, including the City Wastewater Collection System and the Marquette Area Wastewater Treatment Facility.

“**City Wastewater Collection System**” means the sanitary sewer system owned and operated by the City, exclusive of the Marquette Area Wastewater Treatment Facility. It includes sewers, gravity mains, force mains, pipes and other conveyances, lift stations, and pumps, along with any metering devices and other equipment and facilities, owned by the City that receive discharges of wastewater for collection and conveyance to the Marquette Area Wastewater Treatment Facility.

**“City’s NPDES Permit”** means the NPDES Permit issued to the City authorizing the City to discharge from the Marquette Area Wastewater Treatment Facility.

**“Clean Out”** means a small diameter pipe connected to the sewer lateral at the property line and as per plumbing code regulations and brought to the surface of the ground for maintenance access.

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

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

**“Code”** as used with respect to Dental Amalgam in Section 3.12.9 of this Ordinance means the Michigan Public Health Code, 1978 PA 368, MCL 333.1101 to 333.25211. Terms defined in the Code have the same meanings when used in this Section 3.12.9.

**“Collection System Limitation”** or **“CSL”** means a not-to-exceed concentration determined necessary to protect the POTW that applies to pollutants with the potential to cause obstruction of flow, fire, explosion, toxic fumes, structural corrosion, or other adverse conditions.

**“Collector Sanitary Sewer Main.”** See definition of “Sewer.”

**“Commercial User”** means for purposes of the user charge system under Division 6 of Article II of this Ordinance any user other than an Industrial User that is involved in a commercial enterprise, business, or service as determined by the Township.

**“Compatible Pollutant”** means a pollutant that, as determined by the Authorized Local Unit Representative, 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 Authorized Local Unit Representative may consider, without limitation, the nature and qualities of the pollutant, and the concentration, mass, and flow rate at which the pollutant is (or is proposed to be) discharged. Thus, for example, even pollutants such as BOD, fats, oils or grease, phosphorous, nitrogen, suspended solids, and fecal coliform bacteria,

which may typically be considered “compatible,” may be determined incompatible by the Authorized Local Unit Representative if discharged in concentrations or flows that would cause interference or pass through or exceed the POTW’s capacity. Specifically excluded from the definition of compatible pollutant are “heavy” metals, PCBs, and any pollutants that will likely contribute or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.

**“Compliance Schedule”** means a schedule of remedial measures or actions that includes an enforceable sequence of events for the commencement or completion of actions leading to compliance with a pretreatment standard or requirement.

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

**“Connection Charge”** (tap-in fee) means the charge assessed by the Township to a user of the Township Wastewater Collection System for connection to the System.

**“Contracts.”** Except as otherwise expressly provided, references in this Ordinance to the “Contracts” shall mean and include the following contracts and agreements as each of them have been or may be amended from time-to-time:

**“City-Township (Local Unit) Agreement”** means the agreement entered into May 31, 1983 between the City of Marquette, the Township of Chocolay, and Township of Marquette for the acquisition, improvement, enlargement, or extensions and operations of the MAWTF.

**“County-Township Contract”** means the contract entered into December 21, 1972 between Marquette County and Township of Chocolay, entitled “Marquette County Sewage Disposal System No. 2 (Chocolay Township) Contract,” which contract prescribes the methods and means of financing the Township Wastewater Collection System.

**“Marquette County Wastewater Disposal System Contract”** means the contract entered into September 19, 1977 between Marquette County, Chocolay Township, Marquette Township, and the City of Marquette for the acquisition, improvement, enlargement, and/or extension of the MAWTF.

“Contracts” shall also mean and include such other contracts and agreements that the Township has entered into with the City, the Township of Marquette, and/or the County with respect to matters related to the Township Wastewater Treatment Collection System and/or the MAWTF, as each of those contracts or agreements have been or may be amended from time-to-time.

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

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

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

“**County**” means Marquette County, Michigan.

“**County Health Department**” means the Marquette County Health Department or its successor agency.

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

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

**“Dental amalgam”** means a mixture of mercury and other metals used as a dental restorative material.

**“Dental amalgam waste”** means waste from a dental office containing any of the following: (1) Contact amalgam waste, which means dental amalgam that has been in contact with the patient including, but not limited to, extracted teeth with dental amalgam restorations; carving scrap collected at chair-side; and dental amalgam captured by chair-side traps, vacuum pump filters, amalgam separators, or other dental amalgam capture devices. (2) Non-contact amalgam scrap, which means dental amalgam that has not been in contact with the patient including, but not limited to, excess dental amalgam mix remaining at the end of a dental procedure. (3) Empty amalgam capsules, which means individually dosed containers left over after mixing precapsulated dental amalgam. (4) Dental amalgam that may have accumulated in the plumbing system or that is found in other areas of a dental office.

**“Dentist”** as used with respect to Dental Amalgam in Section 3.12.9 of this Ordinance means an individual licensed under Section 16611 of the Michigan Public Health Code, 1978 PA 368, MCL 333.1101 to 333.25211 who uses or removes dental amalgam or who owns or operates a dental office that generates dental amalgam waste.

**“Department”** as used with respect to Dental Amalgam in Section 3.12.9 of this Ordinance means the Michigan Department of Licensing and Regulatory Affairs.

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

**“Direct Connection”** means any direct or immediate connection to the Township Wastewater Collection System.

**“Discharge”** means the introduction of waste, wastewater, effluent, or pollutants into the POTW, whether intentional or unintentional, and whether directly (such as through an approved sewer connection or other approved discharge point as authorized by this Article) or indirectly (including, but not limited to, sources such as inflow and infiltration). “Discharge” includes the introduction of waste, wastewater, effluent, or pollutants into the POTW by any means or method of conveyance, including, but not limited to the following: pipes; conduits; pumping stations; ditches; tank trucks; the ground through defective pipes, pipe joints, or walls; roof leaders; cellar, yard, or area drains; foundation drains; drains from springs or wetlands; manhole covers; crossover pipes



from storm sewers; catch basins; storm sewers; surface runoff; street wash waters; or other drainage. With respect to dental amalgam, “Discharge” means the release of any dental amalgam waste into the environment, including any releases to land, ground or surface waters, septic systems, or wastewater treatment systems.

**“Domestic Food Waste”** means garbage generated by personal, non-commercial activities typically associated with preparing meals in a kitchen in a residential dwelling, such as meat, poultry, fish, vegetable, fruit, grain, or dairy wastes generated by the storage, preparation, cooking, serving, dispensing, or canning household food for personal use, as determined by the Authorized Local Unit Representative. “Domestic Food Waste” is composed of putrescible raw or cooked organic matter and its natural or added moisture content; it does not include food packaging materials or food containers (e.g., paper, metal, plastic, glass, etc.) or other non-food wastes or other trash associated with the domestic food waste.

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

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

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

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

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

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

**“EGLE”** means the Michigan Department of Environment, Great Lakes, and Energy (or any successor agency of EGLE). EGLE was formerly known as the Michigan Department of Environmental Quality or “MDEQ.”

**“EPA”** means the United States Environmental Protection Agency.

**“Equivalent unit factor”** or **“equivalent unit”** means the factor representing a ratio of the estimated sewage used by such user class to the normal single-family residential user.

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

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

**“Extra-Strength User”** means for purposes of the user charge system under Division 6 of Article II of this Ordinance a Commercial User or an Industrial User that discharges wastewater to the System that meets or exceeds the extra-strength surcharge thresholds established by the Township from time-to-time.

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

**“Flow-proportional Composite Sample”** means a combination of individual samples of equal volume taken at equal intervals of flow with or without consideration of the time between individual samples, as required and determined appropriate by the Authorized Local Unit Representative.

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

**“Food Service Establishment”** or **“FSE”** means any premises where food or beverages are prepared and served, consumed, or packaged, whether fixed or mobile, with or without charge, and whether on or off the premises. FSEs shall include, but are not limited to, restaurants, hotels, schools, taverns, bars, lounges, nursing homes, rest homes, day care and other care facilities, schools, factories, hospitals, churches, correctional facilities, institutions, camps, grocery or convenience stores with on-site food preparation, bakeries, butcher shops, caterers, and ice cream parlors. By way of example, FSEs commonly use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sauteing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.

**“Footing Drain.”** See definition of “Sewer.”

**“Garbage”** means solid wastes of human origin from the residential or commercial storage, preparation, cooking, serving, dispensing, canning, or packaging of food, or from the commercial growing, handling, storage, processing or sale of produce or other edible products, as determined by the Authorized Local Unit Representative. “Garbage” is composed of putrescible raw or cooked organic matter and its natural or added moisture content; it does not include food packaging materials or food containers (e.g., paper, metal, plastic, glass, etc.) or other non-food wastes or other trash associated with food or produce waste.

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

**“Grab Sample”** means an individual sample that is taken from a 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.

**“Grease trap”** or **“grease interceptor”** means a device meant to receive the drainage from fixtures or equipment with FOG-laden waste from a food service establishment or other nondomestic user’s premises, and may also be described as a device for separating and retaining FOG, waterborne greases, and grease complexes from wastewater prior to the wastewater exiting the device and entering the public sanitary sewer. Grease traps are generally smaller devices with lower flow rates and are located inside (often directly under a sink in FSEs near food preparation areas), while grease interceptors are generally larger devices with higher flow rates located outdoors and underground.

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

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

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

**“Holding Tank”** as used with respect to Dental Amalgam in Section 3.12.9 of this Ordinance means a closed, watertight, sealed structure designed, constructed, and used to receive and store wastewater for ultimate disposal of collected wastewater at another site.

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

**“Incompatible Pollutant”** means any pollutant that is not a compatible pollutant and/or contains substances which are not amenable to treatment, or wastes which may adversely affect the treatment process, the effluent, sludge disposal practices, or cause the City to violate its NPDES permit, as determined by the Authorized Local Unit Representative.

**“Individual Control Document”** means a written document issued by the Authorized Local Unit Representative to a user to ensure and enforce compliance with applicable pretreatment standards and requirements, including, but not limited to, Nondomestic User Permits and General User Permits as provided by this Article.

**“Industrial User”:**

- A. For purposes of the user charge system under Division 6 of Article II of this Ordinance, “Industrial User” means any user of the System that is engaged in the production, manufacturing, or processing of products (intermediate, finished, or waste products) or raw materials as determined by the Township.
- B. For purposes of regulation of discharges to the MAWTF under Article III of this Ordinance, “Industrial User” means any Nondomestic User that, by any means, contributes, causes or permits the contribution, introduction or discharge of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether directly or indirectly.

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

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

**“Instantaneous Maximum Limit”** means the maximum concentration or other measure of pollutant magnitude of a pollutant allowed to be discharged at any instant in time (independent of the flow rate or duration of the sampling event). If the concentration or other measure of pollutant magnitude determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample exceeds the instantaneous maximum limit, the instantaneous maximum limit shall be deemed to have been violated.

**“Instantaneous Minimum Limit”** means the lowest measure of pollutant magnitude of a pollutant allowed to be discharged at any instant in time (independent of the flow rate or duration of the sampling event). If the concentration or other pollutant magnitude determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample is below the specified instantaneous minimum limit, the instantaneous minimum limit shall be deemed to have been violated.

**“Interceptor Sanitary Sewer.”** See definition of “Sewer.”

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

- A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or
- B. Is a cause of a violation of any requirement of the City’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations) Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

**“lbs/day”** means pounds per day.

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

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

**“Local Unit”** means the Township and/or the City of Marquette, depending on the context in which the term is used in this Ordinance or as otherwise provided by the Contracts as being the appropriate Local Unit to act with respect to the specific matters involved.

“**MAC**” means the Michigan Administrative Code.

“**MAHL**” or “**Maximum Allowable Headworks Loading**” means the estimated maximum influent pollutant loads from all influent sources (such as domestic and nondomestic users and septage) that can be received at the POTW’s headworks without causing pass through or interference and consistent with applicable laws and regulations, as determined pursuant to the MAWTF’s most recent MAHL study.

“**MAIL**” or “**Maximum Allowable Industrial Loading**” means the estimated maximum influent pollutant loads from nondomestic users (including permitted industrial users and other controlled sources) that can be received at the POTW’s headworks without causing pass through or interference and consistent with applicable laws and regulations, as determined pursuant to the MAWTF’s most recent MAHL study.

“**Marquette Area Wastewater Treatment Advisory Board**” means the advisory Board established under the Contracts by the Township, the City, and the Township of Marquette (the “Local Units”). The function of the Board is to oversee the operation of the MAWTF through such powers are conferred upon it by the Contracts or as otherwise delegated to it by agreement of the Local Units.

“**MAWTF**” or “**Marquette Area Wastewater Treatment Facility**” means the wastewater treatment facility established by the Township, the City, and the Township of Marquette pursuant to the Contracts.

“**May**” is permissive.

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

“**mg/l**” means milligrams per liter.

“**Monthly Average**” means the sum of the concentrations (or mass loadings, expressed in terms of pounds per day, or such other unit of measurement) of a pollutant divided by the number of samples taken during a calendar month. The concentrations (or loadings) that are added are single numbers for single calendar days for all days during the calendar month for which analyses are obtained (whether by the user or the POTW), but the concentrations (or loadings) may be based

upon a sample or samples taken over either all or part of that day and upon single or multiple analyses for that day, as determined by the Authorized Local Unit Representative. 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.

**“Multi-family Dwelling”** means a structure designed and intended to contain more than one attached dwellings with each dwelling resided in by a separate family.

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

**“National Pretreatment Standard”** means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Clean Water Act which applies to industrial users and includes prohibitive discharge limits established pursuant to [40 CFR 403.5](#).

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

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

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



facility is engaged in the same general type of activity as the existing source should be considered.

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

“ng/l” means nanograms per liter.

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

“**Nondomestic User**” means any user other than a Domestic User (i.e., any user that discharges anything other than segregated normal strength domestic waste into the POTW). The determination of whether or not a user is a “nondomestic user” shall be made by the Authorized Local Unit Representative in the Representative’s sole discretion as determined necessary by the Representative to achieve the purposes and objectives of this Article. Any user that has the reasonable potential, as determined by the Authorized Local Unit Representative, to discharge any waste other than normal strength domestic waste into the POTW, may be deemed a nondomestic user for purposes of this Article.

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

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

“**Normal Strength.**” With regard to wastewater, “normal strength” means wastewater for which the levels of all pollutants in the wastewater (including, without limitation, BOD, TSS, ammonia nitrogen, or phosphorous) are at or below the corresponding surcharge thresholds (and/or Background Sewage Concentrations, if any) for each pollutant. Similarly, with regard to any single

pollutant parameter, “normal strength” means that the level of the pollutant is at or below the corresponding surcharge threshold (and/or Background Sewage Concentration, if any) for the pollutant. Further, to be considered normal strength, the wastewater must have a pH between 6.5 and 8.5, must not exceed any local limit, and must not contain a level of any constituents (either singly or in combination) that might interfere with POTW treatment processes or cause pass through. The determination of whether or not wastewater or the concentration of a particular pollutant concentration is “normal strength” shall be made by the Authorized Local Unit Representative at the Representative’s sole discretion based on such factors as determined necessary and appropriate by the Representative to achieve the purposes and objectives of this Article.

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

“**O&M**” or “**Operation and Maintenance**” or means all work materials, equipment, utilities and other effort required to operate and maintain, including the cost of replacement, the wastewater collection, transportation, and/or treatment system consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with NPDES permit and other applicable Township, City, County, State and Federal laws and regulations.

“**O&M Charge**” means the charge assessed users of the system for the cost of operation and maintenance a wastewater collection, transportation, and/or treatment system.

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

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

“**Owner**” or “**Property Owner**” means the owner of record of the freehold of a premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a premises. In the case of a land contract sale, “owner” shall include the land contract purchaser or purchasers if the Township has been provided a copy of the recorded Memorandum of Land Contract.

“**Pass Through**” means a discharge that exits the POTW into waters of the State (or waters of the United States) in quantities or concentrations that, alone or in conjunction with a discharge or

discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit or of any requirement of applicable local, state or federal laws and regulations (including an increase in the magnitude or duration of a violation), or otherwise detrimentally impacts the receiving stream.

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

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

**“Phosphorus”** means the total phosphorus content of a sample including all of the orthophosphates and condensed phosphates, both soluble and insoluble, and organic and inorganic species, and referred to in standard methods as total phosphorus.

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

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

**“Pollution”** means the alteration of the chemical, physical, biological and radiological integrity of water.

**“POTW” (Publicly Owned Treatment Works).** The complete sewage disposal, transportation and treatment system as defined by the Clean Water Act and this Ordinance, including the Township Wastewater Collection System, the City Wastewater Collection System, the MAWTF, and any devices, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, sewage or sludge, as well as sewers (including all main, lateral and intercepting sewers), pipes and other conveyances used to collect or convey wastewater or sewage through the Township Wastewater Collection System to the City Wastewater Collection System, and ultimately to the MAWTF, as now or hereafter added to, extended or improved. The term “POTW” is also sometimes used in this Ordinance to refer to the Authorized Local Unit Representatives of the Township and/or the City.

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

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

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

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

**“Private Sanitary Sewer.”** See definition of “Sewer.”

**“Private Sanitary Sewer System”** means a septic tank, cesspool or similar device, or part thereof, not connected to a public sanitary sewer.

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

**“Public Sanitary Sewer.”** See definition of “Sewer.”

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

**“Release”** means to spill, leak, dump, pump, dispose, deposit, inject, place or abandon.

**“Replacement”** means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful service life of the collection system or treatment works to maintain the capacity and performance for which the system or works were designed and constructed.

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

**“Residential User”** means for purposes of for purposes of the user charge system under Division 6 of Article II of this Ordinance a user of the system whose premises or building is used primarily as a residence for one or more persons, including residential dwelling units such as detached, semi-detached and row houses, mobile homes, apartments, or permanent multi-family dwellings.

**“Sanitary Sewage.”** See “Domestic Waste” as defined in Article III of this Ordinance.

**“Sanitary Sewer.”** See definition of “Sewer.”

**“Sanitary Sewer Cleanout Septage”** means sanitary sewage or cleanout residue removed from a separate sanitary sewer collection system that is not land applied and that is transported by a vehicle licensed under Part 117 of Act 451 of the Public Acts of Michigan of 1994 (MCL §§

324.11701 et seq., as amended; “Septage Waste Servicers”) elsewhere within the same system or to a receiving facility that is approved by EGLE.

“**Sanitary Sewer Main**” or “**Wastewater Sewer Main.**” See definition of “Sewer.”

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

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

“**Service Charge**” (or “**User Charge**”) means the total charge assessed a user of the Township System for the use thereof, including but not limited to the O&M charge, and if applicable, any surcharge, or charges, expenditures, and funds for the System.

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

“**Sewage.**” See “Wastewater.”

“**Sewage Force Main**” or “**Force Main.**” See definition of “Sewer.”

“**Sewer**” means any pipe, tile, tube, drain, conduit, or conveyance that carries, transports, or conveys wastewater or drainage water. Other terms used in this Article related to sewers are defined as follows:

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

“**Building Sewer**” means the part of the drainage system that extends from the end of the building drain where it connects to the sewer lateral at the public right-of-way line.

**“Collector Sanitary Sewer Main”** means the sewers constructed in a public street, alley or dedicated public easement that receives the waste discharged from the individual sewer laterals. These sewers may serve one or more blocks before they discharge into larger interceptor sanitary sewers.

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

**“Interceptor Sanitary Sewer”** means a sanitary sewer main that carries the wastewater discharged from one or more collector sanitary sewers to the ultimate point of disposal or treatment plant.

**“Private Sanitary Sewer”** means any sewer service line, equipment, or facilities for the disposal of wastewater installed or located on any premises and/or within the street right-of-way that transport wastewater from the premises to the public sanitary sewer, such as the building drain and the sewer lateral.

**“Public Sanitary Sewer”** means a gravity sanitary sewer owned and/or controlled by a governmental agency (such as Chocoday Township) in which all owners of abutting properties have equal rights, and to which storm water, surface water, and/or groundwater is not intentionally admitted.

**“Sanitary Sewer Main”** or **“Wastewater Sewer Main”** means a sewer pipe with a diameter of six (6) inches or larger, that carries wastewater from multiple residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

**“Sewage Force Main”** or **“Force Main”** means a solid wastewater conveyance pipe which carries wastewater under pressure.

**“Sewer Lateral”** means the sewer that extends from the end of the Building Sewer at the public right-of-way line to the sanitary sewer main in the street or dedicated public easement, including the sanitary sewer main connection-

**“Storm Water Drain”** or **“Storm Sewer”** or **“Storm Drain”** means a watercourse or sewer intended for the conveyance of water, groundwater, surface runoff, drainage water, or other water from any source, exclusive of intentionally admitted wastewater.

“**Shall**” is mandatory.

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

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

- A. Subject to categorical pretreatment standards; or
- B. Any other user that:
  - (1) discharges to the POTW an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater); or
  - (2) contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the MAWTF; or
  - (3) is otherwise designated by the Authorized Local Unit Representative as a Significant Industrial User on the basis that the user has a reasonable potential (either singly or in combination with discharges from other users) to adversely affect the operation of the POTW, affect the ability of the POTW to comply with the City’s NPDES permit, to violate any pretreatment standard or requirement, or because the Authorized Local Unit Representative otherwise determines that a Nondomestic User Permit for the user’s discharge is required to meet the purposes and objectives of this Article.

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

“**Single-family Dwelling**” means a detached dwelling designed and intended for only one family to reside in.



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

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

**“Slug Loading”** means any slug discharge that has a reasonable potential to cause damage to the POTW; be harmful to the wastewater treatment processes; adversely affect the management or operation of the POTW or POTW sludge management or disposal; cause pass through or interference or otherwise cause the City to violate its NPDES permit; violate any pretreatment standard or requirement as provided by this Article or by any permit or order issued under this Article; adversely affect the quality of the receiving waters or the ambient air quality; endanger worker health and safety; constitute a public nuisance; or otherwise adversely impact the public health, safety or welfare or the environment.

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

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

**“Storm Water Drain”** or **“Storm Sewer”** or **“Storm Drain.”** See definition of “Sewer.”

**“Structure In Which Sanitary Sewage Originates”** means a building or structure in which toilet, kitchen, laundry, bathing, or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial or other purposes.

**“Surcharge”** means the additional charges assessed for the treatment of a user’s wastewater containing pollutants in excess of specified surcharge threshold (extra-strength) concentrations or loadings.

**“Time-proportional Composite Sample”** means a combination of individual samples of equal volume taken at equal intervals of time, without consideration of the volume or rate of flow, as required and determined appropriate by the Authorized Local Unit Representative.

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

**“Township”** means (unless otherwise specified) Chocolay Township.

**“Township of Chocolay”** or **“Chocolay Township”** means the Chocolay Charter Township, Marquette County, Michigan, and the Township’s designees and authorized representatives.

**“Township of Marquette”** or **“Marquette Township”** means the Marquette Charter Township, Marquette County, Michigan.

**“Township Public Works Administrator”** means the person appointed by the Township to act as the head the Township Department of Public Works, and the Administrator’s designees and authorized representatives.

