

## CHAPTER 51: Wastewater Disposal

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### WASTEWATER DISPOSAL

#### § 51.15 PURPOSE AND AUTHORITY.

(A) The purpose of this subchapter is the protection of the public health, safety and welfare by abating and preventing pollution through the regulations and control of the quantity and quality of industrial, commercial and other wastewater and wastes admitted or discharged into the POTW of the City of Saginaw.

(B) This subchapter sets forth uniform requirements for users of the POTW of the City of Saginaw and enables the City to comply with all applicable state and federal laws and regulations, including the Clean Water Act (33 USC. § 1251 et seq.) and the General Pretreatment Regulations (40 CFR 403).

(C) The objectives of this subchapter are:

(1) To prevent the introduction of pollutants into the POTW that will interfere with its operation;

(2) To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;

(3) To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) To promote reuse and recycling of industrial wastewater and sludge from the POTW; and

(5) To enable the City to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.

(D) This subchapter shall apply to all users of the POTW. This subchapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting.

(E) By virtue of obligations and authority placed upon the City of Saginaw as an operator of a wastewater collection and treatment system (POTW) which discharges into public waters, by the Federal Clean Water Act; Public Act 451 of 1944 of the State of Michigan, as amended; applicable NPDES permits issued to the City of Saginaw; existing or future contracts between the City of Saginaw and other governmental or private entities or by virtue of common law usage of the City's POTW, this subchapter shall apply to every industrial, commercial and other users whose wastewater or waste is discharged into or flows through the City's POTW or is treated at a treatment plant of the POTW.

(38 Gen'l Code, Ch. 5, § 3-101) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective immediately after passage, approval and publication)

#### **§ 51.16 ADMINISTRATION.**

Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this subchapter. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City personnel.

(Ord. D-1927, passed 7-15-02, effective immediately after passage, approval and publication)

#### **§ 51.17 ABBREVIATIONS.**

The following abbreviations, when used in this subchapter, shall have the designated meanings:

**BOD** - Biochemical Oxygen Demand

|                  |   |  |
|------------------|---|--|
| <b>CFR</b>       | - | Code of Federal Regulations                        |
| <b>COD</b>       | - | Chemical Oxygen Demand                             |
| <b>EPA</b>       | - | U.S. Environmental<br>Protection Agency            |
| <b>gpd</b>       | - | gallons per day                                    |
| <b>MAC</b>       | - | Michigan Administrative Code                       |
| <b>mg/l</b>      | - | milligrams per liter                               |
| <b>NPDES</b>     | - | National Pollutant Discharge<br>Elimination System |
| <b>O &amp; M</b> | - | Operation and Maintenance                          |
| <b>PCB</b>       | - | Polychlorinated Biphenyl                           |
| <b>POTW</b>      | - | Publicly Owned Treatment Works                     |
| <b>RCRA</b>      | - | Resource Conservation and Recovery Act             |
| <b>SIC</b>       | - | Standard Industrial Classification                 |
| <b>SIU</b>       | - | Significant Industrial User                        |
| <b>TSS</b>       | - | Total Suspended Solid                              |
| <b>USC</b>       | - | United States Code                                 |

(`38 Gen'l Code, Ch. 5, § 3-102) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91;  
Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.18 DEFINITIONS.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this subchapter, shall have the meanings hereinafter designated.

**ACT.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, Public Law 92-500 (33 USC § 1251, et seq.), which is on file in the office of the Director.

**APPROVAL AUTHORITY.** The Chief of the Surface Water Quality Division, Michigan Department of Environmental Quality or delegated representative.

#### **AUTHORIZED REPRESENTATIVE OF USER.**

- (1) If the user is a corporation:
  - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (b) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subparagraphs (1) through (3), above, may designate another authorized representative if the authorization is in writing, the

authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

**BASELINE MONITORING REPORT.** The initial report provided by the user when making out an application for a wastewater discharge.

**BIOCHEMICAL OXYGEN DEMAND or (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20 C, usually expressed as a concentration (e.g., mg/l)

**BYPASS.** The intentional diversion of wastestreams from any portion of a user's treatment facility needed for compliance with pretreatment standards.

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

**CHEMICAL OXYGEN DEMAND or (COD).** The quantity of oxygen utilized in the chemical oxidation of organic matter with a strong chemical oxidant under standard laboratory procedure and expressed in milligrams per liter.

**CITY.** The City of Saginaw.

**COMBINED SEWER.** A sewer intended to receive both wastewater and stormwater.

**DAILY MAXIMUM.** The concentration (or mass loading, expressed in terms of pounds per day) that shall not be exceeded on any single calendar day or 24-hour period. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged during the day. Sampling for daily maximum shall be a 24-hour flow proportioned composite sample, except that a minimum of 4 grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for pH, cyanide, phenol (total), residual chlorine, oil and grease, sulfides, volatile organic compounds (and any other parameters specified by the Director). If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of 4 grab samples may be used in lieu of the flow proportioned composite sample if the user demonstrates to the Director that a representative sample will be obtained. If the pollutant concentration in any sample is less than the applicable detection limit, that value shall be regarded as zero when calculating the daily maximum concentration (except as otherwise provided in a permit, order or agreement issued under this subchapter). 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 or 24-hour period shall be based on the composite sample collected for that parameter on that calendar day or 24-hour period. 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 or 24-hour period shall be based on the average of all grab samples collected for that parameter on that calendar day or 24-hour period. If only one grab sample is collected for a parameter on a given day, the determination whether the daily maximum limitation for that parameter has been exceeded for the day shall be based on the results of that single grab sample.

**DIRECTOR.** The Director of Public Utilities of the City, or the authorized deputy, agent or representative of such person.

**DISCHARGE.** The introduction of wastewater, wastes or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect (including flow and infiltration).

**DISSOLVED SOLIDS.** Those solids in waste-water other than suspended solids.

**DOMESTIC USER.** A user that discharges only segregated normal strength domestic waste into the POTW.

**DOMESTIC WASTE.** Water-carried waste of human origin generated by personal activities from toilet, kitchen, laundry or bathing facilities, or by other similar facilities used for household or residential purposes.

**ENVIRONMENTAL PROTECTION AGENCY or EPA.** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Division Director, or other duly authorized official.

**EXISTING SOURCE.** Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**GARBAGE.** Solid wastes from the preparation, cooking, serving of food, from the handling, storage and sale of produce or from the canning or packaging of food.

**GRAB SAMPLE.** A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

**INDIRECT DISCHARGE.** The introduction of pollutants into the POTW, intentionally or unintentionally, from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

**INDUSTRIAL USER.** A source of indirect discharge.

**INDUSTRIAL WASTE.** The liquid, solid or gaseous wastes from industrial manufacturing processes, food processing, laboratories, landfills, trades or businesses and other nondomestic users, including leachate and contaminated groundwater, whether treated or not, as distinct from sewage.