**“Township Wastewater Collection System”** or **“System”** means the complete Chocolay Township Wastewater Collection System that is owned, operated, and/controlled by Chocolay Township as this System may be revised or added to from time-to-time, including all sewers, pumps, lift stations, treatment facilities and all other facilities used or useful in the collection, transportation, treatment and disposal of domestic, commercial, or industrial wastes, including all appurtenances thereto and all easements and rights in land for same, and including all extensions and improvements thereto which may hereafter be acquired or constructed.

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

**“Trash”** means any solid waste, refuse, rubbish, or junk (other than garbage), including, but not limited to, the following:

Animal entrails or tissues, bones, hair, hides or fleshings, whole blood, feathers;

Ashes, cinders, sand, cement, spent lime, stone or marble dust, wood, metal, plastic, glass, cloth, rubber, leather, wire, rope, string, fibers, straw, shavings, sweepings, spent grains, spent hops, 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;

Newspapers, magazines, books, catalogs, or wastepaper;

Rags, clothing, disposable diapers, wipes that are not certified as being “flushable,” and bedding,

Containers, wrappings, cans, bottles, jars, glass crockery, bags, and sacks; or paper, plastic, wood, or metal cartons, crates, boxes, or barrels;

Building construction and/or demolition debris (or parts or pieces thereof) such as waste materials from interior and exterior building construction, remodeling, and repair, including, but not limited to, drywall, plywood, sheetrock, and paneling, brick, shingles, concrete, lumber and other building materials; floor coverings; carpeting; wallpaper; windows or window coverings; doors; cabinets; bathroom and kitchen fixtures; and asbestos;

Machinery, equipment, vehicles, tires, appliances, plumbing fixtures, furniture, batteries, or pieces or parts thereof;

Lawn cuttings, grass clippings, tree trimmings, branches, sticks, leaves, clipping from shrubs, bushes, or hedges, roots, stumps, plants, weeds and similar lawn, garden, or landscaping wastes or materials; and

Any other article, material, substance or pieces or parts thereof customarily considered (or typically disposed of as) refuse, rubbish, or junk, as determined by the Authorized Local Unit Representative.

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

**“ug/l”** means micrograms per liter.

**“Unimproved Property”** or **“Vacant Land”** means any real estate, lot, tract, parcel or plot of land on which is located no structure or facilities in which sanitary sewage originates.

**“Unpolluted Water”** means water in its natural state, or water which, after use for any purpose, is not substantially changed as to chemical or biochemical qualities or water that would otherwise

not be benefitted by discharge to the POTW. An Authorized Local Unit Representative shall determine whether water is unpolluted water.

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

**“User”** means any person who contributes, causes or permits by any means the contribution, introduction or discharge of wastewater into the Township Wastewater Collection System, whether intentional or unintentional, and whether directly or indirectly.

**“User Class”** means the kind of user connected to sanitary sewers, including but not limited to, the residential, commercial, and industrial user classes.

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

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

**“WWTP” or “Wastewater Treatment Plant”** means the portion of the POTW that is designed to provide treatment, including recycling or reclamation, of wastewater, and that is commonly referred to as a POTW wastewater treatment plant (sometimes referred to in this Ordinance as the “Marquette Area Wastewater Treatment Facility” or “MAWTF.”)

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

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

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

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

**DIVISION 2. USE OF PUBLIC SANITARY SEWERS REQUIRED**

**2.2.1. Public Sanitary Sewer System; Declaration of Necessity**

A public sanitary sewer system is essential to the health, safety, and welfare of the people of the Township. Privies, privy vaults, septic tanks, cesspools or other similar private sanitary sewer systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of private sanitary sewer systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of the state. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.

**2.2.2. Unlawful Deposition**

It shall be unlawful for any person to place, deposit or permit to be deposited, any human or animal excrement, garbage, pollutants, or other objectionable waste, upon or below, the surface of public or private property within the jurisdiction of the Township, except by disposing of such waste in accordance with applicable local, state, and federal laws and regulations. This paragraph shall not apply to the making or use of compost or fertilizer by a person on the person’s property if done in compliance with all laws, ordinances, and regulations as part of a lawful business or domestic agricultural activity which poses no substantial threat to public health, safety, or welfare and is not a common-law nuisance.

**2.2.3. Unlawful Construction**

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

**2.2.4. Required Connection To Available Public Sanitary Sewer System**

- A. Except as otherwise provided by Section 2.2.4(B), all premises to which there is an available public sanitary sewer system (as defined in Section 2.1.2) shall connect to the system within 60 days after publication by the Township in a newspaper of general circulation in the Township of a notice of availability of public sanitary sewer service and the mailing of a similar notice by the Township to such premises.
  
- B. Any property abutting the public rights-of-way of Riverside Road, Glenwood Road, and Highway M-28 East where public sanitary sewer exists, but only those sections commencing at manhole number 156 and terminating at manhole number 172, shall be exempt from the requirement under Section 2.2.4(A) to connect to the public sewer under until such time as:
  - (1) The existing on-site septic system fails for the respective property; or
  - (2) An undeveloped property is developed to the extent of requiring a wastewater system.
  
- C. The requirement under Section 2.2.4(A) to connect to the public sewer shall not apply to any persons served by a privately constructed, owned, operated, and maintained wastewater sewer and wastewater treatment facility which discharges directly to a natural outlet in accordance with the provisions of this Article and all other applicable state and federal laws.

**2.2.5. Public Sanitary Sewer Becomes Available**

At such time as a public sanitary sewer becomes available to a property served by a private sanitary sewer system and notice has been given as provided in Section 2.2.4, a direct connection shall be made to the public sanitary sewer in compliance with this Article at the owner's sole expense. It shall be the owner's responsibility to contact the County Health Department for the proper regulations and procedures to clean out, abandon, and fill the private sanitary sewer system, and the owner shall thereupon follow such regulations and procedures, and comply with any applicable Township requirements at the owner's sole expense. Once a premises that was previously served by a private sanitary sewer system has been connected to the public sanitary sewer, disconnection thereafter from the public sanitary sewer is prohibited.

**2.2.6. Private Sanitary Sewer System Treatment and Disposal Requirements**

- A. The type, capacities, location and layout of a private sanitary sewer system shall comply with all regulations and requirements of the Township, the County Health Department, and the State, as applicable.
- B. No septic tank, cesspool, subsurface disposal facility, or other private sanitary sewer system (except as expressly provided for a privately funded sanitary sewer system under Section 2.2.7) shall be permitted to discharge to any public sanitary sewer, storm sewer, or natural outlet.
- C. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Township. The facilities shall be subject to inspection by the Township, the County Health Department, and other applicable governmental agencies.

**2.2.7. Connection of Privately Constructed Sanitary Sewer Systems to the System**

Before commencement of construction of any sanitary sewer system that is intended to discharge into the Township Wastewater Collection System and that is constructed by private, as distinguished from public, funding (referred to for purposes of this Section as a “private sanitary sewer system”), the owner of the proposed system (hereinafter referred to as the “developer”) shall comply with all of the following requirements:

- A. Provide the Township with the developer’s plans and specifications for constructing the proposed system, an estimate of the cost of construction, and a performance bond in an amount to be determined from time-to-time by the Township Board; and deposit with the Township an additional amount determined from time-to-time by the Township Board to cover the cost of hiring a registered professional engineer to review the plans and specifications, which monies shall be placed together by the Township in an escrow account in the name of said developer.
- B. Obtain approval of the Township Board of the plans and specifications, subject to any terms, conditions, or requirements determined appropriate by the Township Board.
- C. Secure all necessary permits for construction.
- D. Upon commencement of construction of the private sanitary sewer system, deposit with the Township in the escrow account referred to Section 2.2.7(A) a sum in the amount

determined from time-to-time by the Township Board to cover the anticipated cost of inspection of construction and payment of connection charges.

- E. Upon completion of construction of the private sanitary sewer system, the Township shall permit connection to the System upon review and recommendation of the Township's engineer, subject to the Township's Board's review and approval of the as-built construction, and upon payment to the Township of all connection charges.
- F. One year after the date of connection of the private sanitary sewer system to the System, the performance bond, upon recommendation of the Township's engineer and approval of the Township Board, shall be released and any monies remaining in the developer's escrow account shall be returned to the developer or, in the alternative, shall be used to reimburse the Township for any additional expenses incurred by the Township in assuring that the private sanitary sewer is properly operating.

**2.2.8. Additional Public Health Requirements**

Nothing in this Division shall be construed to interfere with any additional requirements regarding private sewage disposal facilities that may be imposed by the Township, the County Health Department, the Michigan Department of Public Health, or any other governmental agency.

**DIVISION 3. BUILDING SEWERS AND CONNECTIONS**

**2.3.1. Waste Discharge Prohibited Except Through Approved Sewer Connection**

All discharges to a sewer shall be through an approved sewer connection or at another discharge point expressly approved by the Township in accordance with this Article and with any rules, regulations, or procedures established by the Township as determined necessary by the Township to administer and implement this Article. No person shall discharge any waste or other substances into a manhole, catch basin, or inlet.

**2.3.2. Tap and/or Connection Permit Required**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any part or appurtenance of the Township Wastewater Collection System, nor discharge into the System, without first obtaining a written tap and/or connection permit (or other authorization) from the Township.



**2.3.3. Sewer Tap and Connection Permits; Connection Fees; Connection Costs; Performance Bonds and Insurance**

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenances thereof without first obtaining an approved written permit and authorization from the Township as provided by this Article.
- B. The owner of any premises proposing to connect to the Township Wastewater Collection System shall make application on a form furnished by the Township for a permit to tap and/or connect to the System. The application shall include plans and specifications for all plumbing construction from the building or premises to the point of connection or tap into the sanitary sewer main. The plans and specifications shall meet the requirements of this Article, the State Plumbing Code, Township design and construction standards, and all other applicable local or state rules, regulations, and orders (provided that if the requirements of this Article are more restrictive, the requirements of this Article shall control). The application shall be supplemented by such information as required by the Township to administer this Article. A permit and inspection fee in an amount determined by the fee schedule established by the Township shall be paid to the Township at the time an application is filed.
- C. If the application to connect is approved by the Township, a tap and/or connection permit shall be issued, subject to a final inspection and approval when construction is completed and ready for connection with the Township sewer system prior to backfill. No building sewer shall be covered until after it has been inspected and approved by the Township.
- D. All connections to existing or new sewers for the property owner shall be made by a licensed and insured contractor in the State of Michigan and inspected by the Township. The contractor shall provide the Township with proof of adequate liability insurance prior to beginning any excavation work. The applicant for the tap and/or connection permit shall notify the Township when the sewer lateral is ready for inspection and connection to the public sanitary sewer. The County shall inspect the building and plumbing construction from the building to the right of way and dictate that approval process. The Township shall inspect the construction from the public right-of-way to the sanitary sewer main. If the construction is consistent with the permit and meets other applicable rules and regulations, the Township may approve such construction, provided that all applicable fees have been paid to the Township. The Township's approval may be made subject to any terms, conditions, or requirements determined appropriate by the Township. All sewer supports, testing of sewer, backfilling of sewer, including material and other elements contingent on

completion of installation, shall comply with all applicable local and state laws, regulations, codes, and standards for construction.

- E. The Township may deny a tap and/or connection permit if the Township determines that application for the permit shows that there is a reasonable potential that the anticipated discharges may interfere with the Township Wastewater Collection System or the POTW; be inconsistent with the provisions of this Article, the City's NPDES permit, or any other local, state, or federal law or regulation; or in any other way hamper the operations of the Township Wastewater Collection System or the POTW.
- F. Connection to a public sanitary sewer will not be allowed (and the Township shall not issue a connection permit) until all assessments due and all advance deposits established have been paid and unless there is capacity available (in both wastewater volume and strength) at the MAWTF and in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat and dispose of BOD, TSS, or similar materials as required by applicable local, state or federal laws, rules or regulations, as determined by the Township Public Works Administrator and the City Director of Municipal Utilities.
- G. If the Township Public Works Administrator, the City Director of Municipal Utilities, the City Engineer, and/or the City Director of Public Works determine that it is necessary to evaluate the ability or capacity of the Township Wastewater Collection System or the POTW to accept any current or proposed discharge, the existing or proposed user may be required to demonstrate to the Township's and the City's satisfaction that the discharge will be compatible with the Township Wastewater Collection System and the POTW, will not adversely affect the Township Wastewater Collection System or the POTW, and will otherwise be consistent with applicable local, state, and federal rules and regulations. Such demonstration shall be made by any means determined necessary and appropriate by the Township and/or the City, including, but not limited to, a headworks analysis or treatability study conducted at the user's sole expense.
- H. As a condition for a tap and/or connection permit, the owner shall comply with the requirements of Act 174 of the Public Acts of 2013 (MISS DIG Underground Facility Damage Prevention and Safety Act), as amended.
- I. It is unlawful to connect to the Township Wastewater Collection System without obtaining a tap and/or connection permit and except in full compliance with the requirements of this Article. A violation of any term, condition, or requirement of a tap and/or connection permit is a violation of this Article.

**2.3.4. Separate Building Sewers; Separate Uses within Buildings**

- A. A separate and independent building sewer shall be provided for each building on one lot or parcel. Independent building sewers and/or control manholes may also be required for separate uses within a building, as determined necessary by the Township.
- B. All discharge limits, standards, and requirements provided by this Ordinance shall apply to that portion of the building sewer emanating from a single building or from each separate use within a building, as applicable. Compliance with discharge limits, standards, and requirements prescribed by this Ordinance shall be determined based on each separate discharge to a common building sewer prior to commingling with discharges from other sources.
- C. The Township assumes no responsibility for damage caused by or resulting from any single building sewer which serves more than one building or more than one use within a building.

**2.3.5. Existing Building Sewers; Hazardous, Insufficient, or Obsolete Sewers**

- A. Existing building sewers may be used in connection with new buildings only if they are found on examination and test by the building's owner and are approved by the Township to meet all requirements of this Article and other applicable laws and regulations.
- B. If an inspection by the Township reveals that a building sewer or connection may create a health or environmental hazard, nuisance, has insufficient capacity, is obsolete, or is otherwise inconsistent with the purposes and requirements of this Article, the building sewer shall be reconstructed or repaired to meet Township standards at the owner's expense.

**2.3.6. Construction Specifications**

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

**2.3.7. Cleanouts Required.**

- A. All newly constructed building sewers shall have a properly sized cleanout located at the point where the sewer crosses the owner’s property line (right-of-way line fronting the public street or easement line). The cleanout shall be accessible at all times. This cleanout shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sewer. The Township may require additional cleanouts or located at different locations as determined necessary by the Township. All cleanouts shall be properly capped in the manner required by the Township.
  
- B. For existing building sewers, in addition to such cleanouts that may be required by the plumbing code or other applicable requirements at the time of construction, the Township shall require an additional cleanout to be installed on any building sewer located at the point where the sewer crosses the owner’s property line (as provided by Section 2.3.7(A)) at such time as the sewer is replaced or at any other time determined necessary by the Township Public Works Administrator to meet the purposes and requirements of this Article.

**2.3.8. Building Sewer Elevation and Location**

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

**2.3.9. Floor Drains; Backwater Valve Devices**

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

**2.3.10. Low Building Sewers**

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

**2.3.11. Connection Specifications**

- A. The connection of the sewer lateral to the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the Township, or the procedures set forth in appropriate specifications. The connections shall be made gas-tight and water-tight and verified by proper testing. All connections and joints, and any deviation from the prescribed procedures and materials, must be approved by the Township before installation.
- B. The connection of the sewer lateral to the public sewer shall be made at the wye branch designated for the property if such branch is available at a suitable location. Any connection not made at the designated wye branch in the main sewer shall be made only as directed by the Township and subject to any terms, conditions, and requirements specified by the Township.
- C. The connection of a surface runoff or ground water drain to a storm sewer or natural outlet designed to transport surface runoff or ground water drainage shall conform to the requirements of the applicable building code or other applicable requirements of the Township.

**2.3.12. Street Openings; Protection and Restoration**

Street openings shall be subject to the requirements and specifications of the Marquette County Road Commission, pertaining to street, easement and right-of-way regulations. All excavations for building sewer installation, taps, and/or connections shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Marquette County Road Commission, the Michigan Department of Transportation, and the Township at the expense of the owner.

**2.3.13. Connection to Sources of Runoff Prohibited**

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

**2.3.14. Pretreatment Of Any Discharge May Be Required**

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

**DIVISION 4. CONDITIONS OF SERVICE**

**2.4.1. Responsibilities and Liabilities For Building Sewers and Sewer Laterals**

- A. All costs and expenses incidental to the installation, operation, maintenance, and repair or replacement of a building drain, building sewer, and/or the sewer lateral and all costs and expenses incidental to the connection to the public sewer shall be borne by the property owner as provided by this Division.
- B. The property owner at the property owner's expense shall maintain, clean, and repair all building drains, building sewers, and sewer laterals servicing the property as necessary to keep them free and clear of obstructions and in good working order. Further, the property owner shall be responsible for normal operation and maintenance of the building drain, building sewer, and the sewer lateral from within the building out to the main sewer connection point. Normal operation and maintenance responsibility means, but is not limited to, any of the following, as determined by the Township:
  - (1) The building drain, building sewer, and sewer lateral is being and has been used only for uses permitted by and consistent with the purposes and intent of this Article
  - (2) Functional grease traps, sand and grit chambers, or such other devices as may be required by the Township or other applicable laws or regulations have been installed and maintained by the property owner as determined necessary by the Township to ensure the proper functioning of the Township Wastewater Collection System. The Township may require the user to comply with the requirements

provided by Section 3.12.8 of this Ordinance applicable to any such required devices, including, but not limited to, inspection, maintenance, operation, and cleaning, best management practices, and record-keeping requirements as determined appropriate by the Township.

- (3) The property owner has taken reasonable precautions to protect the sewers from being blocked or damaged due to the activities on the premises.
  - (4) The property owner has undertaken maintenance activities such as rodding, flushing, root control, or similar work ensure that the building drain, building sewer, and sewer lateral are operating properly and free of obstructions.
- C. The Township shall maintain, clean, televise, and repair as necessary and at the Township's expense the sanitary sewer main lines, but shall not be responsible for cleaning, maintenance, repair of, or liability for, private sewer lines, including, but not limited to, the building drain, building sewer, or sewer lateral. The Township shall not be held liable for damage caused by cleaning the sanitary sewer main lines due to the property owner's plumbing not meeting code requirements for backflow prevention and air relief or other requirements, as determined by the Township.
- D. Any property owner who fails to comply with the provisions of this Division shall be liable to the Township for all costs, expenses, and damages incurred by the Township in correcting the problem. Further, if any property owner fails to maintain a private sewer line as required by this Division, in addition to the other penalties prescribed, the private sewer may be declared a public nuisance by the County Health Department and the problem may be corrected by the Township. Any costs so incurred by the Township shall be assessed against the property and become a lien on the property if not timely paid.

#### **2.4.2. Disruption of Service**

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

#### **2.4.3. Service Inspections**

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

**DIVISION 5. DISCHARGE PROHIBITED WITHOUT  
REQUIRED APPROVALS, PERMITS, AND TREATMENT**

**2.5.1. Discharge Prohibited Without Required Approvals, Permits, and Treatment**

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

- A. Polluted water, sewage, or wastewater to any natural outlet within the Township, to any waters of the State (or waters of the United States), to any storm sewer, or to any public sanitary sewer.
- B. Unpolluted water of any kind, including, without limitation, storm water, surface water, groundwater, roof runoff, artesian well water, drainage water (surface or subsurface), industrial non-contact cooling water, air-conditioning water, swimming pool water, or unpolluted industrial process waters to any sanitary sewer. Unpolluted water may be discharged only to a sewer that is specifically designated as a storm sewer or to a natural outlet, and only if all applicable permits and approvals have first been obtained from the Township and other governmental bodies or agencies, and only if not prohibited by applicable local, state or federal laws or regulations.
- C. If any person drains or discharges any unpolluted water by means of conductors, eaves troughs, roof downspouts, footing drains, or otherwise, directly or indirectly, into a storm sewer, or natural outlet in violation of applicable laws or regulations, or into a sanitary sewer, the Township shall order its disconnection at the property owner's expense, and if the property owner refuses to obey the Township's order, then the Township may disconnect the connection and the costs shall be charged to the property owner. Any costs so incurred by the Township shall be assessed against the property and become a lien on the property if not timely paid.



**DIVISION 6. SYSTEM CHARGES AND RATES**

**2.6.1.**        *[Reserved.]*

**2.6.2.**        **Regular Rates**

The regular rates or charges to the users of the System shall be as follows:

A.        Connection Charge (Tap-in fee).

(1)        Direct connections:

(a)        Single-family dwellings. The connection charge for the single family dwelling property owner connecting to the present System shall be a sum established from time-to-time by resolution of the Township Board.

(b)        All other properties or units. The connection charge for all other property owners connecting to the System, including, but not limited to, single-family residential units with home occupancy privileges, multi-family residential units, and commercial and industrial units shall be determined as follows: The connection charge shall be equal to the number of equivalent users derived from Equivalent Use Factor Table multiplied by the single-family dwelling connection charge; provided, however, that the minimum connection charge shall not be less than the single-family dwelling connection charge.

(2)        Expansion or Change Charge (Use Modification Charge): In addition, there shall be paid on behalf of each premises connected to the System, in cash, at the time of any change or expansion of use, for any change of use of any premises or expansion of use of any non-single-family residence premises, the sum of the single-family dwelling connection charge multiplied by the factors provided for in connection with monthly sewer use charges, to the extent that such expansion of use or change of use exceeds the initial connection charge or any previous charge or expansion of use charge for the premises.

B. Service Charge (User Fee).

- (1) For single-family residential users. The service charge for a single-family residential user shall be a monthly charge established annually by the Township Board.
- (2) For all users other than single-family residential users. The service charge for all users other than single-family residential users shall be an amount per month arrived at by multiplying the equivalent unit factor of the user by the rate for a single-family residential user (service charge for single-family residence times the equivalent unit factor equals the service charge). This category shall include, but is not limited to, non-single family residential users (such as semi-detached and row houses, mobile homes, apartments, or permanent multi-family dwellings); Commercial Users; and Industrial Users.

**2.6.3. Special Rates**

- A. Surcharges. Extra-Strength Users shall be charged a surcharge over and above the regular service charge. The surcharge amount shall be as determined from time-to-time by resolution of the Township Board. The surcharge shall be collected with each monthly billing and may be adjusted annually to reflect actual operation, maintenance, and replacement costs.
- B. Contractual Rates. The foregoing provisions relating to rates shall not be construed as prohibiting any special agreement or arrangement between the Township and a user or class of users whereby the sanitary wastes of unusual strength or character of the user or class of users may be accepted into the System, subject to payment therefore by the user or class of users.

**2.6.4. Revision of Rates and Deferring Charges**

- A. Revision of Rates. The rates hereby fixed are proportionate to the cost and sufficient to provide revenues for operation, maintenance, and replacement charges and such other charges, expenditures, and funds for the System as required by the Contracts (as defined in Section 2.1.2) and this Ordinance. The rates shall be reviewed prior to commencement of each fiscal year and the same may be revised and fixed by resolution of the Township Board as determined necessary by the Township Board to produce the amounts required to pay the charges and expenditures and provide the required funds.

B. Deferring Charges.

- (1) Connection charges. Although there shall be no waiver or forgiveness of connection charges, the Township Board may establish by ordinance a procedure pursuant to Michigan Public Act 368 of 1978 for a user in the case of undue hardship to defer partial or total payment of the connection charge by making application for such relief to the Township.
- (2) Service charges. No free service shall be furnished any user of the system and consequently, there shall be no waiver or deferring of the payment of the service charge.
- (3) Natural disaster. For those structures that have been rendered unusable by a natural disaster, the Township Board may establish a separate rate for the service charge.
- (4) Seasonal charge. The Township Board may, if deemed appropriate, establish guidelines and separate rates for seasonal use charges.
- (5) Vacant Structures.
  - (a) A property owner and sewer service customer may request that monthly service charges for a vacant structure on the owner's property be abated or suspended if the property meets any of the following criteria:
    1. The structure is damaged to such a degree that it no longer meets County Building Code standards for occupancy and work occurring on the property is not anticipated to generate any flow to the sanitary sewer system.
    2. The structure is physically separated from the public sewer system by disconnecting or capping the sewer lateral(s) leaving the property.
    3. The structure has been and remains vacant and unoccupied for a minimum of 12 consecutive months and an inspection of the property by Township Department of Public Works personnel, with the consent of the owner, confirms that the sewer is not being used.

- (b) The owner of a multi-family, commercial, or industrial building and sewer service customer paying a monthly rate of greater than one residential equivalent unit (1 EU) may request reduction of the service charge to 1 EU per month if the property meets the following criteria:
  - 1. The classified use of the building by which the Township determined the appropriate sewer service charge has ceased.
  - 2. No use of the sanitary sewer system is anticipated for a minimum of 90 consecutive days.
  - 3. An inspection of the property by Township Department of Public Works personnel, with the consent of the owner, confirms the sewer is not being used.
  
- (c) In each of the instances as provided by Sections 2.6.4(B)(5)(a) and (b), an application shall be made in writing by the property owner to the Township Public Works Administrator and the responsibility to determine compliance with the above criteria and the appropriate service charge adjustment, if any, shall be made by the Administrator. If an applicant disagrees with the decision rendered, the applicant shall retain the right to appeal the decision to the Township Board of Trustees.

**2.6.5. Table of Equivalent Use Factors**

- A. Adoption of Table. The Township Board shall adopt by resolution a table of equivalent factors to be entitled the “Table of Equivalent Use Factors for the Chocolay Township Wastewater Collection System.” The table may be modified or amended from time to time by resolution of the Township Board.
  
- B. Rules for Interpreting Table.
  - (1) The minimum equivalent use factor for a commercial or industrial user is 1.0 unit.
  - (2) Equivalent units not covered by the table of equivalent factors shall be established by resolution of the Township Board.
  - (3) If more than one business or multiple business suites are located within a building, each business or suite will be assigned its own equivalent user rate based on the

table of equivalent factors as determined applicable by the Township Public Works Administrator.

- C. Revision or Modification of Equivalent Factors. The equivalent units of users having an equivalent unit factor of more than 1.0 shall be reviewed by the Township at least once a year. Unless the equivalent unit factor of such a user is changed by resolution of the Township Board (or adjusted by the Township Public Works Administrator as provided by Section 2.6.5(D)) prior to the commencement of the System's fiscal year, the equivalent unit factor for such user shall remain the same as it was for the preceding fiscal year.
- D. Inspection and Adjustment by Township Public Works Administrator. In addition to revision or modification of equivalent unit factors by resolution of the Township Board, the Township Public Works Administrator is authorized to inspect user premises, and, if determined appropriate by the Administrator, adjust the equivalent units that may have been previously determined applicable to the premises. If the Administrator determines that an adjustment is appropriate, the user shall be billed in accordance with the changed equivalent unit factor as otherwise provided by this Division.

**2.6.6. Billing and Payment of Charges**

- A. Service charge and surcharges. Service charges and surcharges shall be billed monthly, and the bill shall represent a charge for the period immediately preceding the date of rendering the bill. The bill shall be payable by the 25<sup>th</sup> day of said month, and any bill not paid by the 25<sup>th</sup> day of said month shall be deemed delinquent and a penalty of 10% of the amount of such billing shall be added thereto and shall be due and owing as a part of the billing.
- B. Non-payment of service charge or surcharge.
  - (1) Discontinuance of service. If a user charge or surcharge remains delinquent for a period in excess of 3 months, the Township shall have the right to shut off sewer service to such user. Such service shall not be re-established until all delinquent charges, surcharges, penalties, and a turn-off charge to be established by resolution of the Township Board has been paid.
  - (2) Collection by suit. In addition to discontinuing service, the Township shall have the option of collecting all delinquent amounts and penalties by legal proceedings in a court of law.

- (3) Collection by enforcement of lien. Service charges, including the penalties due thereon, which remain delinquent for a period in excess of 6 months shall constitute a lien on the premises served thereby, unless the Township is furnished with written notice that a tenant is responsible for such charges. The lien shall be perfected by the Township official or officials in charge of the collection thereon by certifying annually, not later than September 1 of each year, to the tax assessing officer the fact of such delinquency. Thereupon, the charge shall be entered by the tax assessing officer 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 taxes against such premises are collected and the lien thereof enforced. If the Township is provided with notice in writing, including a copy of the lease of the affected premises, that a tenant is responsible for the sewer charge, the Township may require as a condition to rendering sewer services to such premises a cash deposit equal to service charges for 3 months as security for the payment of service charges. When the security deposit is used for payment of delinquent charges, no further service will be provided until the deposit has been repaid. The tenant and the property owners shall be notified in writing, 10 days in advance of application of the deposit against the delinquent charges.
- (4) A user's failure to fully and timely pay service charge or surcharge amounts as provided by this Division shall constitute a violation of this Ordinance, subject to applicable fines, penalties and other enforcement actions provided by this Ordinance.

#### **DIVISION 7. OTHER FINANCIAL CONSIDERATIONS**

##### **2.7.1. Fiscal or Operating Year**

The Township Wastewater Collection System shall be operated on the same fiscal year basis as the Township.

##### **2.7.2. Records and Accounts**

The revenues of the System shall be set aside as collected and deposited in a separate depository account in a bank duly authorized to do business in the State of Michigan in an account to be designated "Sewer Receiving Fund", and the revenues so deposited shall be transferred from the Sewer Receiving Fund periodically in the manner and at the times hereinafter specified.

- A. Operation and Maintenance Fund. Out of the revenues in the Sewer Receiving Fund there shall be first set aside into a depository account designated "Operation and Maintenance Fund" a sum sufficient to provide for the payment for the next succeeding period of all current expenses of administration and operation of the System and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.
- B. Replacement Fund. There shall next be established and maintained a depository account designated "Replacement Fund" which shall be used solely for the purpose of making major repairs and replacements to the System if needed. There shall be set aside into said fund after provisions have been made for the Operation and Maintenance Fund such revenues as the Township Board shall deem necessary for this purpose.
- C. Contract Payment Fund. There shall next be established and maintained a depository account, to be designated "Contract Payment Fund" which shall be used solely for the payment of the Township's obligation to the County of Marquette pursuant to the County-Township Contract (as defined in Section 2.1.2). There shall be deposited in the Contract Payment Fund such sums as shall be necessary to pay the contractual obligations when due. If the revenues of the System prove insufficient for this purpose, the revenues may be supplemented by any other funds of the Township legally available for that purpose.
- D. Improvement Fund. There shall next be established and maintained an "Improvement Fund" for the purpose of making improvements, extensions and enlargements to the System. There shall be deposited into the Improvement Fund after providing for the foregoing funds such revenues as the Township Board shall determine.
- E. Surplus Monies. Monies remaining in the Sewer Receiving Fund at the end of any operating year after full satisfaction of the requirements of the foregoing funds may, at the option of the Township Board, be transferred to the Improvement Fund or used in connection with any other project of the Township reasonably related to purposes of the System.
- F. Bank Accounts. All monies belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the monies shall be allocated on the books and records of the Township within this single bank account, in the manner set forth above.
- G. Deficiency in Funds. If the monies in the Sewer Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, Replacement Fund, or the Contract Payment Fund, any monies and/or securities in other funds of the System

may be transferred to the Operation and Maintenance Fund, Replacement Fund, or the Contract Payment Fund to the extent of any deficiency therein. The fund from which the transfer was made must be replenished and if there are insufficient funds, the rates must be increased to an amount capable of recovering the transfer.



**ARTICLE III. REGULATION OF DISCHARGES TO THE POTW AND THE  
MARQUETTE AREA WASTEWATER TREATMENT FACILITY**

**DIVISION 1. GENERAL PROVISIONS**

**3.1.1. Purpose and Scope of Article III**

- A. This Article provides additional requirements and procedures that apply to wastewater discharged to the Township Wastewater Collection System that is then conveyed to the City Wastewater Collection System and ultimately to the Marquette Area Wastewater Treatment Facility (“MAWTF”) for treatment and disposal (the Township Wastewater Collection System, the City Wastewater Collection System and the MAWTF are collectively referred to as the “POTW”).
- B. This Article shall be administered and enforced by the Authorized Local Unit Representatives as defined and provided by this Ordinance.
- C. If any user discharges or proposes to discharge wastewater or pollutants that are prohibited or limited by this Article, an Authorized Local Unit Representative may take any action as provided by this Article or other applicable laws or regulations to assure and require compliance with the provisions of this Article.

**DIVISION 2. REGULATION OF DISCHARGES TO THE POTW**

**3.2.1. Discharge Prohibitions**

No person shall discharge to the POTW except in compliance with this Article and other applicable provisions of this Ordinance.

The general discharge prohibitions under Section 3.2.1(A) and the specific discharge prohibitions under Section 3.2.1(B) apply to every person whether or not the person is subject to any other national, state, or local pretreatment standards or requirements, and whether or not the discharge is made pursuant to a User Permit issued pursuant to this Article.

- A. General Prohibitions. No person shall contribute or cause to be contributed, directly or indirectly to the POTW, any pollutant or wastewater that will pass through or interfere with the operation or performance of the POTW.

- B. Specific Prohibitions. No person shall discharge or contribute to the POTW, directly or indirectly, any of the pollutants, substances, or wastewater as provided by this Subsection 3.2.1(B). This Subsection 3.2.1(B) sets forth the minimum requirements for a user's discharges to the POTW. Additional or more restrictive requirements may be required of particular users by a User Permit, or as otherwise authorized or required by this Article or other applicable laws and regulations.
- (1) Any pollutant, substance, or wastewater (including, but not limited to, organic, inorganic, or compatible pollutants) that exceed the maximum concentrations, loadings, or flows (instantaneous, daily maximum, monthly average, or other specified limit or prohibition) that is applicable to the person's discharges under any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Local Unit Representative under this Article, or by other applicable, local, state, or federal laws or regulations.
  - (2) Any liquid, solid, gas or other pollutant (including, but not limited to, gasoline, benzene, naphtha, fuel or fuel oil) which by reason of its nature or quantity is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to persons, the POTW, or to the operation of the sewerage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F or 60° C using test methods specified in 40 CFR 261.21; and any pollutant which (alone or by interaction with other substances) causes an exceedence of 10 percent of the lower explosive limit (LEL) at any point within the POTW.
  - (3) Any pollutant that may cause corrosive structural damage to the POTW or any related facilities or equipment, or that due to the pollutant's corrosive properties is capable of causing injury to persons or POTW personnel, or harm to fish, animals or the environment. In any case, discharges that have a pH lower than 6.5 s.u. (instantaneous minimum limit) or greater than 9.5 s.u. (instantaneous maximum limit) shall not be discharged.
  - (4) 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.
  - (5) Any pollutant, including, but not limited to, oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration that may cause pass

through or interference with the POTW or constitute a slug loading, or is otherwise discharged to the POTW in excessive amounts.

- (6) Wastewater (or vapor) having a temperature that will inhibit biological activity in the POTW or result in interference, or heat in such quantities that the temperature at any lift station or at the MAWTF exceeds 104° Fahrenheit (40° C). No discharge to the POTW shall have a temperature less than 40° Fahrenheit (4.4° C) or greater than 135° Fahrenheit (57.2° C), unless approved in advance by the Authorized Local Unit Representative.
- (7) Petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, in amounts that may cause interference or pass through.
- (8) Pollutants that result in the presence of gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems. This prohibition includes, but is not limited to, wastewaters which contain liquids, solids or gases that cause gases, vapors or fumes from the discharge to exceed 10% of the immediately dangerous to life and health (IDLH) concentration. Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the Authorized Local Unit Representative. 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.
- (9) Substances that, either alone or by interaction with other substances, cause or substantially contribute to increases in sewer gas hydrogen sulfide levels above 10 parts per million vapor (ppmv) concentration in downstream collection system lift stations, manholes or sewers. If the Authorized Local Unit Representative determines that a User's discharge is in violation of this prohibition, the Representative may require the User to take whatever actions are determined necessary and appropriate by the Representative to reduce the concentration of sewer gas hydrogen sulfide levels to less than 10 ppmv.
- (10) Trucked or hauled pollutants, except those introduced into the system at discharge points designated by the Authorized Local Unit Representative, subject to the prior approval of the Representative and prior issuance of a User Permit.
  - (a) An Authorized Local Unit Representative shall determine whether to allow the discharge of trucked or hauled pollutants based on the particular nature,

character or quantity of the proposed discharge in accordance with the discharge prohibitions, limitations and requirements provided by this Section.

- (b) An Authorized Local Unit Representative may impose any conditions on the discharge determined necessary to ensure compliance with this Section, including, without limitation, conditions regarding the time, place, and manner of discharge, restrictions on the quantity and quality of the discharge, and sampling requirements.
- (c) The discharge shall not commence without prior notice to, and authorization from, the Authorized Local Unit Representative, and a representative of the POTW shall be present at all times during the discharge.
- (d) All trucked or hauled wastes to be discharged to the POTW must be accompanied by a completed waste manifest form signed by the permittee and the hauler as provided by the minimum requirements of this Section. The permittee shall certify in writing on the manifest as to the source of all wastes in the load proposed to be discharged and that the wastes have been pretreated as required by applicable pretreatment standards and requirements. The hauler shall certify in writing on the manifest that the hauler has accepted no wastes other than those listed on the manifest. The manifest must be reviewed by the Authorized Local Unit Representative prior to commencing discharge of the load. Failure to accurately record every load, falsification of data, or failure to transmit the form to the Representative for review prior to discharge shall constitute a violation of the permit and may result in revocation of the permit and/or the imposition of fines and penalties as provided by this Section.
- (e) The permittee's discharge of hauled wastes shall be subject to sampling by the Authorized Local Unit Representative at any time, including, without limitation, prior to and during discharge, at no cost to the POTW. An Authorized Local Unit Representative may require the permittee to refrain from, or suspend, discharging until the sample analysis is complete.
- (f) Trucked or hauled pollutants will be accepted only if transported to the POTW in compliance with state and federal hazardous waste and liquid industrial waste laws.

- (g) Each discharge of trucked or hauled pollutants will be accepted only after payment to the POTW of a trucked or hauled pollutant discharge fee as required by the Authorized Local Unit Representative. Additional fees and charges may also be assessed to cover the POTW's administrative, consulting and legal expenses, and any additional treatment, handling or inspection expenses incurred by the Authorized Local Unit Representative in connection with the discharge. Any such additional fees shall be established, paid, and collected as provided by this Article for IPP fees. This discharge fee and any other fees and charges as provided by this subsection shall be in addition to surcharges that are otherwise applicable to the discharge.
- (h) The discharge of septage waste of any kind is prohibited unless approved in advance by the Authorized Local Unit Representative, only at septage receiving stations as specifically designated by the Authorized Local Unit Representative, and subject to compliance with any additional regulations and requirements established by the Authorized Local Unit Representative
- (11) Wastewater with color or light absorbency characteristics that may interfere with or analytical determinations, or pass through treatment processes, including, without limitation, dye wastes and vegetable tanning solutions.
- (12) Any garbage (commercial or residential); provided that disposal of domestic food waste into the POTW shall be permitted only after it has been pulverized by an installed food-waste-grinder unit installed in accordance with the current Plumbing Code adopted by the Local Unit.
- (13) Solvent extractibles, including, without limitation, oil, grease, wax, or fat, whether emulsified or not, in excess of applicable local limits; mineral oils from the viscosity range of kerosene on up; 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.
- (14) Any wastewater or substance that contains insoluble solids in excess of 10,000 mg/l or exceeds a daily maximum of 500 mg/l or that contains a combination of soluble and insoluble material in excess of 20,000 mg/l and must not contain any insoluble substances having a specific gravity greater than 2.65.

- (15) Soluble substances in a concentration that may increase the viscosity to greater than 10% over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.
- (16) Any substance that exerts or causes a high or unusual concentration of inert suspended solids, as determined by the Authorized Local Unit Representative, including, but not limited to, lime slurries, diatomaceous earth, and lime residues.
- (17) Any wastewater that contains suspended solids of such character, quantity or concentration that special attention is required, or additional expense incurred, to process or handle such materials at the POTW.
- (18) Any substance that exerts or causes a high or unusual concentration of dissolved solids, including, but not limited to, sodium chloride or sodium sulfate.
- (19) Any substance, including, but not limited to, noxious or malodorous liquids, gases, fumes, or solids, that either singly or by interaction with other wastes are sufficient to create a public nuisance, cause workplace conditions in violation of any applicable workplace health or safety standard, pose a hazard to life, sufficient to prevent entry into the sewers for maintenance and repair, or cause any hazardous or unsafe conditions for the general public.
- (20) Anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, cleaning solvents, oil-based paint, water-based paint with mercury biocides, and paint thinners.
- (21) Any radioactive wastes or isotopes of a half-life or concentration unless the user is authorized to use radioactive material by the U.S. Nuclear Regulatory Commission or other governmental agency with authority to regulate the use of radioactive materials; and the discharge is otherwise in full compliance with the regulations of the U.S. Nuclear Regulatory Commission and any other applicable local, state or federal regulations.
- (22) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to cause or result in excess foaming during the treatment process. Excess foaming is any foam that, in the opinion of the Authorized Local Unit Representative, may interfere with the treatment process.

- (23) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to cause or result in foam in the POTW's effluent.
- (24) Wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, animals, fish or aquatic life, create a toxic effect or hazard in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.
- (25) Any hazardous waste as defined by this Ordinance.
- (26) Any medical or infectious wastes, as defined by EGLE.
- (27) Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal, or otherwise interfere with the reclamation, reuse, or disposal process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under 40 CFR Part 503; under Section 405 of the Clean Water Act; under the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; or any more stringent state or local regulations, as applicable.
- (28) Any unpolluted water, including but not limited to, non-contact cooling water, air-conditioning water, swimming pool water, storm water, surface water, groundwater, roof runoff, and surface or subsurface drainage, except to a storm sewer as authorized by this Article and other applicable local, state, and federal laws and regulations, and subject to the prior approval of the Authorized Local Unit Representative and EGLE.
- (29) Any contaminated groundwater or landfill leachate determined by the Authorized Local Unit Representative to have a reasonable potential to adversely affect the operation of the POTW, to result in pass through or interference, or to violate any pretreatment standard or requirement.

- (30) Any wastewater or substance that may cause the City to violate its NPDES permit, or that does not comply with pretreatment standards or requirements, the receiving water quality standards, or associated local, state or federal laws, rules or regulations.
- (31) Any wastewater or substance in quantities that contribute to a high chlorine demand, including, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulfate. In no case shall any wastewater with a chlorine demand in excess of 15 mg/l be discharged.
- (32) Any wastewater that exceeds applicable categorical pretreatment standards, requirements or limits prescribed by local, state or federal laws, rules or regulations.
- (33) Any compatible or incompatible pollutant in excess of the allowed limits as determined by applicable local, state or federal laws, rules or regulations.
- (34) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any person's wastewater or air pollutants.
- (35) Residue (total on evaporation) in an amount that will cause obstruction to the flow in the POTW resulting in interference.
- (36) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment to only such degree that the MAWTF effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (37) Any nondomestic wastewater before the POTW has approved a Notice of Intent submitted according to Section 3.4.8.
- (38) Waste not typically discharged to a sanitary sewer system unless specifically authorized by the Authorized Local Unit Representative pursuant to policies and procedures established by the Representative and subject to limitations set forth in this Article.
- (39) Any discharge not in compliance with the mass, concentration, volume, flow rate, or other limitations or requirements specified in a User Permit.



- (40) Any discharge with an average daily flow greater than 2% of the POTW's average daily wastewater flow, or having a rate of flow (gallons per day) greater than 10% of the POTW's average daily wastewater flow for a period of one (1) hour or more, except with the prior review and approval of the POTW.
  - (41) Any discharge with detectable levels of a fungicide, herbicide, or pesticide.
  - (42) Fats, oils, or greases of animal or vegetable origin in amounts that may cause interference or pass-through.
  - (43) Any pollutant, substance, or wastewater that may contain more 100 mg/l by weight, of fat, oil, or grease or exceed a daily maximum of 25 mg/l.
  - (44) Any trash.
  - (45) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to:
    - (a) create a chemical reaction with any materials of construction to impair the strength or durability of sewer structures;
    - (b) cause a mechanical action that will damage or destroy sewer structures;
    - (c) impede or restrict the hydraulic capacity of the POTW or causes a hydraulic surge in the POTW;
    - (d) cause or result in turbidity, color, excessive odor, oil films, floating solids, settleable solids or deposits in the POTW's effluent;
    - (e) interfere with normal inspection or maintenance of sewer structures;
    - (f) place unusual demands upon the wastewater treatment equipment or processes by biological, chemical or physical means; or
    - (g) cause a hazard to human life or create a public nuisance.
- C. Pollutant Reduction Plans. If the Authorized Local Unit Representative determines that a user has the reasonable potential to discharge any regulated pollutant (including, but not limited to, mercury or PCBs) to the POTW in quantities or magnitude that may cause

interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause noncompliance with applicable federal or state laws or regulations; cause the City to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this Article, then the Representative may require the user to develop, submit for approval, and implement a Reduction Plan (“RP”) for the pollutant, as provided by this Section. The RP may be imposed as a condition to a User Permit, or may be required independently and even if a User Permit has not been issued to the user.