**INTERFERENCE.** A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any 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.

**MAY.** Is permissive. (See SHALL).

**MEDICAL WASTE.** Isolation wastes, infectious agents and associated biologicals, liquid human and animal wastes, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT or (NPDES PERMIT).** The permit issued by the Michigan Department of Environmental Quality to the City concerning discharges from the POTW.

**NATURAL OUTLET.** Any outlet into a watercourse, river, pond, ditch, lake or other body of surface or subsurface water.

**NEW SOURCE.**

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

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

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

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent,

factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subparagraphs (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

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

1. Any placement, assembly, or installation of facilities or equipment; or

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

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

**NONCONTACT COOLING WATER.** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**NONDOMESTIC USER.** Any user other than a domestic user.

**PASS THROUGH.** A discharge which exits the POTW into waters of the United States in quantities or concentrations, which 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, including an increase in the magnitude or duration of a violation.

**PERSON.** Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

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

**POLLUTANT.** Without limitation, all of the following:

(1) Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes;

(2) Certain characteristics of wastewater (e.g., but not limited to, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor);

(3) Substances regulated by categorical pretreatment standards;

(4) Substances discharged to the POTW which are required to be monitored by a user, are limited in the POTW's NPDES permit, or required to be identified in the POTW's application for an NPDES permit or in a user's application for a wastewater discharge permit;

(5) Substances for which control measures on users are necessary to avoid restricting the POTW's sludge use and disposal program, to avoid operational problems at the POTW, or to avoid worker health and safety problems; and

(6) Toxic substances.

**PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. This reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes, or by other means, except by increasing the use of process water or in any other way attempting to dilute a discharge as a partial or complete substitute for adequate treatment unless allowed by an applicable pretreatment standard.

**PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

**PRETREATMENT STANDARDS or STANDARDS.** Prohibited discharge standards, categorical pretreatment standards, and local limits.

**PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES.** Prohibitions against the discharge of certain substances; these prohibitions appear in § 51.23.

**PUBLICLY OWNED TREATMENT WORKS or POTW.** A treatment works, as defined by Section 212 of the Act (33 USC § 1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes or other conveyances which convey wastewater to a treatment plant which is part of the POTW.

**QUANTIFICATION LEVEL.** The measurement of the concentration of a pollutant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular pollutant can be quantitatively measured using a specified laboratory

procedure for monitoring of the pollutant as determined in accordance with applicable state and federal regulations.

**RECEIVING WATERS.** Any watercourse, river, pond, ditch, lake, aquifer, or other body of surface or subsurface water receiving discharge of sewage.

**SANITARY SEWER.** A sewer which carries sewage and to which storm, surface, and subsurface waters shall not intentionally be admitted.

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

**SEWAGE.** Human excrement and gray water (i.e., from household showers, dishwashing operations, etc.)

**SEWER.** A pipe or conduit for carrying storm and/or wastewater.

**SHALL.** Is mandatory. (See MAY).

**SHALL DISCHARGE.** Discharging, causing or allowing to be discharged, either directly or indirectly.

**SIGNIFICANT INDUSTRIAL USER or SIU.**

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
  - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in subparagraph (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a SIGNIFICANT INDUSTRIAL USER.

**SLUG LOADING or SLUG.** Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 51.23, or any discharge of a non-routine episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

**STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE.** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

**STORM SEWER.** Any drain or sewer, either natural or artificial, which is intended expressly for the conveyance of storm water.

**STORM WATER.** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including stormwater runoff and snow melt runoff.

**SURCHARGE.** The additional treatment charges by the City for the treatment of wastewater containing pollutants in excess of specified concentrations, loadings or other applicable limits.

**TOTAL SUSPENDED SOLIDS.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, which is removable by laboratory filtering and determined in accordance with procedures specified in 40 CFR 136.

**TOXIC SUBSTANCE.** Any pollutant defined by the EPA and any material or substance which alone or with other materials or substances can cause risk to health or the environment, or cause interference.

**USER.** A source of discharge of wastewater or wastes to the POTW, whether intentional or unintentional.

**WASTE(S).** Substances in liquid, solid, or gaseous form that are discharged, or otherwise placed, dumped, or allowed into the POTW, by any person.

**WASTEWATER.** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

**WASTEWATER TREATMENT PLANT or TREATMENT PLANT.** That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(<sup>3</sup> 38 Gen'l Code, Ch. 5, § 3-102) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.19 USE OF POTW REQUIRED.**

(A) All wastewaters in the City of Saginaw or areas under the jurisdiction of the City, and all wastewater discharged into the POTW system by a person contracting for treatment service by the City, must be treated in accordance with provisions of this subchapter.

(B) It shall be unlawful to use garbage grinders of any size for grinding those materials described in § 51.23.

(C) No person shall discharge any wastewater, waste or other substance directly into a manhole, catch basin or inlet. All discharges to sewers shall be through sewer connections.

( 38 Gen'l Code, Ch. 5, § 3-103) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.20 DISCHARGE TO NATURAL OUTLETS.**

It shall be unlawful to discharge directly or indirectly to any natural outlet within the City, or in any area under the jurisdiction of the City, any wastes or wastewaters, except where suitable treatment has been provided, in accordance with provisions of the ordinances and regulations of the City and with state and federal laws and regulations.

( 38 Gen'l Code, Ch. 5, § 3-104) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.21 GREASE, OIL AND SAND INTERCEPTORS.**

(A) Grease, oil and sand interceptors shall be provided when, in the determination of the Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction and equipped with easily removable covers which, when bolted in place, shall be gas tight and water tight.

(B) Where installed, all grease, oil and sand interceptors shall be provided and maintained by the owner, at his expense, in continuously efficient operation at all times. ( 38 Gen'l Code, Ch. 5, § 3-105) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.22 ROOF AND STORMWATER CONNECTIONS PROHIBITED.**

(A) It shall be unlawful to directly connect eaves troughs and roof downspouts to the POTW throughout the portion of the POTW tributary to combined sewers. Residential properties shall have until September 26, 2002 to comply with this provision. Commercial and industrial properties shall have until September 26, 2006 to comply. A user may request in writing to the Director to be exempted from the direct connection prohibition. The request shall include a demonstration that the disconnection of downspouts and eaves troughs is not a cost effective means of reducing the frequency or duration of combined sewer overflows or of the City maintaining compliance with its NPDES permit. If the user's request is deemed approvable by the Director, in the Director's sole discretion, then the Director may forward the request to the Michigan

Department of Environmental Quality for approval. The user shall be responsible for all costs of making the demonstration and obtaining the approval of the Director and the Michigan Department of Environmental Quality.

(B) In those areas served by separate storm and sanitary sewers, it shall be unlawful to connect eaves troughs, roof downspouts or other sources of stormwater discharges to a sanitary sewer.

(<sup>38</sup> Gen'l Code, Ch. 5, § 3-107) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

### **§ 51.23 PROHIBITED DISCHARGE STANDARDS.**

(A) General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through, interference, the City to violate its NPDES permit or its biosolids management program. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements.

(B) Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

(1) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, wastestreams with a closed cup flash point of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.

(2) Wastewater having a pH less than 6.0, or more than 10.5 or otherwise causing corrosive structural damage to the POTW or equipment. The City may enforce a maximum pH of 9.0 for individual users if the Director determines that a discharge with a higher pH may be detrimental to the POTW;

(3) Solid or viscous substances in amounts or of such size which will cause obstruction of the flow in POTW or resulting in interference including any substance detrimental to or determined by the Director to be detrimental to the POTW;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature greater than 120 degrees Fahrenheit, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the head of a treatment plant to exceed 104 degrees Fahrenheit or 40 degrees Centigrade;

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the Director in accordance with § 51.33;

- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry to the POTW for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- (12) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (13) Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit;
- (14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (15) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (16) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l;
- (17) Collectible floating fats, oils, or greases;
- (18) Garbage that has not been properly shredded;
- (19) Pollutants which cause a high concentration of inert suspended solids, such as, but not limited to, lime slurries, diatomaceous earth and lime residues;
- (20) Pollutants which cause high concentration of dissolved solids such as, but not limited to, sodium chloride;
- (21) Pollutants which exert a COD that would increase operational expense or cause treatment problems;
- (22) Pollutants which exert a high chlorine demand such as, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulfate;
- (23) Pollutants which result in water or waste materials containing toxic or poisonous substances that may damage or interfere with any sewage treatment process or that may constitute a hazard to any person, animal, fish or aquatic life or that may be a hazard in the receiving waters of the state;
- (24) Any substance which may cause the POTW effluent or any other product of the POTW such as biosolids, residue, sludge or scum, to be unsuitable for reclamation and reuse or to interfere with the biosolids management, reuse or reclamation process where the POTW is pursuing a biosolids, reuse or reclamation program. In no case shall a substance be discharged to the POTW and cause the POTW to be in noncompliance with biosolids use or disposal criteria guidelines or regulations under applicable federal, state or local law.

(C) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. (38 Gen'l Code, Ch. 5, § 3-106) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

## **§ 51.24 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

The federal categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, including but not limited to Parts 405-471, and any amendments thereto and replacements thereof are hereby incorporated by reference.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c). Equivalent limitations so imposed shall be deemed pretreatment standards and the user will be required to comply with the equivalent limitation in lieu of the promulgated categorical standard from which the equivalent limitation is derived. Any user operating under a wastewater discharge permit incorporating equivalent limitations calculated from a production based standard shall notify the Director within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. The Director may impose a revised equivalent limitation based on the revised production level.

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e). An alternate limit may not be used if the alternate limit is below the detection limit for the regulated pollutant.

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net/gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(E) A new source shall install, have in operating condition and start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest time feasible, but not to exceed ninety (90) days, a new source shall meet all applicable pretreatment standards.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.25 STATE PRETREATMENT STANDARDS.**

The state pretreatment standards found at MAC, Part 23 of Water Resources Commission General Rules, including, but not limited to R323.2301 to R323.2317, and any amendments thereto and replacements thereof are hereby incorporated by reference. (Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.26 LOCAL LIMITS.**

(A) The following specific discharge limits apply to all users. No user shall discharge wastewater containing in excess of the following daily maximum allowable discharge limits

|         |            |
|---------|------------|
| Arsenic | 0.473 mg/l |
| Benzene | 0.500 mg/l |

|   |                                    |
|---|------------------------------------|
| Cadmium   | 0.110 mg/l                         |
| Chromium  | 2.770 mg/l                         |
| Copper  | 1.184 mg/l                         |
| Cyanide (amenable)  | 0.473 mg/l                         |
| Lead  | 0.377 mg/l                         |
| Mercury   | less than quantification level (1) |
|   |                                    |
| Nickel  | 1.786 mg/l                         |
| Selenium  | 0.083 mg/l                         |
| Total BTEX (sum of benzene, toluene, ethylbenzene and xylene) | 5.000 mg/l                         |
| Total PCBs  | less than quantification level (2) |
| Zinc  | 1.162 mg/l                         |
| BOD   | 493 mg/l (3)                       |
| TSS   | 1100 mg/l (4)                      |
| Phosphorus  | 7 mg/l (5)                         |
| Ammonia Nitrogen  | 77 mg/l (6)                        |

NOTES:

(1) The sampling procedures, preservation and handling, and analytical protocol for mercury shall be in accordance with EPA Method 245.1. The quantification level shall not exceed 0.0002 mg/l unless a higher level is appropriate due to sample matrix interference. The local limit for mercury is less than the quantification level using the specified analytical method. Any discharge of mercury at or above the quantification level is a specific violation of this subchapter. If all the samples in any reporting period are less than the quantification level, the City will consider the permittee to be in compliance with the local limit for these pollutants for that reporting period, provided that the permittee is also in full compliance with the minimization program set forth in its wastewater discharge permit (if applicable). This paragraph does not authorize the discharge of mercury at levels which are injurious to the designated uses of the waters of the state or which constitute a threat to the public health, welfare, worker health or safety, or sludge disposal.

(2) The sampling procedures, preservation and handling, and analytical protocol for total PCBs shall be in accordance with EPA Method 608. The quantification level shall be the quantification level specified in the NPDES Permit, as amended or reissued from time to time, unless a higher level is appropriate due to sample matrix interference. The local limit for total PCBs is less than the quantification level using the specified analytical method. Any discharge of PCB at or above the quantification level is a specific violation of this subchapter. Except as provided in subparagraph (B) below, if all the samples in any reporting period are less than the quantification level, the City will consider the permittee to be in compliance with the local limit for these pollutants for that reporting period, provided that the permittee is also in full compliance with the minimization program set forth in its wastewater discharge permit (if applicable). This paragraph does not authorize the discharge of PCBs at levels which are injurious to the designated uses of the waters of the state or which constitute a threat to the public health, welfare, worker health or safety, or sludge disposal. Total PCBs shall be defined as the sum of all Aroclor-specific measurements at or above the quantification level including,

but not limited to, Aroclors 1016, 1221, 1232, 1242, 1248, 1254 and 1260, with any Aroclor result less than the quantification level being treated as zero. In addition, any detected Aroclor-specific measurements shall be reported.