- (1) At a minimum, the RP shall contain such requirements and conditions, as determined necessary by the Authorized Local Unit Representative to ensure that the pollutant reduction efforts will be effective in achieving the goals of this Article (including, but not limited to, requirements and conditions regarding user source identification; best management practices; schedules of compliance; monitoring, sampling and analysis; reporting; treatment system for removal of the pollutant from the discharged wastewater; written procedures for disposal of contaminated wastes and wastewater; employee training, and on-going employee training requirements regarding pollutant related issues; elimination, if feasible, of any purchased materials containing the pollutant; and any other elements determined necessary and appropriate under the circumstances by the Representative).
- (2) The goal of an RP shall be to maintain the amount of one or more pollutants or substances at or below the applicable discharge limits or levels, or such other goals as required by the Authorized Local Unit Representative. The Representative may, in the Representative’s sole discretion, consider cost-effectiveness during the development and implementation of an RP.
- (3) An Authorized Local Unit Representative may require any user to submit an RP that describes the control strategy designed to proceed toward achievement of the specified goal and shall at a minimum include, but shall not be limited to, all of the following as determined necessary by the Representative on a case-by-case basis:
  - a. Periodic monitoring for the pollutant in the user’s discharge.
  - b. Periodic monitoring of the potential sources of the pollutant in the user’s discharge.
  - c. A commitment by the user that reasonable control measures and/or best management practices will be implemented when sources of the pollutant

are discovered. Factors to be considered by the Authorized Local Unit Representative may include the following:

- (i) Significance of sources.
  - (ii) Economic considerations.
  - (iii) Technical and treatability considerations.
  - (iv) Such other factors as determined appropriate by the Representative.
- d. An annual status report. The report shall be sent by the user to the POTW and shall include, at a minimum, all of the following:
- (i) All RP monitoring results for the previous year.
  - (ii) A list of potential sources of the pollutant in the user's discharge.
  - (iii) A summary of all actions taken by the user to reduce or eliminate the identified sources of the pollutant or substance.
- (4) As determined necessary by the Authorized Local Unit Representative, the Representative may require a user to develop, submit and implement an RP for any pollutant or substance regulated by this Article. The Authorized Local Unit Representative may also modify an approved RP at any time as determined necessary by the Representative to meet the goals and objectives of this Article.
- (5) Failure to submit an approvable RP within the specified deadlines or to fully and timely comply with any condition or requirement of an approved RP shall constitute a violation of this Article, subject to the fine, penalty, and other enforcement provisions of this Article.
- (6) Holding enforcement action in abeyance. Except as provided for in Section 3.2.1(C)(6)(c)(iv) and (vi), if the effluent sample analysis results of a user's discharge exceeds the applicable discharge limit, detection level, or quantification level for a pollutant, the Authorized Local Unit Representative may, in the Representative's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance, subject to the terms, conditions, and requirements of this Section 3.2.1(C)(6), as follows:
- a. If an approved RP is already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is already in place, then the

Authorized Local Unit Representative may, in the Representative's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance for the period that the sample represents if the RP (and all terms, conditions and requirements thereof) is being fully and continually performed in good faith by the user, as determined by the Representative, and subject to all of the requirements and conditions of Section 3.2.1(C)(6)(c).

- b. If an approved RP is not already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is not already in place, then the Authorized Local Unit Representative may, in the Representative's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement regarding the prohibited discharge in abeyance, subject to all of the requirements and conditions of Section 3.2.1(C)(6)(c), and provided further as follows: The user with the non-compliant discharge shall develop and implement an RP approved by the Authorized Local Unit Representative to minimize the user's discharges of the pollutant in question to the POTW. The RP shall meet all of the requirements of this Section 3.2.1(C).
- c. The following requirements and conditions shall apply to any situation under this Section 3.2.1(C)(6) in which an enforcement action is held in abeyance as provided by this subsection (regardless of whether or not an RP was in place at the time of the non-compliance):
  - (i) The user with the non-compliant discharge shall have a POTW-accessible point for monitoring all discharges from the user to the POTW, as approved by the Authorized Local Unit Representative. All costs and expenses for and related to the installation and maintenance of this monitoring point and any required sampling devices shall be paid for solely by the user.
  - (ii) The user with the non-compliant discharge shall routinely self-monitor its discharges to the POTW for the pollutant in question using the sampling methods, procedures, preservation and handling, and analytical protocol required by the Authorized Local Unit Representative and at the frequency specified by the Representative.

All costs and expenses of this sampling and analysis shall be paid for solely by the user.

- (iii) The POTW may collect any additional samples of the user's discharge as determined necessary by the Authorized Local Unit Representative, all costs and expenses to be paid for by the user.
- (iv) If the user complies with all of the requirements and conditions for the RP as specified by the Authorized Local Unit Representative; and if the Representative determines that all reasonable and cost-effective actions based on the economic, technical, and treatability considerations, including, but not limited to, all elements of the user's RP, have been, and continue to be, fully and satisfactorily implemented by the user; and if the user's discharge does not cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause noncompliance with applicable federal or state laws or regulations; cause the City to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this Article, then the Representative may, in the Representative's sole discretion, hold enforcement action in abeyance and allow the user to continue the non-compliant discharge.
- (v) Notwithstanding any provision of this Section 3.2.1(C)(6) to the contrary, and regardless of whether a user fully complies with all requirements and conditions of this Section and/or of an approved RP, the Authorized Local Unit Representative shall have the unconditional right to prohibit and terminate any non-compliant discharge at any time and without prior notice, and to take any enforcement action in response thereto, including any enforcement action that had previously been held in abeyance under this Section 3.2.1(C)(6).
- (vi) Notwithstanding any provision of this Section 3.2.1(C)(6) to the contrary, the Authorized Local Unit Representative shall not hold an enforcement action in abeyance as provided by this subsection for any pollutant parameter other than mercury and PCBs unless the Representative has first obtained approval from EGLE to implement

the requirements of this Section 3.2.1(C)(6) for the specific pollutant parameter in question.

**3.2.2. Pretreatment Standards and Requirements**

- A. Compliance with applicable standards and requirements. The national categorical pretreatment standards as established for specific industries under 40 CFR chapter I, subchapter N are hereby made a part of the requirements of this Article in accordance with federal and state laws and regulations, and are incorporated by reference as if fully set forth in this Article. A user shall comply with all categorical pretreatment standards and any other pretreatment requirements established under the Clean Water Act that are applicable to that user. A user shall also comply with all other applicable pretreatment standards and requirements established under this Article or under state and federal laws and regulations.
- B. Deadlines for compliance. Compliance by existing sources with categorical pretreatment standards shall be within three (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 (whether or not subject to categorical standards) 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 ninety 90 days, new sources (whether or not subject to categorical standards) must meet all applicable pretreatment standards and requirements.
- C. Alternative categorical limits. Categorical pretreatment standards shall apply to a user subject to categorical standards, unless an enforceable alternative limit to the corresponding national categorical standards is derived using any of the methods specified in MAC R 323.2313 (regarding removal credits, fundamentally different factor variances, net/gross calculations, equivalent mass per day limitations, and combined wastestream formula alternative limitations). The use of any alternative categorical limit shall be subject to the prior approval of the Authorized Local Unit Representative. If local limits are more stringent than derived alternative categorical limits, the local limits shall control. All costs incurred by the Local Unit in determining or applying an alternative limit shall be reimbursed to the Local Unit by the user.
- D. Categorical pretreatment standard limits apply (and samples shall be taken) immediately downstream from pretreatment facilities if such exist for a regulated process discharge

within the user's premises or immediately downstream of the regulated process discharge if no pretreatment exists, at the location(s) determined by the Authorized Local Unit Representative. Categorical pretreatment standard limits are in addition to any other pretreatment standards, limits, and requirements applicable to a user's discharge to the POTW under a User Permit, this Article, or other local, state, and federal laws and regulations. If the categorical pretreatment standard limit applicable to a pollutant in a user's regulated process discharge is more stringent than other applicable discharge limits for that same pollutant in the user's discharge, the more stringent categorical pretreatment standard limit shall be complied with at the end-of-process categorical sampling location. If the categorical pretreatment standard limit applicable to a pollutant in a user's regulated process discharge is less stringent than other applicable discharge limits for that same pollutant in the user's discharge, the other more stringent limit shall nevertheless be complied with at the point of discharge to the POTW.

- E. 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).

### **3.2.3. Right of Revision**

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

### **3.2.4. POTW's Right To Refuse or Condition Discharge**

The POTW may refuse to accept, or may condition its acceptance of, all or any portion of any proposed or existing discharge to the POTW from any person, regardless of whether or not a User Permit has been issued for the discharge, if the Authorized Local Unit Representative 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 City 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 Authorized Local Unit

Representative 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 Representative. Similarly, if the Authorized Local Unit Representative 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 Representative, the person shall refrain from commencing or continuing the discharge except in full compliance with those conditions. This includes, but is not limited to, the POTW's right to revise or revoke User Permits.

**3.2.5. Most Restrictive Standards and Requirements Apply**

Notwithstanding any provision of this Article to the contrary, the most stringent or restrictive standard or requirement applicable to a user's discharge shall control, whether established by this Article, by any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Local Unit Representative under this Article, by state laws or regulations, including the City'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 Article 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 Article, and the most restrictive of those additional standards or requirements shall control and shall be complied with by the user immediately or within the time period specified by the law or regulation.

**3.2.6. Dilution Prohibited as Substitute for Treatment**

Unless expressly authorized to do so by an applicable pretreatment standard or requirement and subject to the prior approval of the Authorized Local Unit Representative, no user shall ever increase the use of process water, mix separate wastestreams, or in any other way attempt to dilute, thin, or weaken a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a federal, state, or local standard, requirement or limitation. The Authorized Local Unit Representative may impose mass limitations on Nondomestic Users that are using dilution to meet applicable pretreatment standards or requirements and in other cases where the imposition of mass limitations is appropriate. No user intending to use dilution as a substitute for treatment shall do so without the prior approval of the Authorized Local Unit Representative consistent with the requirements of this Section.



**DIVISION 3. USER PERMITS**

**3.3.1. User Permit Required**

- A. Nondomestic User Permits. It is unlawful and prohibited for any significant industrial user (SIU), or any other user as determined necessary by the Authorized Local Unit Representative to carry out the purposes of this Article, to discharge to the POTW without a Nondomestic User Permit as provided by this Section.
- B. General User Permits. The Authorized Local Unit Representative may require any person other than a SIU to obtain a General User Permit to discharge to the POTW, subject to such terms and conditions as are determined necessary and appropriate by the Representative to achieve the purposes, policies, and objectives of this Article.
- (1) A General User Permit may contain, but shall not be required to contain, any of the terms and conditions that would apply to a Nondomestic User Permit issued to a SIU as provided by this Section to comply with the general and specific discharge prohibitions of this Article, including, but not limited to, discharge limitations, and requirements regarding sampling and monitoring; pretreatment; pollution prevention, minimization or reductions plans; accidental discharge, spill prevention, and containment requirements; flow equalization; and implementation of best management practices or a best management practices plan.
  - (2) To the extent determined appropriate by the Authorized Local Unit Representative on a case-by-case basis, a General User Permit issued under this Subsection shall be subject to provisions otherwise applicable to permits for SIUs. However, all General User Permits shall be non-transferable, and are subject to the permit fee and permit appeals provisions of this Article.
  - (3) It is unlawful and prohibited for any person required by the Authorized Local Unit Representative to obtain a General User Permit to discharge to the POTW without a General User Permit as provided by this Section.
  - (4) Failure to comply with a General User Permit issued under this Subsection constitutes a violation of this Article.
  - (5) In no case shall a General User Permit be construed to authorize the illegal discharge or otherwise excuse a violation of this Article.

- C. Notwithstanding any provision of this Article to the contrary, if determined necessary by the Authorized Local Unit Representative to achieve the goals and purposes of this Article, the Representative may issue a User Permit to any person without first requiring the person to submit or complete a permit application.
- D. Any violation of the terms or conditions of a User Permit is a violation of this Article, subject to the fine, penalty, and other enforcement provisions of this Article. Obtaining a User Permit shall not relieve a person of the obligation to obtain other permits or approvals that may be required by other local, state or federal laws or regulations.
- E. The issuance of a User Permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state or federal laws or regulations.

**3.3.2. Determination Of User Status**

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

**3.3.3. Permit Application Deadlines**

Each user must file an application for a User Permit on the form provided by the Authorized Local Unit Representative within the following deadlines:

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

The Authorized Local Unit Representative may also require any other person to file the information required by Section 3.3.4 of this Article (whether or not that person is currently a user, and whether or not that person is otherwise currently discharging to the POTW, a storm sewer, or receiving waters), if the Representative determines that there is a reasonable potential for the person to discharge to the POTW, a storm sewer, or receiving waters, whether due to an accidental

spill or for any other reason. Any person directed by the Authorized Local Unit Representative to submit the required shall do so within the time frame as directed by the Representative.

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

#### **3.3.4. Permit Application Requirements**

All users required by the Authorized Local Unit Representative to apply for a permit (or applying for a permit on their own initiative) shall submit the information required by this Section on the User Permit application supplied by the Representative (or attached thereto) in the form and at a level of detail and in units and terms as determined necessary by the Representative to adequately evaluate the application, accompanied by payment of a permit application review fee. The information required to be submitted with an application, including but not limited to, blueprints, drawings, schematics, and site plans, shall be prepared and signed by a qualified licensed engineer unless otherwise approved in advance by the Authorized Local Unit Representative. A separate application and supporting documentation shall be submitted for each separate location for which a User Permit is required.

- A. The name, address, and location of the facility or premises from which discharge will be made, including the names of the owner(s) and operator(s) of the facility or premises.
- B. Corporate or individual name, federal employer identification number, address and telephone number of the applicant.
- C. Whether the user is a corporation, partnership, proprietorship, or other type of entity, and the name of the person(s) responsible for discharges by the user.
- D. Name and title of the local authorized representative of the user who will have the authority to bind the applicant financially and legally, and who is authorized by the applicant as its agent to accept service of legal process, and the address and telephone number of such representative.
- E. The Standard Industrial Classification (SIC) numbers of all processes at the location for which application is made, according to the Standard Industrial Classification Manual, as

amended (or, if applicable, the North American Industrial Classification System (NAICS) designation).

- F. Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application, including, but not limited to, any pollutants that are limited or regulated by any federal, state, or local standards or requirements. The information provided for such parameters shall include all of the following:
- (1) Pollutants having numeric or narrative limitations as provided by this Article.
  - (2) Pollutants limited by National Categorical Pretreatment Standards regulations for similar industries.
  - (3) For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided.
  - (4) For industries subject to National Categorical Pretreatment Standards or requirements, the data required shall be separately shown for each categorical process wastestream and shall include all information required in Section 3.4.1(A) for a Baseline Monitoring Report.
  - (5) Combined wastestreams proposed to be regulated by the combined wastestream formula shall be specified.
  - (6) Identification of any other potential pollutants of concern, even if not limited by numeric or narrative limitations as provided by this Article or subject to National Categorical Pretreatment Standards or requirements, including, but not limited to, all substances of a chemical, biological, or radioactive nature, and any pollutants not found in the source water supply that will be discharged from the premises.
- G. For purposes of information required by the application, sampling and analysis shall be performed either by the applicant or the Authorized Local Unit Representative, as determined by the Authorized Local Unit Representative, in accordance with the following: Procedures established by U.S. EPA pursuant to Section 304 (g) of the Clean Water Act and as contained in 40 CFR 136, as amended. If 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures in U.S. EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments or revisions thereto, or where appropriate and applicable, in

accordance with any other sampling and analytical procedures approved by EPA, or as otherwise specified by the Authorized Local Unit Representative.

- H. A listing and description of the following: plant activities, plant facilities, and plant processes on the premises for which the permit is being applied. Processes which are subject to National Categorical Pretreatment Standards or requirements shall be so designated, and identification of which pollutants are associated with each process shall be stated.
- I. A listing of the type and amount of raw materials and chemicals (including material safety data sheets) that are either used in the manufacturing process or could yield the pollutants referred to in this Section. Any user claiming immunity from having to provide such information shall furnish proof of such immunity that is acceptable to the Authorized Local Unit Representative and in accordance with all applicable local, state, and federal laws and regulations.
- J. A statement containing information on the spill containment and prevention of Accidental/Spill Discharges program for each of the pollutants referred to in this Section. The information provided shall include the following:
  - (1) The approximate average and maximum quantities of such substances kept on the premises in the form of the following: (a) raw materials; (b) chemicals; and/or (c) wastes therefrom; and
  - (2) The containment capacity for each of the above items.

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

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

For raw materials, chemical solutions or waste materials that contain any amount of any substance on the Critical Materials Register promulgated by EGLE, the statement shall

include the name of the substance and the expected concentration so that the Authorized Local Unit Representative can determine whether or not it may constitute a threat to the POTW if a spill occurs.

- K. The name and address of each laboratory performing (or that is expected to perform) analytical work for the user submitting the application.
- L. A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the 7 days of the week.
- M. Average and maximum 24-hour wastewater flow rates, including thirty (30) minute peak wastewater flow rates, and daily, monthly and seasonal variations, if any; and a list of each national categorical process wastestream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW, and list showing each combined wastestream. All flows shall be measured unless other verifiable techniques are approved by the Authorized Local Unit Representative.
- N. A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW, storm sewer, receiving waters, or onto the ground.
- O. A process flow schematic drawing showing which connections receive each national categorical process wastestream or other process wastestreams, and which connections receive storm water, sanitary water, or cooling water.
- P. A schematic drawing showing which sewers handle each wastestream, in-plant drainage lines, outfall lines, and the location of all outfalls.
- Q. Each product produced by type, amount, process or processes and the rate of production as pertains to processes subject to production-based limits under national categorical standards or requirements shall be specified.
- R. Actual or proposed hours of operation of each pretreatment system for each production process.
- S. A description and schematic drawing showing each pretreatment facility, identifying whether each such facility is of the batch type or continuous process type.

- T. Identification of the user's sources of intake water together with the types of usage (e.g., processing, cooling, waste transportation) and disposal method of each water source, the estimated wastewater volume in gallons from each source, and whether the discharge will be to the sanitary sewer, storm sewer, receiving water (surface or ground), or onto the ground.
- U. A statement certified by a qualified professional regarding whether the requirements of this Article and the national categorical pretreatment standards and requirements are being met on a consistent basis; and if not, what additional operation and maintenance work and/or additional construction is required for the user to comply with applicable standards and requirements.
- V. A list of all environmental permits (and, if requested by the Authorized Local Unit Representative, a copy of any environmental permit) held by the user applicable to the premises for which the User Permit is being sought.
- W. Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state, and local pretreatment standards and requirements. If additional O&M or additional pretreatment will be required to meet the applicable standards and requirements, then the user shall indicate the shortest time schedule necessary to accomplish installation or adoption of the additional O&M and/or pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (including, without limitation, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to above shall exceed nine (9) months, nor shall the total compliance period exceed eighteen (18) months.
  - (2) No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the



established schedule. In no event shall more than nine (9) months elapse between submissions of the progress reports to the POTW.

- X. The names and qualifications of the person or persons that will control or supervise the waste treatment facilities, process facilities, waste streams, spill containment, accidental discharge control, or other facilities generating wastes or possessing potential discharges to the POTW.
- Y. Any other information determined necessary by the Authorized Local Unit Representative 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.
- Z. All applications (and reapplications) shall be signed and certified by an authorized representative of the user as defined by this Ordinance.

**3.3.5. Permit Issuance, Denial, or Determination that Permit not Required**

- A. The Authorized Local Unit Representative shall evaluate the application information furnished by a user and may require additional information as necessary to complete and properly review the application. No action shall be taken by the Authorized Local Unit Representative on an application (and the 120 day review period as provided by this subsection shall not begin to run) until the application is determined to be complete by the Representative. Within 120 days after the submission of a complete application (unless the POTW and the applicant agree to extend this time period), the POTW shall either issue a User Permit subject to terms and conditions provided by this Article, deny the issuance of a permit, or determine that a permit is not required as provided by this Article.
- B. A User Permit may be denied by an Authorized Local Unit Representative:
  - (1) If the Authorized Local Unit Representative determines that the proposed discharge, or continued discharge, will not comply with all applicable standards and requirements of this Article;
  - (2) If the user refuses, fails or declines to accept the terms and conditions of a permit as proposed to be issued by the Authorized Local Unit Representative;
  - (3) For any reason that would support a suspension or revocation of the permit as provided by this Article

- (4) If the Authorized Local Unit Representative determines that the POTW cannot adequately or reasonably treat the user's discharge (due to insufficient capacity, the quality or quantity of the pollutants, available POTW resources etc.);
- (5) If the Authorized Local Unit Representative is not satisfied that the user has not taken all reasonable steps to prevent, minimize or reduce pollutants in the user's discharge;
- (6) To prevent the discharge of pollutants into the POTW, singly or in combination with other pollutants, for which there is a reasonable potential, as determined by the Authorized Local Unit Representative, to:
  - (a) Not meet applicable pretreatment standards and requirements;
  - (b) Interfere with the operation of the POTW;
  - (c) Pass through the POTW into the receiving waters or the atmosphere;
  - (d) Inhibit or disrupt the POTW's processing, use, or disposal of sludge;
  - (e) Cause health or safety problems for POTW workers; or
  - (f) Result in a violation of the City's NPDES permit or of other applicable laws and regulations;
- (7) If an Authorized Local Unit Representative determines that there is not, or will not be, sufficient capacity available (in both wastewater volume and strength) for a proposed discharge in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat, and dispose of BOD, TSS, or similar materials as required by applicable local, state, or federal laws, rules, or regulations; or
- (8) For any other reason determined by an Authorized Local Unit Representative as necessary and appropriate to protect the POTW or to meet the purposes and intent of this Article.

**3.3.6. Permit Conditions**

- A. User Permits shall be subject to all provisions of this Article and all other applicable regulations, user charges, and fees established by an Authorized Local Unit Representative. Further, User Permits incorporate by reference all provisions, regulations, and requirements of the Ordinance without setting them forth in full therein.
  
- B. User Permits shall at a minimum include any conditions determined reasonably necessary by the Authorized Local Unit Representative to prevent pass through or interference, to protect the quality of the receiving waters, to protect worker health and safety, to facilitate POTW sludge management and disposal, to protect ambient air quality, to protect against damage to the POTW, or to otherwise achieve the objectives of this Article, including, but not limited to, the following:
  - (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
  - (2) Limits on the instantaneous, maximum, or average concentration, mass, or other measure of identified wastewater constituents or properties for specified pollutant parameters (including, but not limited to, BOD, COD, temperature, pH, suspended solids, volatile suspended solids, soluble metal wastes, toxins, pesticides, herbicides, solvents, detergents, and other wastes capable of creating hazards to humans, animal, or aquatic life or which might create any hazards to sewers, wastewater treatment plant or the receiving waters).
  - (3) Designation of permissible discharge points (outfalls) into sanitary sewers, storm sewers, surface waters, ground water, and/or onto the ground.
  - (4) 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.
  - (5) Development and implementation of slug discharge control plans, spill containment or control plans, or other special conditions, and requirements for containment facilities and/or additional management practices necessary to adequately prevent accidental or unanticipated discharges.
  - (6) Requirements for installation, maintenance, repair, calibration and operation of inspection and sampling facilities and discharge flow monitors.