(3) Any discharge of BOD in excess of 200 mg/l shall be subject to surcharge, per § 51.56.

(4) Any discharge of TSS in excess of 350 mg/l shall be subject to surcharge, per § 51.56.

(5) Any discharge of phosphorus in excess of 4.0 mg/l shall be subject to surcharge, per § 51.56.

(6) Any discharge of ammonia nitrogen in excess of 30 mg/l shall be subject to surcharge, per § 51.56.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Director may impose mass limitations in addition to, or in place of, any of the concentration-based limitations above.

(B) The Director may impose a mass limitation in addition to, or in place of, the concentration-based limitation for total PCBs on a user with total PCBs in wastewater at the user's facility at or above the quantification level, even if the total PCBs in wastewater are at a location upstream from the point at which the user's wastewater discharges to the POTW. The mass limitation shall be developed to ensure that the City's NPDES permit discharge limitation for total PCBs is not violated due to pass through of total PCBs. Compliance with the mass limitation shall be determined at the point where wastewater is discharged to the POTW by calculating the mass of total PCBs discharged by the user using flow and concentration data for all of the wastewater streams at the user's facility that contribute to the user's discharge to the POTW.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.27 CITY'S RIGHT OF REVISION.**

The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.28 DILUTION.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

## **§ 51.29 PRETREATMENT FACILITIES.**

(A) Users shall provide wastewater treatment as necessary to comply with this subchapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in §§ 51.23 through 51.26 within the time limitations specified by EPA, the state, or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility for modifying such facilities as necessary to produce a discharge acceptable to the Director under the provisions of this subchapter. Any subsequent changes in such facilities or operating procedures shall be reported to and be approved by the Director prior to the user's commencement of the changes.

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

(C) 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 subchapter.

(D) 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 subchapter, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

## **§ 51.30 ADDITIONAL PRETREATMENT MEASURES.**

(A) Whenever deemed necessary, the Director 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 wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this subchapter.

(B) The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(C) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(D) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.  
(Ord. D-1927, passed 7-15-02, effective 8-1-02)

### **§ 51.31 TOXIC SUBSTANCES AND PETROLEUM PRODUCTS CONTROL AND ACCIDENTAL DISCHARGE PREVENTION.**

(A) All storage of toxic substances, petroleum products and pollutants in any area or building shall be contained in such a manner that none of the materials could spill or otherwise get into the POTW in event of an accident or failure.

(B) Each industrial user must provide and maintain at the user's expense secondary spill containment structures (including diking, curbing or other appropriate structures) adequate to prevent the discharge from accidental spills and discharges to the POTW of any pollutants, toxic substances, petroleum products or discharges regulated by this subchapter. At a minimum, the containment or curbing shall be sufficient and shall be maintained so as to hold not less than 150% of the largest tank volume in the area, unless a lesser containment area or alternate control measures are approved in advance by the Director. 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. Containment shall also be provided for storage tanks that may be serviced by commercial haulers and for chemical storage areas. Solid pollutants shall be located in areas designed to prevent the loss of the materials to the POTW. If requested by the Director, detailed plans showing facilities and operating procedures to provide the protection required by this section shall be submitted to the Director for review. The Director may order an industrial user to take interim measures for emergency containment as determined necessary by the Director under the circumstances.

(C) Each industrial user shall provide and continuously maintain protection from accidental discharges of wastes or other substances regulated by this subchapter.

(D) Facilities to prevent accidental discharge of regulated wastes or substances shall be provided and maintained at the industrial user's cost and expense. Review and approval by the Director of plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of this subchapter. 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 subchapter or under other applicable laws and regulations.

(E) Each industrial user shall designate at least one person or personnel position 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. The person or personnel position so designated shall be an individual with knowledge of all pollutants, toxic substances and wastes routinely or potentially generated or used 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 name of the person or personnel position designated as provided by this section and a phone number where the person can be reached shall be submitted by each industrial user to the Director.

(F) Each industrial user required to develop a pollution incident prevention ("PIP") plan as provided by Part 5 of the Michigan Water Resources Commission Rules, MAC R323.1151 et seq., as amended, shall submit a copy of that plan to the Director.

(G) The Director may require a user to prepare a waste minimization plan to reduce or minimize the amount of pollutants the user discharges to the POTW, including without limitation any toxic substance(s) with a specific discharge limit that is less than the quantification level and that is detected in wastewater at the user's facility. This requirement may be contained in a wastewater discharge permit as provided in § 51.35(B)(2)(d). A waste minimization plan required by the Director shall describe the investigation of source and extent of pollutants, corrective action, verification of corrective action completion and schedule for reducing or minimizing pollutants discharged to the POTW. The Director may require that a waste minimization plan include requirements for up-pipe monitoring at locations upstream from the point at which the user's wastewater discharges to the POTW, including without limitation locations within the user's facility, at a frequency and for a duration acceptable to the Director, to identify pollutants to be controlled or eliminated and to verify that the pollutants have been controlled or eliminated. A user required by the Director to prepare a waste minimization plan shall prepare and submit the waste minimization plan to the Director within the time period specified by the Director. Upon the approval of the Director, the user shall implement the waste minimization plan. The user shall take reasonable, cost-effective corrective actions to reduce or minimize the discharge of pollutants to the POTW as necessary to meet the requirements of this subchapter. (Ord. D-1927, passed 7-15-02, effective 8-1-02)

### **§ 51.32 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.**

(A) At least once every two (2) years, the Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Director may require any user to develop, submit for and obtain approval, and implement such a plan. Alternatively, at the discretion of the Director, the Director may develop such a plan for any user and assess the user a reasonable fee for plan development. A user which is required to prepare an accidental discharge/slug control plan shall submit an approvable plan to the Director no later than sixty (60) days after the Director provides notice to the

user of the requirement of a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Director of any accidental or slug discharge, including without limitation notifications required by § 51.36(F); and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic substances and pollutants (including solvents) and measures and equipment for emergency response.

(B) If a user submits or has submitted to the Director plans or documents pursuant to other requirements of local, state or federal laws and regulations which meet all applicable requirements of this section, the Director may at his/her discretion determine if the user has satisfied the accidental discharge/slug control plan submission requirements of this section.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

### **§ 51.33 HAULED WASTEWATER.**

(A) Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. The Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The Director shall require haulers of industrial waste to obtain wastewater discharge permits. The Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The Director also may prohibit the disposal of any type or load of hauled industrial waste and may deny permit applications or terminate permits in his/her discretion. The discharge of hauled industrial waste is subject to all other requirements of this subchapter.