- (7) Specifications for monitoring programs which shall include, but are not limited to, sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (8) Compliance schedules.
- (9) Requirements for submission of technical reports or discharge reports.
- (10) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Authorized Local Unit Representative and affording the POTW access to those records.
- (11) Requirements for notifying the POTW if self-monitoring indicates a violation as provided by Section 3.4.4 of this Article, and for repeat sampling and analysis as provided by Section 3.5.6 of this Article.
- (12) Requirements for notification of any new introductions of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW, including listed or characteristic hazardous waste for which the user has submitted initial notification under MAC R 323.2310(15).
- (13) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.
- (14) Requirements for notification of accidental or slug discharges, or discharges that exceed a discharge prohibition.
- (15) Requirements for notification and need for prior approval from the Authorized Local Unit Representative for any proposed change in a sampling location.
- (16) A statement regarding limitations on transferability of the permit.
- (17) A statement of the duration of the permit.
- (18) 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.

- (19) Requirements for a written certification signed by the permittee that acknowledges that the permittee has read and fully understands all terms and conditions of the permit; and acknowledges that the permittee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the permit as approved.
- (20) A statement of applicable civil and criminal penalties for violation of discharge limitations, pretreatment standards and requirements, and compliance schedules.
- (21) Requirements regarding development by a user of a pollutant prevention, minimization or reduction plan (including, but not limited to, mercury or PCBs) or requirements regarding use of best management practices to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants, or other substances to the POTW, or otherwise meet the purposes, policies and objectives of this Article.
- (22) Requirements regarding development by a user of a sampling plan for one or more pollutant parameters to be approved by the Authorized Local Unit Representative.
- (23) Other conditions as determined necessary by the Authorized Local Unit Representative to ensure compliance with this Article and other applicable laws, rules and regulations.

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

### **3.3.7. Discharge Limits**

A User Permit may contain mass-based and/or concentration discharge limits for specific pollutants as determined necessary by the Authorized Local Unit Representative to control the user's discharges to the POTW consistent with the purposes and requirements of this Article.

- A. In developing discharge limits for a user's discharge, the Authorized Local Unit Representative may require the user to submit any information that the Representative determines will be necessary to adequately evaluate the user's discharge. This information may include, but shall not be limited to, any of the information that is required to be provided in a User Permit application as set forth in Section 3.3.4 of this Article.

- B. The Authorized Local Unit Representative may require a review of historical data from sampling and monitoring the user's discharge if available, including, but not limited to, concentration and flow data. The user may be required to update this data using any means or methods determined necessary by the Representative. The Authorized Local Unit Representative may also require a review of typical discharge concentrations and flows for similar users, and any applicable categorical standards.
- C. A site inspection may be required if deemed necessary by the Authorized Local Unit Representative.
- D. The Authorized Local Unit Representative shall review the status of the POTW's current MAHL and/or MAIL for each pollutant for which a discharge limit is required to determine if sufficient loading remains to accommodate all or any part of a user's discharge.
- E. The Authorized Local Unit Representative shall also review whether the pollutant for which the discharge limit is being developed is, or should be, subject to a Collection System Limitation.
- F. Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the Authorized Local Unit Representative. 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.
- G. If determined necessary by the Authorized Local Unit Representative, the Representative may require that an updated MAHL study be conducted to determine whether there is sufficient loading capacity to accommodate the user's discharge or a proposed discharge limit for a particular pollutant in the user's discharge.
- H. After completing the review, the Authorized Local Unit Representative may establish a discharge limit for one or more pollutants in a user's discharge, subject to any terms, conditions, or requirements determined necessary by the Representative, including, but not limited to, required monitoring methods and frequencies; provided that no proposed or existing discharge limit shall: (1) significantly hinder the capacity of the POTW to accept additional waste from new or existing domestic or nondomestic customers; (2) result in an exceedance of the POTW's MAHL for the discharge limit pollutant; (3) result in an exceedance of the POTW's MAIL for the discharge limit pollutant; (4) have a discharge concentration (or equivalent discharge concentration if the discharge limit is a mass limit) that exceeds a Collection System Limitation applicable to the discharge limit pollutant; or

- (5) be approved or allowed to continue unless the Representative has determined that the discharge limit is reasonable and appropriate under all of the circumstances, consistent with the purposes and objectives of this Article, the POTW's written procedures, the City's NPDES permit, and other applicable laws and regulations.
- I. If the user's discharge is already subject to a User Permit with existing discharge limits, the Authorized Local Unit Representative may modify or reissue the user's User Permit to incorporate any new or revised discharge limit in the permit.
- J. A maximum limit established for a pollutant parameter is the concentrations (or equivalent concentration) that may not be exceeded and at which enforcement begins. If a pollutant parameter is also subject to surcharge and a surcharge threshold concentration has been established, the surcharge threshold concentration is the concentration above which surcharges may be imposed. Discharges exceeding the surcharge thresholds, and which also exceed the maximum limit for the pollutant (or which violate any other applicable prohibitions, limitations, standards, or requirements), are violations of this Article, and are also subject to surcharges as provided by this Article. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements constitute a violation of this Article, subject to applicable fines, penalties and other enforcement actions. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Article.
- K. The development of discharge limits or implementation of discharge limits in a User Permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state or federal laws or regulations. All discharge limits may be reviewed, reevaluated, modified, and/or revoked without notice at any time and for any reason determined appropriate by the Authorized Local Unit Representative. At a minimum, all existing discharge limits shall be reviewed whenever the City's NPDES permit is subject to renewal.
- L. All costs and expenses, direct and indirect, associated with developing discharge limits for a user shall be paid for by the user, including, but not limited to, the costs of reviewing the user's request for discharge limits, all studies and reports, and all monitoring, sampling and generation of data; the full value of any POTW staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees (including the POTW's legal counsel and any special legal counsel), associated with developing the discharge limit for the user. At any time prior to, during, or

after the discharge limit development process, the Authorized Local Unit Representative may require a user to post a performance bond (or other form of surety acceptable to the Representative) sufficient to cover all costs and expenses (direct and/or indirect) that might reasonably be incurred by the Representative as a result of the development or implementation of a discharge limit, as determined necessary by the Representative.

- M. Discharge limits may also be imposed on a user's discharges by way of an order issued by the Authorized Local Unit Representative under the is Article, whether or not a permit has been issued to the user.

**3.3.8. Permit Modifications**

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

- A. To incorporate any new or revised federal, state or local pretreatment standards or requirements, or other applicable requirement of law or regulation.
- B. Material or substantial changes or additions to the permittee's operations, processes, or the character or quality of discharge that were not considered in drafting or issuing the existing permit. It shall be the duty of a user to request an application form and to apply for a modification of the permit within 30 days of any such change(s). The POTW may modify a permit on its own initiative based on its findings or upon reasonable cause to believe that any such change(s) has occurred or threatens to occur.
- C. A change in any condition in the permittee's discharge, facility, production or operations, or in the POTW, that requires either a temporary or permanent reduction or elimination of the permittee's discharge to assure compliance with applicable laws, regulations or the City's NPDES permit.
- D. Information indicating that the permitted discharge poses a threat to collection or treatment systems; the POTW's processing, use, or disposal of sludge; POTW personnel; or the receiving waters.
- E. Violation of any terms or conditions of the user's permit.



- F. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required report or notice.
- G. Revision of, or a grant of a variance from, applicable categorical standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the permit.
- I. To reflect transfer of the facility ownership and/or operation to a new owner or operator.
- J. To add or revise a compliance schedule for the permittee.
- K. To reflect changes or revisions in the City'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 Authorized Local Unit Representative 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 Authorized Local Unit Representative to meet applicable laws, to protect human health or the environment, or to facilitate an enforcement action.

**3.3.9. Permit Duration**

- A. Nondomestic User Permits shall be issued for a specified time period, not to exceed 5 years, subject to modification, reissuance, suspension or revocation as provided by this Section. At the sole discretion of the Authorized Local Unit Representative, a Nondomestic User Permit may be issued for a period less than 5 years and may be stated to expire on a specific date.

- B. General User Permits may be issued for any time period determined appropriate by the Authorized Local Unit Representative, subject to modification, reissuance, suspension, or revocation as provided by this Section.

**3.3.10. Permit Reissuance**

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

**3.3.11. Continuation of Expired Permits**

An expired User Permit will continue to be effective until the permit is reissued only if: (a) the user has submitted a complete permit application at least 90 days prior to the expiration date of the user's existing permit (or at least 180 days prior to the expiration date of a 5 year permit); and (b) the failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the user. In all other cases, discharge to the POTW following expiration of a permit is unlawful.

**3.3.12. Permit Suspension and Revocation**

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

- A. Falsifying self-monitoring reports or any other report, notification, or submission.
- B. Tampering with monitoring equipment.
- C. Failure to allow timely and reasonable access to the permittee's premises and records by representatives of the POTW for purposes authorized by this Article, 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 Article, or any final judicial order entered with respect thereto.
- J. Failure to comply with any reporting or notice requirement.
- K. Failure to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresentation of any relevant fact at any time.
- L. Failure to complete a wastewater survey or the User Permit application.
- M. As determined by the Authorized Local Unit Representative, 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 Authorized Local Unit Representative as provided by this Article. The POTW may reissue a revoked permit upon a showing satisfactory to the Authorized Local Unit Representative 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.

A person's taking or failure to take any of the actions provided by Section 3.3.12(A) through (M) shall also constitute a violation of this Article and subject the person to enforcement action in addition to and independent of User Permit suspension or revocation.

**3.3.13. Limitations on Permit Transfer**

- A. A User Permit is issued to a specific user for discharge from a specific facility and operation and shall not be assigned or transferred or sold to a new or different owner, operator, user, discharger, facility or premises, or to a new or changed facility or operation, without the prior written approval of the Authorized Local Unit Representative. 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 Authorized Local Unit Representative may approve (but shall not be required to approve) the transfer of a permit only if all of the following conditions are met:
- (1) The transferor (permittee) shall give at least 60 days advance notice to the Authorized Local Unit Representative of the proposed transfer of the permit (unless a shorter notice period is approved by the Representative 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 outstanding violations of the permit, and there are no unpaid charges, fines, penalties or fees of any kind due to the POTW from the transferor or the transferee related to use of the POTW.
  - (3) Except as to the identity of the new discharger (the transferee), the application materials for the permit to be transferred as originally filed by the transferor, as well as the terms and conditions of the permit itself, are completely accurate with respect to, and fully applicable to, the discharge, facilities, and activities of the transferee.
  - (4) The permit transfer fee as established by the Authorized Local Unit Representative has been paid to the Local Unit.
- B. If the transfer of a permit is approved and the permit transfer fee has been paid to the Local Unit, the Authorized Local Unit Representative 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 3.4.11 of this Article. The transferor (permittee) shall remain liable

for any discharges to the POTW from the facility (along with any other persons actually discharging from the facility to the POTW) until a transfer of the permit has been approved as provided by this Section.

- C. This Section is not intended to, and shall not be construed to, limit in any way the transfer of ownership of the property involved.
- D. Any attempt to transfer a User Permit that does not comply with the requirements of this Section renders the permit void as of the date of the invalid transfer.

**3.3.14. Duty to Provide Information**

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

**3.3.15. Permit Appeals**

Except as otherwise provided by this Section, an appeal of any final decision made by an Authorized Local Unit Representative in connection with issuing or implementing a User Permit shall be governed by Article V of this Ordinance. An appealing party must specify in its request for review and reconsideration the permit related action of the Authorized Local Unit Representative being appealed and the grounds for the appeal. The effect of the permit appealed (or of any provision, term or condition of the permit appealed) shall not be stayed pending a decision by the Authorized Local Unit Representative. If a particular permit provision is objected to, the written request for appeal must specify the reasons for the objection, and the alternative provision, if any, sought to be placed in the permit.

**3.3.16. Permits Not Stayed**

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.

**3.3.17. Permit Fees**

User Permit fees shall be established, paid and collected as provided by this Section and Section 3.13.5 of this Article.

**DIVISION 4. REPORTING AND NOTICE REQUIREMENTS**

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

**3.4.1. Reports By Nondomestic Users Regarding Categorical Pretreatment Standards and Requirements**

- A. **Baseline Monitoring Reports.** Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under MAC R 323.2311(2) whichever is later, an existing Nondomestic User subject to the categorical pretreatment standards and that currently discharges or is scheduled to discharge to the POTW shall submit a report to the POTW as required by MAC R 323.2310(2). At least 90 days prior to commencement of discharge, new sources, and sources that become Nondomestic Users subsequent to the promulgation of an applicable categorical pretreatment standard shall submit the reports to the POTW as required by MAC R 323.2310(2). Any changes to the information required to be submitted by a Nondomestic User pursuant to MAC R 323.2310(2)(a) through (e) shall be submitted by the user to the POTW within 60 days of when the user becomes aware of the change.
- B. **Reports on Compliance with Categorical Pretreatment Standard Deadline.** Within 90 days following the date for final compliance with applicable categorical pretreatment standard or, in the case of a new source, following commencement of the discharge to the POTW, any Nondomestic User subject to categorical pretreatment standards and requirements shall submit the reports to the POTW required by MAC R 323.2310(3).

- C. Periodic Reports on Continued Compliance. Any Nondomestic User subject to a categorical pretreatment standard, after the compliance date of the categorical pretreatment standard, or, in the case of a new source, after commencement of the discharge into the public sanitary 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 six (6) months (during the months of June and December unless alternate months are approved by the Authorized Local Unit Representative), unless required more frequently by the applicable pretreatment standard, by the Representative, or by the State. The reports shall include a record of all average and maximum daily flows during the prior six (6) month reporting period, except that the POTW may require more detailed reporting of flows. All flows shall be reported on the basis of actual measurement unless the POTW agrees, due to cost or nonfeasibility, to accept verifiable estimates of the average and maximum flows estimated using techniques approved by the Authorized Local Unit Representative. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the POTW, provided there has been no change to the elements composing the combined wastestream. The results of sampling of the discharge and analysis of pollutants appearing in the report shall be cross-referenced to the related flow and mass to determine compliance with National Categorical Pretreatment Standards. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the user shall submit documentation required by the Authorized Local Unit Representative or the Pretreatment Standard necessary to determine the compliance status of the user.

**3.4.2. Reports Required for Nondomestic Users Not Subject to Categorical Pretreatment Standards**

- A. All Nondomestic Users not subject to categorical pretreatment standards shall submit to the POTW periodic reports providing information regarding the quality and quantity of wastewater and pollutants discharged into the POTW (including, without limitation, information regarding the nature, concentration (or mass), and flow of the discharge). These reports shall be based on sampling and analysis performed in the period covered by the report in accordance with the sampling, analysis, and monitoring requirements provided by Division 9 of this Article (except that historical sampling data shall not be used for the periodic compliance reports required by this Section 3.4.2).
- B. For Significant Industrial Users, the reports shall be submitted at least once every six (6) months for the preceding six (6) months (during the months of June and December unless alternate months are specified by the Authorized Local Unit Representative), unless required more frequently by the Representative.

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

**3.4.3. Notice by User of Potential Problems**

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

**3.4.4. Notice by User of Violation of Pretreatment Standards**

If sampling performed by a Nondomestic User indicates a violation, the user shall notify the POTW within twenty-four (24) hours of becoming aware of the violation (and shall comply with other applicable requirements provided by Section 3.5.6 regarding repeat sampling and analysis).



**3.4.5. Notice by User of Changed Discharge or Change in User Status**

- A. A Nondomestic User shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in its discharge, or of any facility expansion, production increase, or process modifications that could result in a substantial change in the volume or character of pollutants in its discharge.
- B. For purposes of this Section, “promptly” means as soon as reasonably possible, but in no event less than sixty (60) days before the change.
- C. For purposes of this Section, “substantial change” includes, without limitation, any of the following:
- (1) The discharge of any amount of a pollutant not identified in the user’s permit application or in the permit issued.
  - (2) An increase in concentration (or degree) of any pollutant that exceeds 10% of the concentration (or degree) for the pollutant as indicated in any report required under Section 3.4.1 or 3.4.2;
  - (3) An increase in discharge volume that exceeds 20% of the volume as indicated in any report required under Section 3.4.1 or 3.4.2.
  - (4) Any increase in the amount of any hazardous wastes discharged, including, without limitation, the hazardous wastes for which the user has submitted initial notification under Section 3.4.6 of this Article.
  - (5) The discharge of any ground waters purged for a removal or remedial action.
  - (6) The discharge of any pollutants that are present in the discharge due to infiltration.
  - (7) A change in discharge that may convert a Nondomestic User into a Significant Industrial User, or a Nondomestic User into a Categorical User.
  - (8) A change in discharge that would cause a change in the categorical standards that apply to the user.
- D. In determining whether to accept any changed discharge, or, if so, under what conditions, the POTW shall evaluate the changed discharge pursuant to the general and specific

discharge prohibitions under Section 3.2.1 and other applicable provisions of this Article. The user may be required to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a User Permit application.

- E. No user shall implement the planned changed conditions until and unless the Authorized Local Unit Representative has responded to the user's notice.
- F. This Section shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation provided by this Article or a permit.

**3.4.6. Notice By User Regarding Wastes That Are Otherwise Hazardous**

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

**3.4.7. Notice by User Regarding Installation of New Pretreatment Facilities**

Within five (5) days after completing installation of new pretreatment facilities, the user shall notify the Authorized Local Unit Representative 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 Article and other applicable laws and regulations. Upon prior written request by the Authorized Local Unit Representative, 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.

**3.4.8. Notice of Intent**

- A. At least 60 days before commencing or changing a discharge, each of the following persons shall submit a Notice of Intent to the POTW for approval by the Authorized Local Unit Representative:
  - (1) A person proposing to discharge any nondomestic wastewater not previously reported to the POTW.

- (2) A person taking possession or control of an existing facility that discharges or may discharge process wastewater into the POTW.
  - (3) A person constructing a new facility that will discharge process wastewater into the POTW.
  - (4) A person commencing or modifying a discharge of hazardous wastes that requires reporting under Section 3.4.6.
- B. The Notice of Intent shall be submitted in writing on a form provided by the Authorized Local Unit Representative and shall be accompanied by a payment of any fees established by the Local Unit. It shall include sufficient information to allow the Representative to evaluate the effect of the proposed discharge on the POTW and operations and to assure compliance with this Article.

**3.4.9. Other Reports and Notices Required by this Section or by Other Applicable Laws and Regulations**

Users shall comply with all other reporting or notice requirements as provided by this Article, by any notice, order or permit issued under this Article, or as required by any other applicable law or regulation, including, without limitation, the reporting and notice requirements in connection with accidental discharge (Division 6), upset (Division 7), bypass (Division 8), and any other reports or notice requirements determined necessary by the Authorized Local Unit Representative to assess and assure compliance with the requirements of this Article.

**3.4.10. Requirements Applicable to All Required Reports, Notifications, and Applications**

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

- A. All reports, notifications, applications and requests for information required by this Article shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, notification, application or request. The data shall be representative of conditions occurring during the applicable reporting period. If a pretreatment standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the Authorized

Local Unit Representative or the applicable standard to determine compliance with the standard.

- B. If a user monitors any pollutant (or measures flow) more frequently than required by this Article or a User Permit, using the monitoring, sampling and analytical procedures as required by Section 3.5.1, the results of all such additional monitoring shall be included in any report or notification submitted pursuant to this Article.
- C. The Authorized Local Unit Representative may require that reports, notifications, and other required documents and data be submitted in a standardized format, as specified by the Representative.
- D. If the POTW, instead of a user, collects all of the information, including flow data, required for a report required by Sections 3.4.1 or 3.4.2, the Authorized Local Unit Representative, in the Representative's sole discretion, may 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 Article shall be subject to all of the provisions as specified by MAC R 323.2310(13).
- F. Written reports, notifications, and applications will be deemed to have been submitted to the POTW, unless otherwise specified by the Authorized Local Unit Representative, as follows:
  - 1. If mailed, on the date postmarked.
  - 2. The date of receipt of the report shall govern for reports, notifications, or applications which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, including, but not limited to, reports, notifications, or applications that are hand-delivered, faxed, or emailed.
  - 3. Written reports, notifications, and applications may be submitted to the POTW by fax or email (or by any means other than mail or hand-delivery) only with the prior approval of the POTW on a case-by-case basis. The report or notification shall be sent to the fax number or email address specified by the Authorized Local Unit Representative.

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

MAWTF  
1930 U.S. Hwy 41  
Marquette, MI 49855  
Attn: City Director of Municipal Utilities

Chocolay Township Department of Public Works  
5010 U.S. 41 South  
Marquette, MI 49855  
Attn: Township Public Works Administrator

- H. If notice by telephone or fax is required or otherwise authorized by the Authorized Local Unit Representative, such notice shall be made to the following numbers, as appropriate:

MAWTF:	906-225-4054 (Mon - Fri 7:30 a.m. - 4:00 p.m.)
Operator Emergency Number:	906-228-0488 (24 hours/7 days)
MAWTF Fax:	906-228-0487 (24 hours/7 days)
Marquette County Safety Dispatch	911 (24 hours)

Chocolay Township DPW: 906-249-1448

Required oral emergency or accidental spill or slug notifications shall not be left on voicemail or sent by email.

- I. Failure to provide the reports, notifications, and applications required by this Article constitutes an independent violation of this Article. 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 Article shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Article or other applicable laws or regulations.

**3.4.11. Signature and Certification Requirements**

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

- A. Required Signatures. The reports, notifications, and applications shall be signed by an authorized representative of the user as defined in Section 2.1.2 of this Article.
- B. Required Certification. The reports, notifications, and applications shall include the following certification statement:

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

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

**DIVISION 5. SAMPLING, ANALYSIS AND MONITORING REQUIREMENTS**

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

**3.5.1. Sampling and Analytical Techniques and Procedures**

All sampling, measurements, tests, and analyses of the characteristics of discharges to the POTW shall be performed in accordance with the procedures approved by the U.S. EPA contained in 40 CFR Part 136. If, as determined by the Authorized Local Unit Representative, 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 Representative.

**3.5.2. Sampling Frequency**

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

**3.5.3. Sample Types**

Where representative samples are required to be taken for facilities for which historical sampling data does not exist (or if otherwise requested by the Authorized Local Unit Representative), a user shall take a minimum of 4 grab samples for pH, temperature, cyanide, phenols (T), residual chlorine, oil and grease, sulfide, and volatile organics (and any other parameters designated by the Representative), unless a greater number of grab samples is required in advance by the Representative. For facilities for which historical sampling data is available, or under other circumstances determined appropriate by the Authorized Local Unit Representative, the Representative may authorize a lower minimum number of grab samples (except that historical data shall not be used for periodic compliance reports as required by Section 3.4.2). In all cases, users shall take the minimum number of grab samples determined necessary by the Authorized Local Unit Representative to assess and assure compliance by users with applicable pretreatment standards and requirements. Grab samples may be required to show compliance with instantaneous minimum or instantaneous maximum discharge limits. For all other pollutants and sampling, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the

Authorized Local Unit Representative. Where time-proportional composite sampling or grab sampling is authorized by the Authorized Local Unit Representative, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Authorized Local Unit Representative, as appropriate.