(C) Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of and analyze each hauled load at the user's expense to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(E) Hauled waste shall not violate this subchapter, including §§ 51.23 through 51.26, or any other requirements established by the City.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

## **§ 51.34 WASTEWATER DISCHARGE PERMIT APPLICATION.**

(A) **Wastewater Analysis.** When requested by the Director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(B) **Wastewater Discharge Permit Requirement.**

(1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director, except that a significant industrial user that has filed a timely application pursuant to subsection (B)(3) below may continue to discharge for the time period specified therein.

(2) The Director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this subchapter.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this subchapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 51.41 through 51.43. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(C) **Wastewater Discharge Permitting; Existing Connections.** Any user required to obtain a wastewater discharge permit which was discharging wastewater into the POTW prior to the effective date of this subchapter and which wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Director for a wastewater discharge permit in accordance with subsection (E) below and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this subchapter except in accordance with a wastewater discharge permit issued by the Director.

(D) **Wastewater Discharge Permitting; New Connections.** Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

(E) **Wastewater Discharge Permit Application Contents.**

(1) All users required to obtain a wastewater discharge permit must submit a permit application. The Director may require all users to submit as part of an application the following information:

(a) All information required by § 51.35(A)(2);

(b) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are or could accidentally or intentionally be discharged to the POTW;

(c) Number and type of employees, hours of operation, or proposed hours of operation;

(d) Each product produced by type, amount, process or processes, and rate of production;

- (d) Type and amount of raw materials processed (average and maximum per day);
- (f) Site plans, floor plans, mechanical and plumbing plans, and details to show sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (g) Quantity of water purchased by user and quantity of river or well water used by user on a monthly or quarterly basis;
- (h) Time and duration of discharges; and
- (i) Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application.

(2) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(F) Application, Notification and Report Signatories and Certification. All wastewater discharge permit applications and user notifications and written reports must be signed by an authorized representative of the user and contain 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."

(G) Wastewater Discharge Permit Decisions. The Director will evaluate the data furnished by the user and may require additional information as the Director determines necessary for completion and proper review of the application. Within sixty (60) days of receipt of an administratively complete wastewater discharge permit application, the Director will determine whether or not to issue a wastewater discharge permit. The Director may deny any application for a wastewater discharge permit. A permit may be denied by the Director if the Director determines that the proposed discharge, or continued discharge, will not comply with all applicable standards and requirements of this subchapter; if the user refused to accept the terms and conditions of a permit as proposed to be issued by the Director; for any reason that would support a suspension or revocation of the permit as provided by this subchapter; if the Director determines that the POTW cannot adequately treat the discharge (due to insufficient capacity, the quality or quantity of pollutants, etc.); or for any other reason as determined necessary by the Director to prevent the discharge of pollutants into the POTW that, singly or in combination with other pollutants, would not meet applicable pretreatment standards and requirements, would interfere with the operation of the POTW, would pass through the POTW into the receiving waters or the atmosphere, would inhibit or disrupt the POTW's processing, use, or disposal of sludge, would cause health or safety problems for POTW workers, or would result in a violation of the City's NPDES permit or of other applicable laws and regulations.

(`38 Gen'l Code, Ch. 5, § 3-106) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

## **§ 51.35 WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS.**

### **(A) Wastewater Discharge Permit Duration.**

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire. At the discretion of the Director, a wastewater discharge permit may be renewed by the Director in writing for a period to be determined by the Director.

### **(B) Wastewater Discharge Permit Contents.**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

#### **(1) Wastewater discharge permits must contain:**

(a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

(b) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with subsection (E) below and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(c) Effluent limits based on applicable pretreatment standards;

(d) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

(e) A statement of applicable penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

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

(b) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;

(c) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, nonroutine, or slug discharges;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(f) Requirements for installation and maintenance of inspection facilities and equipment;

(g) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

(h) Other conditions as deemed appropriate by the Director to ensure compliance with this subchapter, and state and federal laws, rules, and regulations.

(C) Wastewater Discharge Permit Appeals/Other Appeals. The user may in writing petition the Director to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance or any other decision of the Director within thirty (30) days of the issuance of the decision.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3) During an appeal, the effectiveness of a new wastewater discharge permit, if said new permit is not a renewal of a prior permit, shall not be stayed pending the appeal process. If the wastewater discharge permit being appealed is a renewal of a prior discharge permit and application for the renewed permit was made in a timely manner prior to the expiration of the then effective permit, then the prior discharge permit shall continue in effect until a final administrative decision on the appeal has been made.

(4) If the Director fails to act within thirty (30) days (or a longer period if agreed upon in writing by the Director and the user), a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Circuit Court for Saginaw County.

(D) Wastewater Discharge Permit Modification.

(1) The Director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new, revised or otherwise applicable federal, state, or local pretreatment standards or requirements affecting the POTW or the user;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(c) A change in the POTW or in any condition of the user's discharge, facility, production or operations that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the City's POTW, the POTW's processing, use or disposal of sludge, City personnel, or the receiving waters;

(e) Violation of any terms or conditions of the wastewater discharge permit;

(f) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the wastewater discharge permit;

(i) To reflect a transfer of the user facility ownership or operation to a new owner or operator;

(j) To add or revise a compliance schedule for the permittee;

(k) To reflect changes or revisions in the POTW's NPDES permit;

(l) To ensure POTW compliance with applicable sludge management requirements promulgated by EPA or MDEQ;

(m) To incorporate any new or revised requirements resulting from reevaluation of the POTW's local limits; or

(n) To incorporate a request for modification by the permittee, as determined appropriate by the POTW and provided the request does not create a violation of any applicable requirement, standard, law, rule or regulation.

(2) The permittee shall be informed of any changes in the permit at least thirty (30) days prior to the effective date of the change, unless a shorter time is determined necessary by the Director to meet applicable laws or to protect human health or the environment.

(E) Wastewater Discharge Permit Transfer.

(1) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(2) Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(F) Wastewater Discharge Permit Revocation.

(1) The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;

- (b) Failure to provide prior notification to the Director of changed conditions pursuant to § 51.36(E);
- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (d) Falsifying self-monitoring reports;
- (e) Tampering with monitoring equipment;
- (f) Refusing to allow the Director timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges or surcharges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this subchapter; or
- (n) As determined by the Director, the discharge has a reasonable potential to endanger human health or the environment and the threat can be abated only by revocation of the permit.

(2) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. A wastewater discharge permit issued to a particular user for a particular facility is void upon the issuance of a new wastewater discharge permit to that user for that facility. 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 Director as provided by this subchapter. The Director may reissue a revoked permit upon a showing satisfactory to the Director 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.

(G) Wastewater Discharge Permit Reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 51.34, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

(H) Regulation of Waste Received from Other Jurisdictions.

(1) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Director shall enter into an interjurisdictional agreement with the contributing municipality, unless the user discharges directly to the POTW. If a user located within another municipality discharges directly to the POTW, the Director shall enter into a user contract with the user.

(2) Prior to entering into an interjurisdictional agreement required by subparagraph (H)(1) above, the Director shall request the following information from the contributing municipality:

(a) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(b) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(c) Such other information as the Director may deem necessary.

(3) An interjurisdictional agreement, as required by subparagraph (H)(1) above, shall contain the following conditions:

(a) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this subchapter and local limits which are at least as stringent as those set out in § 51.26. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;

(b) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality and the Director;

(d) A requirement for the contributing municipality to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(e) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(f) Requirements for monitoring the contributing municipality's discharge;

(g) A provision ensuring the Director access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director;

(h) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement; and

(i) A provision specifying that the City has the right to take legal action to enforce the terms of the contributing municipality's ordinance or to impose and enforce pretreatment standards and requirements directly against noncompliant dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.

(4) A user contract, as required by subparagraph (H)(1) above, shall contain the following conditions:

(a) A requirement that the user comply with all requirements of this subchapter and §§ 51.50 through 51.62;

(b) A requirement ensuring the Director access to the user's facility for the purpose of inspection, sampling, examining and copying records and any other duties or purposes deemed necessary by the Director;

(c) An agreement by the user that the user will be subject to enforcement under all provisions of this subchapter and that the user submits to and accepts the jurisdiction of the City to enforce all provisions of this subchapter; and

(d) A provision specifying that the City has the right to take legal action to enforce the terms of this subchapter and the user contract, including the right to obtain injunctive relief.

(^ 38 Gen'l Code, Ch. 5, § 3-106) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

### **§ 51.36 REPORTING REQUIREMENTS.**

#### (A) Baseline Monitoring Reports.

(1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) or MAC R323.2311(2), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report required by 40 CFR 403.12(b) and MAC R323.2310(2) which contains the information listed in subparagraph (A)(2) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director a report which contains the information listed in subparagraph (A)(2) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below.

(a) Identifying Information. The name and address of the facility, including the name of the operator and owner.

(b) Environmental Permits. A list of any environmental control permits held by or for the facility.

(c) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description shall include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(d) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(e) Measurement of Pollutants.

1. The categorical pretreatment standards applicable to each regulated process.

2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported, as applicable. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in paragraph (J) below.

3. Sampling must be performed in accordance with procedures set out in paragraph (K) below.

(f) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional O&M and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(g) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M shall be specified. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in paragraph (B) below.

(h) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with § 51.34(F).

(B) Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by § 51.35(B)(2)(g):

(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 (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine (9) months;

(3) The user shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as 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; and

(4) In no event shall more than nine (9) months elapse between such progress reports to the Director.

(C) Reports on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director a report required by 40 CFR 403.12(d) and MAC R323.2310(3) containing the information described in paragraph (A)(2)(d) - (f) above. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §51.34(F).

(D) Periodic Compliance Reports.

(1) All significant industrial users shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a

report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 51.34(F).

(2) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director, using the procedures prescribed in paragraph(K) below, the results of this monitoring shall be included in the report.

(3) If the Director has imposed mass limitations, as provided in §§ 51.24, 51.26 and 51.28, the report shall indicate the mass of pollutants regulated by pretreatment standards in the user's discharge.

(4) If the Director has imposed equivalent limitations, as provided in § 51.24, the report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of mass of pollutant discharge per unit of production, the report shall contain the user's actual average production rate for the reporting period.

(5) The Director may in his or her discretion perform the required sampling and analysis in lieu of the user. Where the Director collects all the information for the periodic compliance report, including flow data, the user will not be required to submit the report.

(6) The Director shall require a frequency of user monitoring adequate to assess and assure compliance by users of applicable pretreatment standards and requirements. Data obtained through appropriate sampling and analysis during the period covered by a periodic compliance report shall be representative of conditions during the period.

(E) Reports of Changed Conditions. Each user must notify the Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

(1) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 51.34.

(2) The Director may issue a wastewater discharge permit under §§ 51.34(G) and 51.35 or modify an existing wastewater discharge permit under § 51.35(D) in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

(F) Reports of Potential Problem Discharges.

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of

the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this suchapter.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (F)(1) above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(G) Reports from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

(H) Notification by User of Violation/Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the Director 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 Director within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Director monitors at the user's facility at least once a month, or if the Director samples between the user's initial sampling and when the user receives the results of this sampling.

(I) Notification by User of the Discharge of Hazardous Waste.

(1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and the Michigan Department of Environmental Quality Waste Management Division, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 51.36(E) above. The requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 51.36(A), (C) and (D) above.

(2) Dischargers are exempt from the requirements of paragraph (I)(1) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of

nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director, and Michigan Department of Environmental Quality Waste Management Division of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this subchapter, a permit issued hereunder, or any applicable federal or state law.

(J) Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the methods and techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA Administrator.

(K) Sample Collection.

(1) Users shall sample their discharges to assure compliance with the requirements of this subchapter, any permit or order issued pursuant to this subchapter, pretreatment standards, and other applicable federal, state and local laws, and as otherwise determined necessary by the Director consistent with the purposes and intent of this subchapter. Except as indicated in paragraph (K)(2) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques, with a minimum of four (4) grab samples spaced throughout the daily sampling period to represent the entire period.

(3) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) The sample event frequency, which shall be a minimum of quarterly (i.e., once per three months) and which may be at a greater frequency if so determined by the Director, will be specified in the user's permit. On the petition of the

user, the Director may consider an alternate sample frequency to provide a more accurate characterization of a user's discharge. Each sample event must provide daily average and daily maximum results at a sample frequency of three (3) times within a 2-week period for users with flows less than 250,000 gallons per day (based on dry weather flows) and six (6) times within a 2-week period for users with flows of 250,000 gallons per day or greater (based on dry weather flows). The samples shall be collected during periods of dry weather or under conditions that ensure that the discharge being sampled is not diluted by stormwater. The Director may require additional samples that are representative of stormwater-containing discharges.

(L) Split Samples. If requested by the Director at or prior to the sampling event, the Director shall be provided with splits of any sample taken by a user. If requested by the user at or prior to the sampling event, the user shall be provided with splits of any sample taken by the City.

(M) Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(N) Record Keeping. Users subject to the reporting requirements of this subchapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this subchapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling; the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Director.

(O) Information Requests. Users shall furnish to the Director any available information that the Director requests to determine whether cause exists for modifying, revoking and reissuing, or terminating a wastewater discharge permit, to determine compliance with a wastewater discharge permit, or to determine whether a wastewater discharge permit is required. Users shall also, upon request, furnish to the Director copies of any records required by a wastewater discharge permit. The information and records requested by the Director shall be provided by the user to the Director within 24 hours of the request, unless an alternative time frame is specified by the Director when making the request or unless the Director 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 Director within 24 hours (or within any alternate time period approved by the Director as provided by this section) shall constitute a violation of this subchapter.