**3.5.4. Sampling Methods, Equipment and Location**

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

**3.5.5. Costs of Monitoring, Sampling and Analyses**

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



**3.5.6. Self-monitoring**

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

- F. Users required to do monthly sampling shall submit sample results to the Authorized Local Unit Representative by the fifteenth (15<sup>th</sup>) day of the following month, unless specified otherwise in the user's User Permit.

**3.5.7. Sampling and Analyses Performed by POTW**

- A. The sampling and analysis required by this Article may be performed by the Authorized Local Unit Representative instead of the user, as determined necessary by the Representative for purposes of this Article. The POTW shall provide the user with copies of analytical results prepared by the Authorized Local Unit Representative. If the results of any sampling and analysis performed by the Representative 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 ten (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 Authorized Local Unit Representative to the independent firm.

**3.5.8. Split Samples and Sample Results**

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

**3.5.9. Maintenance, Repair and Calibration of Equipment**

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

Local Unit Representative as determined appropriate by the Representative) to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the user.

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

**3.5.10. Required Sampling Structures and Devices**

- A. The POTW may require any user to install suitable control structures (such as sampling manholes or sampling vaults) and necessary measuring and sampling devices (including automatic devices) to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW. The POTW may require the user to install control structures and measuring and sampling devices at every discharge point and/or outfall. Further, multiple separate and discrete Building Sewers, control structures, and measuring and sampling devices may be required for a single user, premises, building, facility or user, as determined necessary by the Authorized Local Unit Representative. The structures and devices shall be maintained at all times in a safe, clean and proper operating condition at the sole expense of the user.
- B. There shall be ample room in or near the control structure to allow accurate monitoring, measuring, sampling and preparation of samples for analysis, as determined necessary by the Authorized Local Unit Representative. 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 Authorized Local Unit Representative to assure compliance with this Article.

- C. Any temporary or permanent obstruction for safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the verbal or written request of the POTW and shall not be replaced. The costs of clearing such access shall be borne solely by the user.
- D. The location and complexity of the required control structure or devices may vary with sampling requirements determined necessary by the Authorized Local Unit Representative to protect the POTW and to comply with applicable laws and regulations.
- E. The required sampling structures and devices shall be constructed and installed at the user's sole expense in accordance with plans submitted to the POTW, and in compliance with all applicable local construction standards and specifications. Users shall submit to the POTW plans and specifications for construction or modification of monitoring facilities at least thirty (30) days before the proposed commencement of construction or modification. If a user constructs or modifies monitoring facilities before POTW approval or without an inspection during construction and the POTW determines that the monitoring facilities are not acceptable, then the user shall at its cost reconstruct or modify the monitoring facilities according to the requirements of the POTW. Construction shall be completed within ninety (90) days following written notification by the Authorized Local Unit Representative, or within such other shorter or longer time period specified by the Representative as required by the particular circumstances to meet the requirements of this Article. The structures and devices shall be operated and maintained by the user at the user's sole expense so as to be safe and accessible to POTW personnel at all times and so as to provide accurate and representative monitoring data. If a user fails to install or maintain a required structure or device, the Authorized Local Unit Representative may do so and charge the costs to the user. No person shall use a required control structure for any purpose other than the sampling and monitoring activities specifically approved by the Representative.
- F. The sampling structures and devices must be provided on the user's premises as approved by the Authorized Local Unit Representative, but the Representative may, if it determines that such a location would be impractical or cause undue hardship to the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

- G. Samples shall be taken at a control structure approved by the Authorized Local Unit Representative. 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 Authorized Local Unit Representative to evaluate compliance with applicable pretreatment standards and requirements.
- H. No user shall change monitoring points or monitoring methods without first notifying and receiving the approval of the Authorized Local Unit Representative. The Authorized Local Unit Representative shall not approve any change in a user's monitoring point or points that would allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.
- I. A user shall allow the POTW access to all sampling and monitoring facilities as provided by Section 4.1.1 of this Article.

**3.5.11. Determination of Flow**

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

- A. If the premises are metered by a water meter, the amount of water supplied to the premises as shown by the water meter;
- B. If the premises are supplied with river water or water from private wells, the Authorized Local Unit Representative may estimate the amount of water supplied from such sources based on the water, gas or electric supply to the Premises, or may require that the water flow be measured using a certified meter approved by the Representative;
- C. If the premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be (or is not) entirely discharged to the POTW, the Authorized Local Unit Representative may estimate the amount of wastewater discharged to the POTW based on the water, gas, or electric supply to the Premises;

- D. The Authorized Local Unit Representative may determine the amount of wastewater discharged to the POTW based on measurements and samples taken by the Representative from a manhole installed by the owner of the premises, at the owner's sole expense, as required by the Representative under this Article;
- E. The Authorized Local Unit Representative may require a wastewater flow meter in a manhole installed by the owner of the premises, at the owner's sole expense; or
- F. The Authorized Local Unit Representative may determine the amount of wastewater discharged to the POTW from a premises using a combination of any of the above methods, or using any other method determined appropriate by the Representative.

#### **DIVISION 6. ACCIDENTAL DISCHARGES**

##### **3.6.1. General**

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

- A. Each Nondomestic User shall provide and continuously maintain protection from accidental discharge of materials or other substances regulated by this Article as provided by this Section. The Local Unit may refuse to accept current or proposed discharges from any user that fails to comply with the requirements of this Section.
- B. Detailed plans showing facilities and operating procedures to provide the protections required by this Section shall be submitted to the POTW for review prior to construction of the facilities. All existing users shall submit the required plans and information with their permit applications or upon request of the POTW. For new sources, facilities and operating procedures to provide the protections required by this Section shall be approved by the Authorized Local Unit Representative prior to commencing discharge. No user who commences discharging to the POTW after the effective date of this Article 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 Authorized Local Unit Representative.

- 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 Authorized Local Unit Representative of plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this Article. Compliance with the requirements of this Section shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, or for any other damage to persons or property, or for any other liability that may be imposed under this Article or under other applicable laws and regulations.
- D. No change shall be made in any plan or procedure approved by the Authorized Local Unit Representative as provided by this Section without the prior review and approval of the POTW.
- E. All users shall notify the POTW in writing within five (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).

**3.6.2. Designation of Person in Charge of Discharge Operations**

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

**3.6.3. Description of Chemicals Stored, Used or Manufactured by User; User Discharges; User Premises**

Unless the Authorized Local Unit Representative determines that all of the following information has already been appropriately provided to the POTW pursuant to other requirements of this Article, each Nondomestic User shall:

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

**3.6.4. Segregation of Wastewaters Requiring Pretreatment**

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

**3.6.5. Secondary Containment Requirements**

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



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

**3.6.6. Submission of Pollution Incident Prevention Plan**

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

**3.6.7. Posting of Accidental Discharge Information**

All Nondomestic Users shall post a clearly legible set of instructions in the area where the user manages wastewater so that the applicable reporting and notice requirements are made known and

are available to the user's employees. In addition, all Nondomestic Users shall instruct their employees on the applicable reporting and notice requirements of this Section.

**3.6.8. Notice of Accidental Discharge**

- A. In the case of an accidental discharge, a user shall immediately notify the POTW of the incident by telephone.
- B. The notification shall include the name of the person placing the call, the name of the user, and all available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken and required, and other available information as necessary to determine what impact the discharge may have on the POTW.
- C. A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the user to prevent similar future discharges) shall also be provided by the user to the Authorized Local Unit Representative within five (5) days of the incident.
- D. Providing notice of an accidental discharge shall not relieve a user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notice relieve a user of any fines, civil penalties, or other liability which may be imposed by this Article or other applicable law.

**3.6.9. Slug Control Plan**

- A. Each Significant Industrial User shall prepare and implement an individualized slug control plan to address notification, slug and/or spill prevention, containment, spill cleanup, and employee training. Existing Significant Industrial Users shall submit a slug control plan to the Authorized Local Unit Representative for approval within 90 days of the effective date of this Article. New sources that are Significant Industrial Users shall submit a slug control plan to the Authorized Local Unit Representative for approval before beginning to discharge. Upon written notice from the Representative, Nondomestic Users that are not Significant Industrial Users may also be required to prepare and implement a slug control plan, and the plan shall be submitted to the Authorized Local Unit Representative for approval as specified in the notice.

- B. Slug control plans must also be submitted for review and approval by the Authorized Local Unit Representative:
- (1) As part of a User Permit application and before the permit is issued; and an updated plan may be required in connection with any permit modification or reissuance; and
  - (2) The Authorized Local Unit Representative may also require a new or updated plan before constructing any new facilities.
- C. Approval of a slug control plan shall not relieve a user from complying with laws and regulations governing handling of hazardous substances.
- D. All slug control plans shall contain at least the following elements:
- (1) A description of discharge practices, including non-routine batch discharges;
  - (2) A description of stored chemicals, raw materials, and waste;
  - (3) The procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this Article, and procedures for follow-up written notification within five (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.
  - (5) A description of any Best Management Practices required by a pretreatment standard or requirement, a User Permit, or other applicable laws and regulations.
- D. If a user has submitted to the Authorized Local Unit Representative plans or documents pursuant to other requirements of local, state or federal laws and regulations which meet all applicable requirements of this Section 3.6.9, the Representative, in the Representative's sole discretion, may determine that the user has satisfied the slug control plan submission requirements of this Section.

**DIVISION 7. UPSET AND ADDITIONAL AFFIRMATIVE DEFENSES**

**3.7.1. Upset**

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if all of the requirements of Section 3.7.1(A), below, are met. However, in the event of an upset, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Article. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- A. Conditions Necessary to Demonstrate Upset. A user seeking to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, all of the following:
- (1) An upset occurred and the user can identify the cause(s) of the upset;
  - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
  - (3) The user has submitted the following information to the POTW within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission containing the same information must be provided within five (5) days of becoming aware of the upset):
    - (a) A description of the discharge and cause of non-compliance;
    - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
    - (c) The steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- B. User Responsibility in Case of Upset. The user shall control production 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.

**3.7.2. Additional Affirmative Defenses**

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions under Section 3.2.1(A) and specific prohibitions under Sections 3.2.1(B)(4), (5), (6) or (7) 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 Article. 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.

**DIVISION 8. BYPASS**

**3.8.1. Bypass Not Violating Applicable Pretreatment Standards or Requirements**

A Nondomestic User may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if the bypass is for essential maintenance to assure efficient operation. A bypass that meets the requirements of the preceding sentence of this Section is not subject to the provisions in Sections 3.8.2, 3.8.3, and 3.8.4. However, nothing in this Section shall be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Article 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.

**3.8.2. Bypass Prohibited**

Except as provided by Section 3.8.1, the bypass of industrial wastes from any portion of a user's facility is prohibited, and shall be subject to enforcement action, unless all of the following apply:

- A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
- B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance.)
- C. The user submitted the notices as required under Section 3.8.3.

**3.8.3. Required Notices**

- A. Anticipated bypass. If a user knows in advance of the need for a bypass, it must submit prior notice of the bypass to the POTW. Such notice shall be submitted to the POTW as soon as the user becomes aware of the need for the bypass, and if possible, at least ten (10) days before the date of the bypass.
  
- B. Unanticipated bypass. A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within twenty-four (24) hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Authorized Local Unit Representative may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

**3.8.4. POTW Approved Bypass**

The Authorized Local Unit Representative may approve an anticipated bypass after considering its adverse effects, if the Representative determines that it meets the conditions set forth in Sections 3.8.2(A), 3.8.2(B) and 3.8.2(C). It shall be a violation of this Article for a user to allow an anticipated bypass to occur without the prior approval of the Authorized Local Unit Representative.

**DIVISION 9. CONFIDENTIAL INFORMATION**

**3.9.1. Confidential Information**

The following provisions shall apply regarding the treatment by the POTW of confidential information submitted to or obtained by an Authorized Local Unit Representative in the administration of this Division:

- A. Except as otherwise expressly provided by this Division, all information and data regarding a user's discharges obtained from reports, questionnaires, permit applications, permits, monitoring activities, and from inspections is subject to disclosure to the public and other

governmental agencies pursuant to the Michigan Freedom of Information Act (MCL 15.231, et seq.; Act No. 442 of the Public Acts of 1976, as amended).

- B. Information submitted to the Authorized Local Unit Representative in the administration of this Division may be claimed by the user as confidential and not subject to public disclosure, only if all of the following requirements and conditions are met:
1. The information sought to be kept confidential qualifies as a protected trade secret or commercial or financial information as determined by the appropriate public official or is otherwise exempt from public disclosure under Act No. 442 of the Public Acts of 1976, as amended, (MCL 15.231 et seq. (the Michigan Freedom of Information Act).
  2. The user specifically requests at the time that the information is submitted that the release of the information would divulge information, processes, or methods of production entitled to protection as trade secrets or commercial or financial information of the user.
  3. The information submitted by a user for which confidentiality is requested shall be clearly marked using the words the words “confidential business information” on each page as to the portion or portions considered by the user to be entitled to protection as trade secrets or commercial or financial information of the user; 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 entitled to protection as trade secrets or commercial or financial information.
- C. If information is determined to be protected as a confidential and not subject to public disclosure as provided by this Division, the information shall be treated as provided by this Division and applicable state and federal laws and regulations governing confidentiality of information submitted by users to the POTW; provided, however, that all such information shall nevertheless be made available upon written request to governmental agencies for uses related to matters regulated by this Division and shall be made available for use by the State, any State agency, or the Local Units in judicial review or enforcement proceedings that involve the user that submitted the information.
- D. Claims of confidentiality for the following information shall be denied and shall be subject to public disclosure as provided by this Division: Information furnished to the POTW on the volume or characteristics of wastewater or pollutants discharged or proposed to be

discharged by a user into the POTW. This shall include, but shall not be limited to, all information submitted on User Permit applications; information associated with user monitoring or sampling results; information in required user reports and notifications; and information regarding flow measurements and other production data used to determine compliance with mass-based limits or to calculate or apply a combined waste stream formula.

- E. Observations made by an Authorized Local Unit Representative shall be subject to the confidentiality provisions of this Section as if they were in writing if the user specifies to the Authorized Local Unit Representative in writing for which particular observations made by the inspector the user seeks confidentiality and demonstrates to the Representative's satisfaction that the information associated with the observations meets the requirements and conditions to be exempt from public disclosure as provided by Section 3.9.1(B).
- F. All confidential information and/or data with respect to a particular user that is on file with the POTW shall be made available upon written request by that user or the authorized representative of the user during regular business hours.
- G. If information initially determined to be confidential as provided by this Division is subsequently determined by the Authorized Local Unit Representative or any other governmental agency to be non-confidential, such information shall thereafter be subject to public disclosure consistent with applicable law and regulations.

### **DIVISION 10. RECORDS RETENTION**

#### **3.10.1. Maintenance of Records**

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

- A. Discharge Records. A Nondomestic User shall retain, preserve, and make available to the POTW for inspection and copying, for the period specified in Section 3.10.1(C) all records related to matters regulated by this Article, including, without limitation, all documents, memoranda, correspondence and similar materials; copies of all required reports, notifications, and applications; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of results of all



sampling, monitoring, measurements and analyses; all documentation associated with Best Management Practices; and records of all data used to complete the application for a permit. Any Nondomestic User subject to the sampling, monitoring, analysis, or reporting requirements of this Article 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 Article). For all samples, the records shall include, at a minimum, the information required to be recorded by Section 3.5.6 of this Article.

- B. Hazardous or Solid Waste. A Nondomestic User shall retain and preserve all records regarding its generation, treatment, storage, or disposal of hazardous waste or solid waste for the period specified in Section 3.10.1(C), and shall make them available to the POTW for inspection and copying, subject to the provisions in this Article regarding confidential information. (As used in this Section, the terms “hazardous waste” and “solid waste” shall have the same definition as provided in the state hazardous waste management act, Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended, and the rules promulgated under that act.)
- C. Retention Period. Users subject to the reporting requirements of this Article (or of any permit or order issued pursuant to this Article) shall retain the records specified in Sections 3.10.1(A) and 3.10.1(B) for a period of at least three (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 three (3) year retention period shall be extended during any administrative or judicial action, enforcement proceeding or litigation regarding matters regulated by this Article (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 three (3) year retention period may also be extended at any time at the request of the POTW, EGLE, or the U.S. EPA. The POTW shall retain all records, notices and other information regarding discharges to the POTW submitted to it by Nondomestic Users of the POTW for a period of not less than three (3) years.

## **DIVISION 11. POWERS OF CITY DIRECTOR OF MUNICIPAL UTILITIES**

### **3.11.1. Powers of City Director of Municipal Utilities**

The City Director of Municipal Utilities, subject to the approval of the City Commission and consistent with the Contracts, shall have the authority (either directly, through, or in conjunction with other authorized representatives of the City or the Township) to take the following actions:

- A. Supervise the implementation duties and activities designated by this Article to be undertaken by the Authorized Local Unit Representative with respect to discharges from the Township to the City Sanitary Sewer System.
- 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 Article.
- D. Verify the completeness, accuracy and representativeness of self-monitoring data submitted and/or maintained by users.
- E. Determine and assess IPP fees and surcharges as provided by this Article.
- F. Investigate complaints of violations of this Article, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.
- G. Issue orders and notices of violation and take other actions as necessary to require compliance with this Article.
- 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 a non-binding guideline of the procedures available to the POTW to investigate and respond to instances of noncompliance by users. The CAER Plan and any associated regulations developed by the Authorized Local Unit Representative shall become effective upon approval by resolution of the City Commission.
- I. In conjunction with the City's and/or the Township's legal counsel, institute necessary civil or criminal judicial legal actions and proceedings in a court of competent jurisdiction against all users violating this Article to prosecute violations of this Article, to compel the abatement or prevention of violations, to compel compliance with this Article and any order, determination, permit or agreement issued or entered into under this Article, and to pursue any other necessary or advisable legal and/or equitable judicial relief or remedies with respect to violations of this Article.
- J. In conjunction with the City's and/or the Township's legal counsel, commence a municipal civil infraction action against any user violating this Article, and issue municipal civil

infraction citations and municipal civil infraction violation notices for violations of this Article.

- K. Establish laws, rules, regulations, and procedures as determined necessary and advisable by the Authorized Local Unit Representative to undertake the activities as provided by this Section, to assure the efficient management and operation of the City Sanitary Sewer System, to provide equitable charges for services, and to otherwise meet the purposes and objectives of this Article.
- L. Perform any other actions authorized by this Article, or as necessary or advisable for the supervision, management, and operation of the City Sanitary Sewer System and/or the POTW and the enforcement of this Article and other applicable laws and regulations.

### **DIVISION 12. USER POLLUTION CONTROLS**

#### **3.12.1. Provision by Users of Necessary Pretreatment Facilities**

Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation, as required to comply with the requirements of a User Permit or order issued pursuant to this Article, or as otherwise determined necessary by the Authorized Local Unit Representative to meet the purposes and intent of this Ordinance. All facilities required to pretreat discharges shall be provided, operated, and maintained at the user's sole expense. Detailed, professionally signed and sealed plans showing the pretreatment facilities, specifications, and operating procedures shall be submitted to the POTW for review and approval prior to construction. The POTW may approve, approve with conditions, or disapprove the plans, specifications and operating procedures. A user shall not begin discharging from the treatment facilities until facilities have been approved and all conditions and requirements of the approval have been met as determined by the Authorized Local Unit Representative. The review and approval by the Authorized Local Unit Representative of such plans and operating procedures does not in any way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the POTW under the provisions of this Article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Authorized Local Unit Representative prior to the user's initiation of the changes. (Users shall notify the POTW regarding the installation of new pretreatment facilities or modification of existing facilities as provided by Section 3.4.7 of this Article.)

**3.12.2. Proper Operation and Maintenance**

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

**3.12.3. Removed Substances**

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

**3.12.4. Duty to Halt or Reduce Activity**

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

**3.12.5. Duty to Mitigate**

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

**3.12.6. Duty to Pretreat Prior to Discharge to POTW**

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

**3.12.7 Implementation of Best Management Practices or Best Management Practices Plan**

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

5. A detailed facility layout and site diagram showing points of entry into the POTW.
  6. A description of the waste handling, treatment and discharge disposal facilities, including flow diagrams and process schematics.
  7. A description of operating and maintenance processes and procedures.
  8. Inventory of raw materials and a list of waste sources, including a list of all chemicals used or stored at the facility.
  9. A description of employee training programs, policies and procedures; continuing education programs; and participation.
  10. A description of documentation, including record keeping and forms.
  11. A description of monitoring activities.
  12. Information log of facility personnel, organization chart, emergency phone numbers, contact persons and maintenance or service representatives.
  13. Certification by a qualified professional that the plan is adequate to prevent spills, leaks, slug loads, or non-customary discharges of regulated substances, directly or indirectly, to the POTW.
  14. Such other information, documents or diagrams as required by the Authorized Local Unit Representative, including, but not limited to, any of the information required under Section 3.3.4 of this Article.
- C. The BMPs or BMPP required of a user or approved for a user shall be incorporated in a User Permit issued to the user. If the user already has a User Permit, the existing permit may be modified to incorporate the BMP requirements. If the user does not currently have a User Permit, a permit shall be issued for that purpose.
- D. The Authorized Local Unit Representative may require revisions to users BMPP if the Representative determines that the plan contains elements that are inadequate, or as otherwise determined necessary by the Representative to ensure compliance with applicable requirements of this Article. Review of a BMPP by the Authorized Local Unit

Representative shall not relieve the user from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

**3.12.8. FOG Interceptors; Alternate FOG Pretreatment Technology; Other Interceptors and Traps.**

**A. General Requirements Applicable To All FOG Interceptors; Alternate FOG Pretreatment Technology; and Sand Traps.**

1. Any user required to install a FOG interceptor, an Alternative FOG Pretreatment Technology (“AFPT”), or a sand trap to prevent the discharge of fats, oils, grease, sand, or other materials to the POTW shall comply with the minimum requirements as provided by this Section or as otherwise specified by the Authorized Local Unit Representative.
2. Interceptors, AFPTs, and traps that are required by this Section shall be provided, cleaned, maintained in proper operating condition, and kept in continuously efficient operation at all times, at the sole expense of the owner of the premises as necessary to ensure that the facility or device effectively intercepts and retains greases from grease-laden wastewaters consistent with its intended purpose and minimum design capability.
3. All interceptors, AFPTs, and traps shall be of a design, type, construction, and capacity approved in advance by the Authorized Local Unit Representative. At a minimum, all interceptors, AFPTs, and traps shall meet the design, type, construction, and capacity requirements of this Section 3.12.8 and the state plumbing code; provided that if there is a conflict as determined by the Representative between this Section and the plumbing code, the requirements of this Section shall control.
4. The installation of all interceptors, AFPTs, and traps shall be subject to the Authorized Local Unit Representative’s review and approval.
5. All interceptors, AFPTs, and traps shall be located so as to be readily and easily accessible for maintenance, cleaning and inspection.
6. All users required to install and maintain an interceptor, AFPT, or trap shall develop and carry out a system of maintenance and cleaning/pumping for the interceptor, AFPT, or trap, and shall keep accurate, detailed written records of the following:

- (a) The maintenance and cleaning/pumping schedule;
  - (b) The names of the persons who maintained and cleaned/pumped the interceptor, AFPT, or trap, the dates and time that the interceptor, AFPT, or trap was maintained and cleaned/pumped, and the hauler's name if waste was hauled;
  - (c) The amount of waste removed; and
  - (c) The method of cleaning/pumping and disposal location for removed materials for each maintenance and/or cleaning.
7. At a minimum, all interceptors, AFPTs, and traps shall be installed, inspected, cleaned and maintained strictly according to the manufacturer's specifications or as otherwise provided by this Section, whichever requirements are more stringent.
8. All written records and documentation required to be kept by this Section with regard to interceptors, AFPTs, and traps shall be kept by the user on the premises for at least 3 years and shall be available for review by the Authorized Local Unit Representative during all operating hours. The user shall provide copies of required records to the Representative upon the Representative's request at the user's sole cost.
9. Any problems with or damage to an interceptor, AFPT, or trap shall be reported immediately to the property owner and to the Authorized Local Unit Representative.
10. Any problems with or damage to an interceptor, AFPT, or trap shall be rectified and/or repaired immediately by the property owner at the owner's sole cost.
11. Interceptor, AFPT, or trap clean-out material, including, but not limited to, accumulated fats, oils, grease, and sand, shall not be discharged into the POTW and shall be disposed of only in compliance with all local, state, and federal laws and regulations.
12. Bacteriological, chemical, or enzymatic products shall not be used as a substitute for, or to maintain or clean, interceptors, AFPTs, or traps. Further, in no case shall any additive that emulsifies FOG be used.