(P) Signature and Certification Requirements. All written reports and notifications required by this subchapter shall be signed and certified as required in § 51.34(F).

(Q) Costs of Monitoring, Sampling and Analyses.

All required monitoring, taking of samples, and sample analyses shall be at the sole cost of the user.

(R) Notification of Spill of Wastewater to Land or Water. Any user which causes or observes a release from a sewer of untreated or partially treated wastewater onto land or into the waters of the state shall immediately notify the Director. (38 Gen'l Code, Ch. 5, § 3-113) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

### **§ 51.37 CONTROL MANHOLES AND MONITORING FACILITIES.**

(A) The Director may require a user to install a control manhole(s) and equipment to allow observation, sampling and measurement of wastewater discharges. Location and details must be approved by the Director. The cost of the manhole(s) and equipment determined necessary by the Director for sampling and metering, and installation and operation of the equipment shall be at the expense of the user.

(B) All control manholes shall be located on the user's property within ten (10) feet of the property line or as otherwise approved by the Director. If the property is fenced, a gate shall be provided at the manhole location with provision for a lock to be provided by the Director. If the user does not want direct access to its property for security or other reasons, the user shall at its expense, construct a security fence around the control manhole of an area acceptable to the Director.

(C) The user shall provide a drawing to the Director showing the locations of all sewer connections and control manholes. Dimensions to the manholes both from street lines and building lines shall be provided. The sketch shall show the roadways and access points to the control manholes and note entry limitations if any, and shall state the telephone number and person to contact should entrance become necessary, and any other data considered pertinent by the Director. Each control manhole shall be identified by name and number. Ample space shall be provided around the control manholes and shall be maintained free and clear by the user at all times.

(38 Gen'l Code, Ch. 5, § 3-110) (Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

### **§ 51.38 RIGHT OF ENTRY.**

(A) Inspection and Sampling. The Director shall have the right to enter the premises of any user:

(1) To determine whether the user is complying with all requirements of this subchapter and any wastewater discharge permit or order issued hereunder; and

(2) For any other purpose directly related to the Director's review and enforcement of compliance under this subchapter by any user, whether on or off the premises.

(3) Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties under this subchapter.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities pursuant to this subchapter. While on the property of

the user, the Director is hereby directed to observe all reasonable safety rules applicable to the premises established by the user which are communicated by the user to the Director at the outset of the entry.

(b) The Director shall have the right to set up on the user's property, or require installation by the user of, such devices as are necessary to conduct sampling and/or metering of the user's operations, at the user's expense.

(c) The Director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated in accordance with the manufacturers' recommendations to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be born by the user.

(e) Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this subchapter.

(B) Search Warrants. If the Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this subchapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek issuance of a search warrant from a court of competent jurisdiction.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

### **§ 51.39 CONFIDENTIAL INFORMATION.**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State of Michigan law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other EFFLUENT DATA as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.40 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.**

The Director shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. SIGNIFICANT NON-COMPLIANCE shall mean:

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(C) Any other discharge violation that the Director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of his/her emergency authority to halt or prevent such a discharge;

(E) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance; or

(H) Any other violation(s) which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.41 ADMINISTRATIVE ENFORCEMENT REMEDIES.**

(A) Notification of Violation. When the Director finds that a user has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation. Within fourteen (14) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Director to take any

action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(B) Consent Orders. The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document and may include stipulated fines. Such documents shall have the same force and effect as the administrative orders issued pursuant to paragraphs (D) and (E) below and shall be judicially enforceable.

(C) Show Cause Hearing. The Director may order a user which has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(D) Compliance Orders. When the Director finds that a user has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued. Compliance orders also may contain other requirements to address the noncompliance, including, without limitation, additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer, pretreatment facility design and plan preparation and implementation, and any other affirmative action considered necessary for compliance with this subchapter. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(E) Cease and Desist Orders.

(1) When the Director finds that a user has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (a) Immediately comply with all requirements; and
- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(2) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(F) No Limitation on Civil Infraction. Nothing in this section shall limit the authority of the Authorized City Official, as defined in this section, to issue a municipal civil infraction citation or municipal civil infraction violation notice, as prescribed by this subchapter and Chapter 37 of the Saginaw General Code.

(G) Municipal Civil Infractions and Fines.

(1) Violations and Penalties. A person who violates any provision of this subchapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000 per day, plus costs and other sanctions, for each infraction. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

(2) Fines/Schedule of 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 subchapter (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 fines for repeat offenses under this subchapter shall be in accordance with the following schedule:

(a) For a first repeat offense, the fine shall be not less than \$2,500, plus costs; and

(b) For a second or subsequent repeat offense, the fine shall be not less than \$5,000, plus costs.

(3) All definitions, procedures and provisions set forth in Chapter 37 of the Saginaw General Code shall govern municipal civil infractions under the provisions of this subchapter to the extent they do not conflict with the provisions of this subchapter.

(4) Authorized City Official. The Director is hereby designated as the authorized City official, as defined by Chapter 37 of the Saginaw General Code, to issue municipal civil infraction citations or municipal civil infraction violation notices as provided by this subchapter and Chapter 37 of the Saginaw General Code.

(5) Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(6) Issuance of a civil fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(H) Emergency Suspensions.

(1) The Director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's discharge, after notice and opportunity to respond, that

threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, and suspension of water service to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in paragraph (I) below are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under paragraphs (C) and (I) of this section.

(2) Nothing in this section shall be interpreted as requiring a hearing prior to an emergency suspension under this section.

(I) Termination of Discharge.

(1) In addition to the provisions in § 51.35(F), any user who violates following conditions is subject to discharge termination:

(a) Violation of wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(e) Violation of the pretreatment standards in §§ 51.23 through 51.26.

(2) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under paragraph (C) of this section why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

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

(K) Number of Violations. The number of violations resulting from a user's noncompliance with applicable pretreatment standards shall be determined as follows:

(1) 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.

(2) Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each day on which the violation occurs or continues, and the violation shall be considered to continue until subsequent sample results establish that the violation has ceased.

(3) Each violation of an instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each such exceedance. There may be multiple violations for each day on which such a violation occurs or continues, and the violation shall be considered to continue until subsequent sample results establish that the violation has ceased.

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

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.42 JUDICIAL ENFORCEMENT REMEDIES.**

(A) Injunctive Relief. When the Director finds that a user has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition the Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this subchapter on activities of the user. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(B) Civil Penalties.