13. Sanitary sewer flows from toilets, urinals, lavatories, etc., shall not be discharged into interceptors or AFPTs without the Authorized Local Unit Representative's specific prior written approval. These flows shall instead be conveyed separately to the sanitary sewer service lateral. Only floor drains that discharge (or have the potential to discharge) FOG shall be connected to an interceptor or AFPT.
14. The Authorized Local Unit Representative may require sampling and testing of the effluent from an interceptor, trap, or AFPT to verify that the effluent complies with applicable pretreatment standards and requirements. The sampling and testing shall be conducted using the protocols and on a frequency as specified by the Authorized Local Unit Representative.

B. Requirements For FOG Interceptors and AFPTs.

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

1. Outdoor FOG Interceptors.

- a. Outdoor FOG Interceptors Required. All FSEs (and other users required to do so by the Authorized Local Unit Representative) shall install, operate, and maintain an outdoor FOG interceptor of a type, design, construction, and size approved in advance by the Representative; provided that if the Representative determines that installation of an outdoor FOG interceptor would be physically infeasible due to existing circumstances unique to the premises in question, the Representative may in the Representative's discretion instead allow the installation of Alternate FOG Pretreatment Technology as provided by Section 3.12.8(B)(2). In all cases, the user shall bear the burden of demonstrating to the Authorized Local Unit Representative, at the user's sole cost, that the installation of an outdoor FOG interceptor is physically infeasible and that an alternate FOG pretreatment technology should instead be allowed. For purposes of this determination, the term "physically infeasible" shall include, but shall not be limited to, the following conditions: the lack of available space on the premises; unavoidable interference from underground utilities or structures; and topographical conditions such as the slope that unavoidably prevents

the installation of an outdoor FOG interceptor. If an FSE/user believes the installation of an outdoor FOG interceptor is physically infeasible the request for approval of an Alternate FOG Pretreatment Technology device shall contain the following information: The location of sewer main and easement in relation to available exterior space outside building; the existing plumbing at or in a site that uses common plumbing for all services at that site; and such other information required by the Authorized Local Unit Representative. Notwithstanding anything in this subsection 3.12.8(B)(1)(a), nothing in this Section shall be construed to require the Authorized Local Unit Representative to allow an Alternate FOG Pretreatment Technology device instead of an outdoor FOG interceptor.

b. Compliance Schedule.

All FSEs (and any other existing user determined by the Authorized Local Unit Representative to have a reasonable potential to adversely affect the POTW due to discharges of FOG) are subject to the interceptor requirements provided by this Section 3.12.8, whether the FSE/user is an existing or new FSE/user – the concept of “non-conforming use” or “grandfathering” does not apply to any of the requirements of this Section or this Article.

Existing FSEs/Users: Any FSE discharging into the POTW as of the effective date of this Section 3.12.8 (and any other existing user determined by the Authorized Local Unit Representative to have a reasonable potential to adversely affect the POTW due to discharges of FOG) shall, upon notification from the Representative, submit plans for an outdoor FOG interceptor for approval by the Representative, and shall install and begin operation of the interceptor, in compliance with the schedule and any terms, conditions, or requirements specified by the Representative. Also, any existing FSE (or other user with reasonable potential to adversely affect the POTW due to FOG discharges) that does not then have an approved interceptor already in place and that is proposing to modify its plumbing shall include plans that comply with the interceptor requirements as provided by this Section 3.12.8 for review and approval by the Authorized Local Unit Representative, and must obtain the Representative’s approval of the interceptor plan before submitting plans to the Local Unit for a building permit. The Local Unit shall not approve the permit for the

proposed plumbing modification until the Authorized Local Unit Representative has approved the interceptor plan.

New FSEs/Users: Any FSE that proposes to commence discharging into the POTW after the effective date of this Section 3.12.8 (and any other new user determined by the Authorized Local Unit Representative to have a reasonable potential to adversely affect the POTW due to discharges of FOG) shall submit plans for an outdoor FOG interceptor to the Representative for the Representative's approval, and shall install and begin operation of the interceptor in compliance with the schedule any terms, conditions, and requirements specified by the Representative. In all cases, the interceptor plans must be approved by the Authorized Local Unit Representative prior to submitting plans to the Local Unit for a building permit; and the Local Unit shall not issue a building permit for the premises until the Representative has approved the proposed interceptor plans. Further, the Local Unit shall not issue a certificate of occupancy for the premises until the interceptor has been installed and deemed acceptable by the Authorized Local Unit Representative.

- c. Minimum Design and Installation Requirements For Outdoor FOG Interceptors. In addition to any requirements specified by the Authorized Local Unit Representative, outdoor FOG interceptors shall comply with all of the following minimum design and installation requirements:
- (i) The interceptor shall provide a minimum capacity of 1500 gallons, unless the Authorized Local Unit Representative determines that a smaller minimum capacity is adequate for the premises.
  - (ii) The interceptor shall have a minimum of two compartments with fittings designed for FOG retention.
  - (iii) The interceptor shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.
  - (iv) The interceptor shall provide for a minimum hydraulic retention time in accordance with the state plumbing code or as otherwise specified by the Authorized Local Unit Representative, whichever is more stringent.

- (v) The interceptor shall be installed at a location, subject to the prior approval of the Authorized Local Unit Representative, where it can be easily accessible for inspection, cleaning, and removal of intercepted FOG, but shall not be located in any part of a building where food is handled.
  - (vi) Access manholes, with a minimum diameter of 24 inches, shall be provided over each outdoor FOG interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade, and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, FOG removal, and sampling which, when bolted into place, shall be gastight and watertight.
- d. Minimum Inspection, Maintenance, and Cleaning Requirements for Outdoor FOG Interceptors. In addition to any requirements specified by the Authorized Local Unit Representative, outdoor FOG interceptors shall comply with all of the following minimum maintenance, cleaning, and inspection requirements:
- (i) At a minimum, an outdoor FOG interceptor shall be inspected monthly by the property owner, or more often if dictated by site-specific conditions or if required more frequently by the Authorized Local Unit Representative.
  - (ii) Pump-out of all accumulated FOG, water, and sludge shall occur quarterly at a minimum, or more often if the combined height of floatables and settled solids (including both the top and bottom layers of solids) exceed 25% of any interceptor compartment operating depth; if there is a visible discharge of FOG; or if required more frequently by the Authorized Local Unit Representative. The operating depth of a trap shall be determined by measuring the internal depth from the outlet water elevation to the bottom of the trap.
  - (iii) Each pump-out of the interceptor shall be complete and remove all contents, including removal of the entire grease mat or cap, liquids, sludges, sludge pocket, and solids from screens, baffles, air-relief

chambers, and wash down of interior walls. The interceptor shall be refilled with clear water before being returned to service.

- (iv) The interceptor shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could reduce the effective volume for FOG and sludge accumulation.
- (v) Water removed during pump-out shall not be returned to the interceptor, and accumulated FOG and sludge shall not be re-introduced into any drainage piping leading to the public sanitary sewer.
- (vi) The pump-out operation and disposal of the accumulated FOG, water, and sludge shall be done only by a licensed contractor and shall be witnessed by the property owner or operator. The Authorized Local Unit Representative shall be notified prior to any scheduled pump-out so that the operation can be witnessed if desired.
- (vii) The FSE/user shall comply with any Best Management Practices (BMPs) specified by the Authorized Local Unit Representative or by the manufacturer of the interceptor, whichever are more stringent.

2. Alternate FOG Pretreatment Technology.

If the Authorized Local Unit Representative determines that installation of an outdoor FOG interceptor is not required as provided by Section 3.12.8(B)(1)(a), then the Representative may instead authorize the installation of an Alternate FOG Pretreatment Technology (“AFPT”) approved by the Representative as provided by this Section.

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

- a. Indoor Grease Traps. If the AFPT approved by the Authorized Local Unit Representative is an indoor grease trap, the following requirements shall apply:
- (i) Indoor grease traps shall be installed in all waste lines from sinks, drains, and other fixtures or equipment where grease may be discharged to the POTW; provided that no food waste disposal unit, dishwasher, wastewater or other liquid in excess of 140 degrees Fahrenheit (60 degrees Centigrade) shall be discharged into an indoor grease trap.
  - (ii) No acidic or caustic cleaners shall be discharged into an indoor grease trap.
  - (iii) Traps shall never be operated without the flow restrictor supplied by the unit's manufacturer.
  - (iv) Sizing and installation of the indoor grease traps shall be subject to the Authorized Local Unit Representative's prior review and approval.
  - (v) A required indoor grease trap shall be installed no later than 60 days after approval by the Authorized Local Unit Representative.
  - (vi) Traps shall be inspected and cleaned at least once per week, or more often if dictated by site-specific conditions, as needed to be maintained in fully functional and efficient operation, or as otherwise specifically required by the Authorized Local Unit Representative.
  - (vii) FSEs with indoor grease traps shall employ kitchen BMPs for pre-cleaning of plates, pots, pans, and similar methods to minimize grease loadings to the drainage system. Kitchen BMPs for FSEs shall include, without limitation, dry wiping/scraping of pots and pans prior to washing; installation of flat screens and/or baskets in the pre-rinse, preparation, and pot sinks; use of absorbents on grease spills prior to mopping; posting of "No Grease" signage on all sinks and drains not connected to an interceptor or trap; training of

personnel on BMPs; and other practices as determined appropriate by the Authorized Local Unit Representative.

- b. Other AFPT. If the proposed AFPT is a technology other than indoor grease traps, the FSE shall submit design plans, installation details, and operation and maintenance procedures to the Authorized Local Unit Representative for prior review and approval.
  
- c. AFPT Upgrade or Outdoor FOG Interceptor May Be Required. The Authorized Local Unit Representative may, in the Representative's sole discretion, require any FSE/user currently using an AFPT device to upgrade the an AFPT device to instead install an outdoor FPG interceptor at the FSE/user's sole expense if the FSE/user meets any of the following conditions:
  - (i) The premises continues to discharge excessive amounts of FOG into the POTW.
  - (ii) The FSE/user has repeatedly failed or refused to comply (or is otherwise unable to comply) with BMP, cleaning, maintenance, or other applicable requirements.
  - (iii) The Authorized Local Unit Representative otherwise determines that an AFPT upgrade or outdoor FOG interceptor is required for the premises to meet the purposes and intent of this Article.

If the Authorized Local Unit Representative determines that an existing AFPT device must be upgraded, the Representative shall notify the FSE/user in writing of the required upgrade, including any terms, conditions, and requirements, and a schedule of compliance not to exceed 3 months for completion. Following the installation of the upgrade, the Authorized Local Unit Representative may an begin an evaluation of the performance and FOG removal effectiveness of the upgraded AFPT device by inspection of the affected sewer main line and lateral or by other any other means determined appropriate by the Representative. If as a result of the Authorized Local Unit Representative's evaluation, the FSE/user is found to still be contributing (or potentially contributing) FOG to the POTW in excessive amounts, the Representative may require the FSE/user to instead install an outdoor FOG interceptor to be completed no later than

6 months after the Representative's written notification to do so. For purposes of this paragraph, "excessive" amounts means as provided by Section 2.1.2 of this Article, and also includes, but is not limited to, the discharge of FOG in amounts or at a projected FOG deposition rate sufficient to necessitate cleaning the affected portion of the sewer pipes more frequently than once every five years, or if the lateral continues to require cleaning one or more times per year to prevent FOG blockages.

C. Other Interceptors and Traps.

Other types of interceptors and traps may be required by the Authorized Local Unit Representative subject to such terms, conditions and requirements as specified by the Representative in any case and for any premises where the Representative has determined that there is a reasonable potential for sand, flammable wastes, or other substances in a user's discharges to cause plugs or backups or to otherwise adversely affect the POTW.

Interceptors and/or traps shall be required for all premises engaged in the washing of motor vehicles, subject to such terms, conditions and requirements as specified by the Authorized Local Unit Representative.

D. Failure to comply.

1. The Authorized Local Unit Representative shall have the right to enter and inspect any premises where an interceptor, AFPT, or trap is required to be installed for purposes of determining compliance with the requirements of this Section 3.12.8 and as otherwise provided by Section 4.1.1 of this Article.
2. If a user fails to provide or maintain a required interceptor or AFPT, the Authorized Local Unit Representative may do so (or cause the same to be done) and charge all of the costs to the user.
3. The failure of any FSE/user required to have an interceptor or AFPT to comply with any requirement of this Section 3.12.8 shall subject the FSE/user to enforcement action and the remedies that are available by law and the terms of this Article, including, but not limited to, termination of the discharges from the premises to the POTW.



4. Any costs that must be reimbursed to the Local Unit by an FSE/user as provided by this Section 3.12.8 shall in addition to any other applicable fees, penalties, or other enforcement action or available remedies.

E. Permits.

The Authorized Local Unit Representative may issue and/or require a User Permit for any user discharging FOG, sand, or other substances to the POTW for the purpose of requiring an interceptor, AFPT or trap and specifying the terms, conditions, and requirements related thereto; provided that the provisions of this Section 3.12.8 shall apply whether or not a User Permit is issued. User Permits may include terms, conditions, and requirements that are more stringent than, or in addition to, the requirements specified by this Section, as determined appropriate by the Authorized Local Unit Representative.

F. Review and Approval of Interceptors or AFPTs.

The review and approval by the Authorized Local Unit Representative of a proposed or existing interceptor or AFPT device or facility shall not in any way be construed to represent or guarantee that the equipment will function in the manner described by its constructor or manufacturer; nor shall such review or approval in any case relieve a person or premises of the responsibility to replace, enlarge, or otherwise modify such equipment to accomplish the intended purpose, or entitle a user to relief from enforcement actions for failure to fully and timely comply with the requirements of this Section 3.12.8. Further, approval by the Authorized Local Unit Representative to install and operate an AFPT device shall not be construed to mean that the Representative may not subsequently require the person or premises to upgrade the AFPT device or install an outdoor FOG interceptor as provided herein.

G. Exclusions and Exemptions.

- (1) Exclusions. The following shall not be subject to the interceptor/APT requirements under this Section 3.12.8 except as otherwise determined necessary by the Authorized Local Unit Representative to prevent adverse impacts on the POTW or to otherwise meet the purposes and objectives of this Article: (a) A private residential dwelling unit where the food is prepared and served or consumed solely by the occupants of the dwelling unit; (b) a premises where the only food prepared and served or consumed is dispensed from automatic vending machines; and (c) a “Temporary Food Service Establishment” meaning an FSE operating at a fixed

location for not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

- (2) Exemptions. The Authorized Local Unit Representative, in the Representative's sole discretion, may grant a written exemption from the interceptor/APT requirements under this Section 3.12.8 to users or facilities for which the Representative determines do not have a reasonable potential to adversely affect the POTW due to discharges of FOG (for example, because they do not cook or prepare food). The Authorized Local Unit Representative's written exemption must be preceded by an inspection of the subject premises and submission of adequate supporting written documentation as deemed necessary by the Representative. The Authorized Local Unit Representative may revoke a facility's exemption if that facility's operation changes to include cooking or food preparation, or if it becomes apparent the FOG is being discharged and accumulating in the facility's lateral or the city's sewer main, or if the Representative otherwise determines that the facility does have a reasonable potential to adversely affect the POTW due to discharges of FOG. As a condition of a written exemption issued by the Authorized Local Unit Representative as provided by this paragraph, the exempted facility shall be obligated to immediately notify the Representative in writing of any proposed or actual change in the facility's operations or discharges to the POTW that would result in any increase in the amount of FOG discharged to the POTW over and above the amount discharged at the time the exemption was originally issued or that would otherwise be inconsistent with the terms of the exemption as issued.

**3.12.9. Dental Amalgam; Amalgam Separators**

A. *[Reserved.]*

B. Amalgam Separator; Installation and Operation; Requirements.

1. On or before December 31, 2013, a dentist shall install, or shall have installed, an amalgam separator on each wastewater drain in his or her dental office that is used to discharge dental amalgam waste. In addition to meeting the requirements of the Code and this Section 3.12.9, a dentist who is required to install an amalgam separator shall comply with all of the following:
  - a. Install an amalgam separator that meets the requirements of Section 3.12.9(C).

- b. Install, operate, and maintain the amalgam separator according to the manufacturer's instructions.
  - c. Ensure the installed amalgam separator is properly sized to accommodate maximum dental amalgam wastewater flow rates at the dental office. The maximum allowable flow rate through an amalgam separator at a dental office shall not exceed the maximum flow rate capacity at which the amalgam separator was tested under Section 3.12.9(C)(1)(a).
  - d. Ensure that all wastewater from the dental office containing dental amalgam waste passes through an installed and properly functioning and maintained amalgam separator before being discharged.
2. Section 3.12.9(B)(1) shall not apply to any of the following: oral and maxillofacial surgeons; oral and maxillofacial radiologists; oral pathologists; orthodontists; periodontists; dentists while providing services in a dental school, in a hospital, or through a local health department; and dentists who install and use a holding tank and do not discharge amalgam waste.
- C. Amalgam separator; Requirements.
- 1. An amalgam separator that is installed in a dental office under Section 3.12.9(B) shall meet all of the following requirements:
    - a. Be certified as passing the International Organization for Standardization (ISO) 11143:2008 standard for evaluating amalgam separators.
    - b. Have a removal efficiency of not less than 95% as determined by the testing required under Section 3.12.9(C)(1)(a), based on the overall average of the 3 empty and the 3 simulated full test results.
    - c. Be tested and certified by any of the following: (i) SP technical research institute of Sweden; (ii) Tuv nord, Germany; (iii) NSF international; or (iv) both of the following: a testing laboratory accredited by an accreditation body that is a signatory to the international laboratory accreditation cooperation's mutual recognition arrangement and has a scope of accreditation that includes ISO 11143; and a certification body accredited by an accreditation body that is a signatory to the international accreditation forum's multilateral recognition arrangement and has a scope of accreditation that includes ISO 11143.

2. Any amalgam separator that meets the requirements of Section 3.12.9(C)(1) shall qualify as an amalgam separator approved by the Michigan Board of Dentistry.
- D. Collection, disposal, and recycling of dental amalgam waste; requirements.
  1. A dentist shall comply with all of the following:
    - a. Use amalgam only in a precapsulated form.
    - b. Salvage, store, and recycle non-contact and contact dental amalgam materials, including empty amalgam capsules. As used in this Section 3.12.9(D) and Section 3.12.9(E), “recycle” or “recycling” means sending mercury or dental amalgam waste to either the contracted separator company or a facility in the United States that will reclaim or distill the mercury for reuse. “Recycle” or “recycling” shall not include any of the following: (i) the on-site processing of mercury or dental amalgam waste; (ii) the sale, donation, or exchange of mercury or dental amalgam waste through internet lists; or (iii) the sale or donation of mercury or dental amalgam waste to any individual or company for any other reuse purpose.
    - c. Collect and recycle extracted teeth or portions of teeth that contain dental amalgam materials.
    - d. Store all dental amalgam waste in enclosed and structurally sound containers until a sufficient amount has been collected for shipment to a reclamation facility or recycler or at a minimum, recycled annually.
    - e. Label all containers holding dental amalgam waste. The label shall include, at a minimum, the title “dental amalgam waste for recycling” and the date the waste was initially placed in the container.
    - f. Use chair-side traps to retain amalgam and recycle the content.
    - g. Recycle all amalgam materials collected in amalgam separators, vacuum pump filters, chair-side traps or other wastewater processing devices.
    - h. Ensure that the separators operate properly and do not become full and bypass. This may include inspecting the separators annually, halfway through the operating life, or as required by the manufacturer.

- i. Follow the steps for the cleanup of mercury spills at schools and businesses as recommended by the Department at [www.michigan.gov/mercury](http://www.michigan.gov/mercury) (or at such other location that such information may hereafter be provided by the Department).
2. A dentist shall not do any of the following:
  - a. Store bulk elemental mercury that is not in capsule form.
  - b. Put dental amalgam waste down a toilet or drain.
  - c. Put dental amalgam waste or empty amalgam capsules into trash containers, or biohazard or infectious waste bags.
  - d. Disinfect teeth or any item containing dental amalgam by autoclaving or using heat.
  - e. Use cleaners containing bleach or chlorine to flush drains or wastewater lines.
3. A dentist shall train and have written procedures for training dental office staff who manage or dispose of dental amalgam waste to ensure compliance with this rule.
4. This Section 3.12.9(D) shall not apply to a dentist listed in 3.12.9(B)(2). A dentist who installs and uses a holding tank and does not discharge amalgam waste shall comply with the requirements of Sections 3.12.9(D)(1), (2), and (3), as applicable.
- E. Record keeping.
  1. A dentist who is subject to the provisions of Section 3.12.9(B)(1) shall maintain records at his or her dental office that include all of the following:
    - a. Type of amalgam separator installed, including the manufacturer and model.
    - b. Date the amalgam separator became operational.
    - c. Documentation verifying that the amalgam separator meets the requirements of Section 3.12.9(C).
    - d. Documentation of the manufacturer's instructions for the operation and maintenance of the amalgam separator.

- e. Service records for each amalgam separator in use at the dental office that includes all of the following: (i) dates of maintenance; (ii) dates separator contents were recycled; and (iii) name of the staff or contractor performing the service.
  - f. Documentation verifying that the dentist disposed of and recycled any dental amalgam waste that was generated from the individual's dental office consistent with the requirements of Section 3.12.9(D). The documentation shall include all of the following: (i) name and address of the collection service or recycler; (ii) amount by weight of dental amalgam waste that was collected and the date it was collected or shipped from the dental office for recycling; (iii) name and address of the facility where the dental amalgam waste will be recycled; and (iv) shipping or manifest papers documenting transfer of the dental amalgam waste to the recycler.
- 2. The records required under Section 3.12.9(E)(1) shall be provided upon request to an authorized state official, local public health department staff, or representative of the Local Unit, including, but not limited to, the Authorized Local Unit Representative.
  - 3. All records required under Section 3.12.9(E)(1) shall be retained for a minimum of three (3) years.