(1) A user who has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of not less than \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) Any person who discharges waste, causes, or allows a discharge or other activity or inactivity, prohibited by this subchapter, or violates the limitations, prohibitions or requirement of a permit issued pursuant hereto; or any categorical pretreatment standard; or any person who knowingly makes a false statement, representation, record, report, plan or other document filed with the Director; or, who falsifies, tampers with or knowingly renders inaccurate, any monitoring device or method required under this subchapter, shall be in violation of this subchapter. Any such violation is a misdemeanor subject to the penalties provided in Section 208, Chapter 1, of Ordinance No. D-2.

(3) The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(4) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(5) The imposition of any penalty for violation of the provisions of this subchapter, or for the violation of the limitations, prohibitions or requirements of a permit issued pursuant to this subchapter or any categorical pretreatment standard shall not exempt the offender from compliance with all such provisions, limitations, prohibitions, requirements or standards, or any other applicable state or federal laws or regulations.

(6) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(C) Remedies Nonexclusive. The remedies provided for in this subchapter are not exclusive. The Director may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Director may take other action against any user when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant user. ( 38 Gen'l Code, Ch. 5, § 3-115) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.43 SUPPLEMENTAL ENFORCEMENT ACTION.**

(A) Performance Bonds. The Director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this subchapter, a previous wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, or the Director may in a wastewater discharge permit prohibit a discharge, unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance and cover expenses that might reasonably be incurred as a result of future violations.

(B) Liability Insurance. The Director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this subchapter, a previous wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, or the Director may in a wastewater discharge permit prohibit a discharge, unless the user first submits proof that it has obtained liability insurance or other financial assurances sufficient to restore or repair damage to the POTW caused in the future by its discharge.

(C) Water Supply Severance. Whenever a user has violated or continues to violate any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(D) Public Nuisances. A violation of any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment

standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of § 94.02 governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

(E) Informant Rewards. The Director may pay up to five hundred dollars (\$500) for information leading to the discovery of noncompliance by a user.

(F) Contractor Listing. Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Director.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.44 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.**

(A) Upset.

(1) For the purposes of this section, 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.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subparagraph (3) below, are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An upset occurred and the user can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

(c) The user submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset:

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance. If this information is provided orally, a written submission of this information must be provided within five (5) days of becoming aware of the upset.

(4) In any enforcement proceeding, the user seeking to establish the occurrence of upset shall have the burden of proof.

(5) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards 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.

(B) Prohibited Discharge Standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 51.23(A) or the specific prohibitions in § 51.23(B)(3) - (7) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) Bypass.

(1) For the purposes of this section the following definitions apply:

**BYPASS.** The intentional diversion of wastestreams from any portion of a user's treatment facility needed for compliance with pretreatment standards.

**SEVERE PROPERTY DAMAGE.** Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subparagraphs (3) and (4) of this paragraph.

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

(b) A user shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it 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.

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

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under subparagraph (3) of this paragraph.

(b) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in subparagraph (4)(a) of this paragraph.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.45 MISCELLANEOUS PROVISIONS.**

(A) Pretreatment Charges and Fees. The City may adopt and levy reasonable fees for full reimbursement of costs, including without limitation administration and overhead costs, of setting up and operating the City's Pretreatment Program which may include:

(1) Fees for wastewater discharge permit applications including the cost of processing such applications;

(2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals; and

(5) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this subchapter and are separate from all other fees, fines, and penalties chargeable by the City.

(B) Cost Recovery.

(1) When a discharge of wastewater, wastes or any other material, causes an obstruction, damage, unusual operational problems or any other impairment to the POTW, or causes contamination of surface or subsurface waters, the Director may assess a charge against the violator equal to the cost required to clean or repair the facility or otherwise correct the problems, and may add such costs to the violator's waste service charge.

(2) Any person who violates any provision of this subchapter, or who discharges or causes a discharge that produces a deposit or obstruction or otherwise

damages or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW, shall be liable to and shall fully reimburse the City for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the POTW or the City as a result of any such discharge, violation, exceedance or noncompliance. The costs that must be reimbursed to the City shall include, without limitation, all of the following:

(a) All costs incurred by the POTW and the City in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedance or noncompliance.

(b) All costs incurred by the POTW and the City in monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedance or noncompliance.

(c) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW or the City by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, exceedance or noncompliance. This provision is not intended to impose joint and several liability on any user where the harm is proven to be divisible.

(d) The full value of any City staff time (including any required overtime), contractor, consultant and engineering fees, and actual attorney fees and defense costs (including the City Attorney and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedance or noncompliance or otherwise enforcing the requirements of this subchapter.

(3) Further, the City is authorized to correct any violation of this subchapter 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 to the City. 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 subchapter.

(C) Penalties and Interest on Unpaid Charges.

(1) Unpaid charges, surcharges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month.

(2) A lien against the user's property will be sought for unpaid charges, surcharges, fines, and penalties.

(D) Severability. If any provision of this subchapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(E) Agreements. No provision of this subchapter shall be construed as preventing any special agreement or arrangement between the City and any person whereby:

(1) Sewage or waste of unusual strength or character may be accepted by the City for treatment, except that the applicable state or federal standards regarding prohibited discharges shall not be waived and a waiver of the Federal Categorical

Pretreatment Standards shall be obtained only through the procedures established in applicable regulations, including but not limited to 40 CFR 403; or

(2) A variation is established from any requirement in this subchapter, other than a discharge limit, provided such variation is not a violation of any applicable state or federal law or regulation.

Any special agreement or arrangement under this subchapter is subject to the payment by such person to the City of additional costs, fees or charges as may be reasonable.

(F) Protection from Damage. No person shall break, damage, destroy, deface, or tamper with any property structure or appurtenances which is a part of the POTW. No person shall, without a permit, uncover or connect to any structure or appurtenance which is a part of the POTW.

(Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.46 RULES AND REGULATIONS.**

The City Manager may authorize the Director to make such rules and regulations not in conflict with the provisions of this subchapter concerning pretreatment requirements and fees and no person shall fail to comply with any such rule or regulation. (^ 38 Gen'l Code, Ch. 5, § 3-121) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.47 CONFLICT**

Except as otherwise expressly provided, the provisions of this subchapter shall control in the event of any inconsistency or conflict between this subchapter and any other provision of the Saginaw General Code.

(^ 38 Gen'l Code, Ch. 5, § 3-120) (Am. Ord. D-1635, passed 9-9-91, effective 9-9-91; Am. Ord. D-1927, passed 7-15-02, effective 8-1-02)

#### **§ 51.48 SAVINGS CLAUSE.**

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

(Ord. D-1927, passed 7-15-02, effective 8-1-02)