F. Verification.

Upon the request of the Authorized Local Unit Representative, a dentist who is subject to the provisions of 3.12.9(B)(1) shall verify in writing that he or she is in compliance with this Section 3.12.9 and shall provide the amalgam separator make and year that each separator was installed.

G. Compliance and enforcement.

Failure to comply with the requirements of this Section 3.12.9 is a violation of this Article and may result in sanctions as provided by this Article, or as otherwise provided for by applicable local, state, and federal laws and regulations.

H. Permits.

The Authorized Local Unit Representative may issue and/or require a User Permit for any dentist who uses or removes dental amalgam or who owns or operates a dental office that generates dental amalgam waste; provided that the provisions of this Section 3.12.9 shall apply whether or not a User Permit is issued. User Permits may include any conditions and requirements that are

consistent with the provisions of this Section 3.12.9 and as provided by applicable state or federal laws and regulations, as determined appropriate by the Authorized Local Unit Representative.

**3.12.10. Additional Pretreatment Measures**

An Authorized Local Unit Representative may require users to take additional pretreatment measures, as determined necessary by the Authorized Local Unit Representative, including, but not limited to, the following:

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

**DIVISION 13. INDUSTRIAL PRETREATMENT PROGRAM FEES**

**3.13.1. Purpose**

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

**3.13.2. IPP Fees**

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

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

**3.13.3. IPP Fee Amounts**

- A. IPP fees shall be paid by users to the POTW in amounts determined necessary by the Authorized Local Unit Representative from time to time to reimburse the Local Unit for all costs and expenses incurred by the Representative 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 Authorized Local Unit Representative with regard to particular users, the fees shall be charged to the users on a time and materials basis, including, but not limited to, the full value of any Local Unit staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, testing fees, and actual attorney fees and defense costs, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken for each user.



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

**3.13.4. Surcharges**

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

**3.13.5. Billing and Collection of IPP Fees**

User Permit application fees shall be due upon submission of permit applications. Except as otherwise required by the Authorized Local Unit Representative, all other IPP fees shall be due within thirty (30) days of the date of the activity or service for which the fee is required. For fees not paid at the time of service, the amount of the fee shall be added to the user's sewage disposal service charges or billed separately. IPP fees provided for by this Section, including, but not limited to, surcharges, shall be billed, collected and enforced pursuant to the procedures as provided by the Local Unit for sewer service charges, rates, and fees as provided by this Article, the Local Unit Code of Ordinances, and other applicable Local Unit laws or regulations.

**ARTICLE IV. ENFORCEMENT**

**4.1.1. Inspection, Surveillance and Monitoring Authority; Right of Entry**

- A. In general. The Authorized Local Unit Representatives are authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by users or any other persons, compliance or noncompliance with applicable pretreatment standards and requirements, with this Ordinance, and with other applicable laws and regulations. This authority includes, without limitation, the authority:
- (1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.
  - (2) To determine compliance with the terms, conditions and requirements of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance.
  - (3) To support enforcement actions taken by the Authorized Local Unit Representatives against non-compliant users.
  - (4) To determine if users have corrected problems identified in previous inspections.
  - (5) To identify which (and to what degree) users influence the quality of the POTW's influent, effluent and sludge quality.
  - (6) To evaluate the impacts of the POTW's influent on its treatment processes and receiving stream.

- (7) To evaluate the need for revised local limits.
  - (8) To maintain current data on each user.
  - (9) To assess the adequacy of each user's self-monitoring program and User Permit.
  - (10) To provide a basis for establishing sampling and monitoring requirements for users.
  - (11) To evaluate the adequacy of each user's operation and maintenance activities on its pretreatment system.
  - (12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.
  - (13) To gather information for User Permit development.
  - (14) To evaluate compliance with existing enforcement actions.
  - (15) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.
  - (16) To determine compliance with requirements regarding implementation of best management practices; accidental discharge controls and protections; spill prevention or containment measures; and pollution prevention, minimization or reduction measures.
- B. Right of entry. The Authorized Local Unit Representatives and other authorized representatives of the Local Unit bearing proper credentials and identification are authorized to enter a user's premises (and any other person's premises, as determined necessary by the Representative) 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 person in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this Ordinance, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis,

and inspecting and making copies of required records. This shall include the right to take photographs.

- (2) To set up and maintain on the person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the person to do so, at the person's sole expense.
- (3) To randomly sample and analyze the discharge from any person or premises and conduct surveillance activities to identify occasional and continuing noncompliance with applicable standards and requirements. The Authorized Local Unit Representative shall inspect and sample the discharge from each Significant Industrial User at least once a year.
- (4) To inspect any production, manufacturing, fabrication, or storage area where pollutants, subject to regulation under this Ordinance, could originate, be stored, or be discharged to the POTW.
- (5) To enter all private properties through which the POTW, the Local Unit, or other governmental agency holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW or wastewater transmission facilities lying within the easement.

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

- C. Access without delay required. Persons shall allow Authorized Local Unit Representatives ready access at all times to all parts of the person's facility or premises where wastewater governed by this Ordinance is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this Ordinance could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the Authorized Local Unit Representatives' duties. If a person has security measures in force that would require proper identification and clearance before entry into the premises by an Authorized Local Unit Representative, the person shall

make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, the Authorized Local Unit Representative (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Upon arrival at a person's premises, the Authorized Local Unit Representative shall inform the person or the person's employees that inspections, sampling, compliance monitoring, metering or other POTW procedures are to be performed and that the person has the right to accompany the Authorized Local Unit Representative during the performance of the Representative's duties.

- D. Refusal to allow entry. If a person refuses to permit access (or unreasonably delays access) to an Authorized Local Unit 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 Authorized Local Unit Representative may order the termination of the discharge of wastewater to the POTW; order the person to permit access within a time certain; issue the person a notice of violation of this Section; or take other appropriate action as provided by this Ordinance and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this Section shall constitute a violation of this Ordinance.
- E. Emergency inspections. In an emergency which creates an immediate and substantial danger to the health, safety, and welfare of individuals or property, the premises of a user may be inspected immediately, at any time, and without permission or a warrant.

**4.1.2. Notice of Violation**

- A. Any person found to be violating a provision of this Ordinance may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by Section 4.1.4 of this Article.
- B. Unless otherwise specified by the NOV, the following provisions shall apply: Within at least thirty (30) days of the date of the NOV, the person shall submit to the Local Unit a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the person of liability for any violations occurring before or after receipt of the Notice of Violation.

- C. Nothing in this Section shall limit the authority of the Local Unit or the Authorized Local Unit Representatives to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation, or otherwise require the Local Unit to first issue a Notice of Violation before initiating a civil or criminal action against a person for violating this Ordinance. Further, receipt, or non-receipt, of a Notice of Violation shall in no way relieve the affected user of any and all liability associated with any violation.
- D. Failure to comply with any requirement of a Notice of Violation shall constitute a separate violation of this Ordinance.

**4.1.3. Orders and Supplemental Enforcement Tools**

An Authorized Local Unit Representative may issue an order to any person as determined by the Representative to be appropriate under the circumstances, as provided by this Section. Multiple orders may be issued simultaneously or in combination as a single order with respect to a single person.

- A. **Service.** An order shall be served upon a person and shall contain the information as provided by Section 4.1.4 of this Article. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment, or the POTW, may be oral and may be served by telephone, to be followed within five (5) days by written confirmation of the oral order by the Authorized Local Unit Representative.
- B. **Types of Orders.** An Authorized Local Unit Representative may issue the following types of orders:
  - (1) **Order to Immediately Cease and Desist Discharge.** An Authorized Local Unit Representative may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Ordinance. The order shall have immediate effect if the Representative determines that the actual or threatened discharge to the POTW presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment; or causes, or may cause, interference or pass through; or may cause the POTW to violate any term or condition of its NPDES permit. An Authorized Local Unit Representative shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The

person shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Ordinance.

- (2) Order to Cease Discharge Within a Time Certain. An Authorized Local Unit Representative may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Ordinance by a certain time and date. The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the Representative, an order may be issued under this Section for the failure to pay applicable permit fees or to comply with any term of a User Permit.
  
- (3) Order to Effect Pretreatment. An Authorized Local Unit Representative may issue an order to a user requiring the user to pretreat its discharge in accordance with this Ordinance. Any user subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the discharge complies with the requirements of the order and this Ordinance. The plan shall be submitted to the Authorized Local Unit Representative 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 Authorized Local Unit Representative. 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 Authorized Local Unit Representative:
  - (a) Retain a qualified engineer and/or consultant.
  - (b) Obtain any engineering or scientific investigation or surveys deemed necessary.
  - (c) Prepare and submit a preliminary plan to achieve pretreatment.
  - (d) Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.

- (e) Establish a time to let any contract necessary for any construction.
  - (f) Establish completion times for any construction necessary.
  - (g) Establish a time limit to complete full pretreatment pursuant to the final order.
  - (h) If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phases or unit.
- (4) Order to Affirmatively Respond. An Authorized Local Unit Representative may issue an order requiring a person to perform any action required under this Ordinance, including, without limitation, requiring a person to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.
- (5) Order to Terminate Sewer Services. An Authorized Local Unit Representative may issue an order to terminate the sewer services of a user, including, but not limited to, immediate physical blockage of the user's sewer connection, for reasons including, without limitation, the following:
- (a) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.
  - (b) Failure of a user to notify the POTW of any discharge as described in Section 4.1.3(B)(5)(a) of which the user was aware or reasonably should have been aware.
  - (c) Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the Authorized Local Unit Representative.
  - (d) A knowing, willful violation of any term, condition or requirement of an order or User Permit, or any provision of this Ordinance.



- (e) A negligent violation of any major term, condition or requirement of an order or User Permit. For purposes of this Section, a “major” term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment, the POTW, or cause the MAWTF to violate its NPDES permit.

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

- (6) Order to Show Cause. An Authorized Local Unit Representative may issue an order requiring a person to appear and explain any noncompliance with the requirements of this Ordinance or any permit, order, decision or determination promulgated, issued or made under this Ordinance, and to show cause why more severe enforcement actions against the person should not go forward. A show cause hearing shall be held within ten (10) days after the order to show cause is issued, as follows:
  - (a) The Township Board shall conduct the hearing and take evidence. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.
  - (b) Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.
  - (c) After reviewing the evidence taken at the hearing, the Township Board shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, without limitation, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this Ordinance.

- C. Immediate Response To Order By User May Be Required. Any user issued an order as provided by this Section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the Local Unit shall take any action determined necessary as authorized by this Ordinance, including, without limitation, immediate suspension 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 Local Unit may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the user that the noncomplying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the Authorized Local Unit Representative 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 3.7.1(A), the Authorized Local Unit Representative 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 Authorized Local Unit Representative. Notice of the amendment, suspension or revocation shall be served upon the person in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Ordinance.
- F. Consent Orders and Agreements. An Authorized Local Unit Representative may enter into a consent order or agreement with a person to resolve disputed claims and address identified and potential deficiencies in the person's compliance status. The order or agreement shall be in the form of a written agreement with the person and may contain appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.

- G. Authority to Require Financial Assurances. An Authorized Local Unit Representative may require any user to post a performance bond (or other form of surety acceptable to the Representative) sufficient to cover expenses (direct and/or indirect) that might reasonably be incurred by the Local Unit as a result of the user's discharges to the POTW (including, but not limited to, the costs to restore or repair any damage to the POTW) or sufficient to achieve consistent compliance with applicable laws and regulations, as determined necessary by the Representative. Further, any person that has 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 financial assurance requirements may also be made conditions of a User Permit.

**4.1.4. Service of Notices of Violations, Orders and Notices of Assessments**

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

- A. Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable, at the person's last known address as shown by Local Unit's records. The person served shall sign and date the order or notice and shall return the signed original copy to the Authorized Local Unit Representative; provided, that the failure to do so shall not affect in any way the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not actually be received by the person, but this shall not nullify in any way any enforcement action subsequently taken by the Authorized Local Unit Representative against the person under authority of this Article. Receipt, or non-receipt, of a notice or order shall not in any way relieve the affected person of any liability associated with the violation. Further, the issuance of a notice or order will not be a bar against, or a prerequisite for, any other enforcement actions by the Local Unit against the affected person.
- B. Contents. All orders and notices shall contain at least the following information, to the extent known by the Authorized Local Unit Representative and as determined by the Representative to be applicable to the situation:
- (1) The name and address of the violator;
  - (2) The location and time that the violation occurred or was observed, and the duration of the violation;

- (3) The nature of the violation, including the provisions of this Ordinance or of any permit, order, decision, determination or agreement violated;
  - (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
  - (5) The amount of the fine, penalty, cost, or charge assessed or due, if any;
  - (6) The manner in which, and time and date by which, any fine, penalty, cost, 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 Authorized Local Unit Representative 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.

**4.1.5. Municipal Civil Infractions**

- A. Violation; Municipal Civil Infraction. Except as provided by Section 4.1.6, and notwithstanding any other provision of the Township’s laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the Local Unit under this Ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.
- B. Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this Section, “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance (i) committed

by a person within any 90 day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

- (1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.
- (2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.

- C. Amount of Fines. Subject to the minimum fine amounts specified in Sections 4.1.5(A) and 4.1.5(B), the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- D. Authorized Local Official. Notwithstanding any other provision of the Township's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this Ordinance (or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): an Authorized Local Unit Representative, any sworn law enforcement officer, and any other persons so designated by the Township.
- 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.

**4.1.6. 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 Local Unit 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 Local Unit regarding matters regulated by this Ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or (4) commits any other act that is punishable under state law by imprisonment for more than ninety (90) days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to ninety (90) days, or both in the discretion of the court.

**4.1.7. Continuing Violation**

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

**4.1.8. Number of Violations**

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

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

- D. Each violation of a monthly average limit (or of some other average limit period) for a single pollutant or sampling parameter shall constitute a separate violation for each day of the month (or other stated period) during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)
- E. Except with regard to violations of average limits as provided by Section 4.1.8(D), a violation will be deemed to have continued to occur each day beginning with the first day the violation occurred to the day the user is able to demonstrate through appropriate sampling results that the violation is no longer occurring.
- F. If for any period a user has violated both a daily maximum limit and an average limit for a particular pollutant parameter, then the total number of violations is the sum of the days on which the daily maximum limit was violated plus the number of days in the averaging period.
- G. If a User Permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this Section.
- H. If a user is discharging a wastestream that is required to be monitored and analyzed under continuous monitoring procedures then all of the following shall apply:
- (1) If at any time during a daily 24-hour period the continuous monitoring shows that the monitored parameter exceeded the instantaneous minimum, instantaneous maximum, or daily maximum limit for that parameter, then a violation has occurred.
  - (2) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum or instantaneous maximum, during that period, then each such exceedance shall be considered a separate violation.
  - (3) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum, instantaneous maximum, or daily limit into the next daily 24-hour period (i.e., the exceedance occurs both before and after midnight), then the exceedance will be considered a separate violation on both days.

- I. One (1) violation occurs on: each day that a report is late; and each day after an action required to be completed is not completed.

**4.1.9. Nuisance**

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

**4.1.10. Reimbursement**

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



- (4) The full value of any Local Unit staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the Local Unit's legal counsel and any special legal counsel), associated with reviewing, responding to, investigating, verifying, and/or prosecuting any discharge, violation, or noncompliance, or otherwise incurred by the Local Unit in administering and enforcing the requirements of this Ordinance.

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

- B. In determining the amounts to be reimbursed, the Local Unit 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 Local Unit 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 Local Unit, or imposed upon the Local Unit 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 Representative, including the Local Unit's costs of defense of actions, or suits brought or threatened against the Local Unit by governmental agencies or third parties.

- (8) Such other factors, including the amount of any attorney's fees; engineering, consultant, and expert fees; expenses, costs, sampling and analytical fees; repairs; that the Local Unit deems appropriate under the circumstances.
- C. Costs to be reimbursed to the Local Unit as provided by this Section may be assessed to the user as provided by Section 4.1.4 of this Article, or as otherwise determined appropriate by the Local Unit in conjunction with an enforcement action.
- D. The failure by any person to pay any amounts required to be reimbursed to the Local Unit as provided by this Section shall constitute an additional violation of this Ordinance.

**4.1.11. Review or Approval by Local Unit**

In no case shall the review and/or approval by the Local Unit of a user's plans, specifications, or operating procedures entitle a user to relief from enforcement actions for failure to achieve compliance with pretreatment standards and requirements applicable to the user's discharges under local, state, or federal laws or regulations or under any permit, order, notice or agreement issued or entered into under this Ordinance.

**4.1.12. Severance or Suspension of Sewer Service**

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

**4.1.13. Judicial Relief**

The Local Unit 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 Local Unit may also seek collection of surcharges, fines, penalties and any other amounts due to the Local Unit that a person has not paid.

**4.1.14. Cumulative Remedies**

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

**ARTICLE V. ADMINISTRATIVE REVIEW AND APPEALS**

**5.1.1. [Reserved.]**

**5.1.2. Procedure Available**

Any person aggrieved by a Notice of Violation, Order, final decision, final determination, or other final action taken by an Authorized Local Unit Representative under this Ordinance may request an informal review and reconsideration of the action by the Authorized Local Unit Representative as provided by this Section. ~~The person requesting the appeal shall pay an appeal fee in the amount determined from time to time by the Township Board. The appeal fee shall be paid at the time that the request for informal review/reconsideration is requested.~~ If a request for informal review and reconsideration by the Authorized Local Unit Representative is not properly and timely requested, including ~~payment in full of the appeal fee and~~ submission of all required supporting documents and information as provided by this Section, the right to request a review and reconsideration shall be deemed waived and the action of the Authorized Local Unit Representative shall be deemed final.

**5.1.3. Informal Review and Reconsideration by the Authorized Local Unit Representative**

A request for an informal review and reconsideration by the Authorized Local Unit Representative of an action taken by the Authorized Local Unit Representative shall be made in writing within 10 calendar days from the date of the Authorized Local Unit Representative's action in question. The request shall state the reasons for the review and shall include all supporting documents and dates. A hearing on the request shall be scheduled at the earliest practicable date as determined by the Authorized Local Unit Representative, as applicable. The hearing shall be conducted by the

Authorized Local Unit Representative on an informal basis at the location designated by the Authorized Local Unit Representative. Following the informal hearing, the Authorized Local Unit Representative may affirm or reverse, in whole or in part, the action appealed from, or may make any order, requirement, determination, or decision that in the Authorized Local Unit Representative's opinion ought to be made in the case under consideration (these actions by the Authorized Local Unit Representative are hereinafter collectively referred to as the Authorized Local Unit Representative's "final decision"). The aggrieved person shall be notified of the Authorized Local Unit Representative's final decision within 30 calendar days of the hearing. The Authorized Local Unit Representative may request additional information and extend the time for the final decision by up to an additional 30 calendar days following the submission of all of the additional requested information.

**5.1.5. Payment of Charges, Penalties, Fines, and Other Costs or Fees**

All service charges, penalties, fines, fees, surcharges, costs or expenses outstanding during any review and reconsideration process shall be due and payable to the Local Unit, as applicable. Further, if the Authorized Local Unit Representative's decision that was reviewed is affirmed, the person that requested the review and/or appeal shall upon the Local Unit's request pay all of the costs incurred by the Local Unit in conducting the review, including, but not limited to, any applicable sampling and analytical costs, legal and engineering consultant costs, and costs of transcription and recording. If the Authorized Local Unit Representative's decision is only partially affirmed or reversed, upon resolution of the review, any amounts due and payable to the Local Unit shall be equitably adjusted accordingly, provided that any refunds of any amounts already paid to the Local Unit by the appellant shall be retroactive to the previous 4 monthly billings only. ~~In no case shall any portion of the appeal fee be refunded.~~ The Local Unit may terminate wastewater treatment services if a corrective course of action is not taken or if service charges, penalties, fines, fees, surcharges, costs, or expenses are not paid by a user.

**5.1.6. Finality of Action**

If a written request for review is not made as provided by this Article within the periods specified by this Article, the Authorized Local Unit Representative's action shall be deemed final. If a review is properly requested, the action in question shall be suspended until a final determination has been made by the Authorized Local Unit Representative, 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 3.3.15).

**5.1.7. Appeals from Authorized Local Unit Representative's Determination**

Appeals from a final determination of the Authorized Local Unit Representative may be made to a court of competent jurisdiction as provided by law. All findings of fact made by the Authorized Local Unit Representative, if supported by competent, material, and substantial evidence, shall be deemed conclusive.

**ARTICLE VI. ADDITIONAL MISCELLANEOUS PROVISIONS**

**6.1.1. Protection from Damage**

It is a misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment that is part of the POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court; and shall be subject to other sanctions and remedies as provided by this Article, including, but not limited to, reimbursement of the Local Unit as provided by Section 4.1.10 of this Ordinance.

**6.1.2. Municipal Liability**

Neither the Local Units (including, but not limited to, Local Unit staff, employees, and officials) or Authorized Local Unit Representatives shall be responsible for interruptions of service due to natural calamities, equipment failures, or the actions of users. It shall be the responsibility of the users that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

**6.1.3. Use of Public Sanitary Sewers Conditional**

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

**3. Severability.** Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect

the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

4. **Saving Clause.** The amendment or repeal by this Ordinance of any ordinance or ordinance provision shall have no effect upon prosecutions commenced prior to the effective date of this Ordinance or prosecutions based upon actions taken by any person prior to the effective date of this Ordinance. Those prosecutions shall be conducted under the ordinance provisions in effect prior to the effective date of this Ordinance.

5. **Conflict.** Except as otherwise expressly provided, the provisions of this Ordinance shall control in the event of any inconsistency or conflict between this Ordinance and any other provision of any other ordinance of the Township.

6. **Publication.** This Ordinance shall be published by publishing a summary of the Ordinance in the Marquette Mining Journal, including the designation in the publication of the location in the Township where a true copy of the Ordinance can be inspected or obtained, as authorized by State law.

7. **Effective Date.** This Ordinance shall become effective upon the date of publication of the notice of its adoption as provided in Section 6, above, and as certified by the Clerk, below.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the Township Board of Trustees, Township of Chocoday, Michigan.

On roll call, the vote was:

Yeas:

Nays:

By: \_\_\_\_\_  
\_\_\_\_\_

Certification

I, \_\_\_\_\_, Clerk of the Township of Chocolay, Michigan, do hereby certify that the foregoing is a true copy of the ordinance adopted by the Township Board of Trustees at a regular meeting held on \_\_\_\_\_, 2020, at \_\_\_\_\_, and that it was published in \_\_\_\_\_ on \_\_\_\_\_, 2020.

\_\_\_\_\_, Clerk