

VILLAGE OF MATTAWAN
WASTEWATER DISCHARGE ORDINANCE
ORDINANCE NO. 157

An ordinance to regulate and control the construction, installation, extension, connection to, discharges into and operation of the wastewater system (including the wastewater collection system) within the Village of Mattawan, hereinafter ("Municipality"); the ordinance also provides for the collection of charges and rates and provides penalties for violation. The ordinance repeals all ordinances or parts of ordinances in conflict.

THE VILLAGE OF MATTAWAN, VAN BUREN COUNTY, MICHIGAN ORDAINS:

SECTION 1 PURPOSE

The purpose of this ordinance is to:

- A. Provide comprehensive collection, treatment and disposal of all wastewaters discharged to the City of Kalamazoo Wastewater Treatment System and Water Reclamation Plant (hereinafter Wastewater System).
- B. Prevent:
 - 1. Damage to the Wastewater System (including the wastewater collection system) from misuse;
 - 2. Injury to employees;
 - 3. Surcharging of all or part of the Wastewater System;
 - 4. Interference with the process of wastewater treatment or disposal; and,
 - 5. Pass-through of pollutants through the Wastewater System;
- C. Ensure compliance with all applicable local, state and federal statutes and regulations;
- D. Promote waste minimization in the areas served by the Wastewater System; and,
- E. Establish administrative procedures to ensure adherence and enforcement of Chapter 28 of the Code of Ordinances of the City of Kalamazoo and this ordinance.

SECTION 2 APPLICABILITY.

This ordinance applies to all users of the Wastewater System (including the Municipality's wastewater collection system).

SECTION 3 DEFINITIONS.

The following definitions apply to the terms used in this ordinance:

- A. "Authorized Representative":
 - 1. If the user is a corporation, authorized representative means:
 - 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;

- b. The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (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, authorized representative shall mean a general partner or proprietor, respectively;
 - 3. If the user is a federal, state or local governmental facility, authorized representative shall mean a Director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
 - 4. The individuals described in paragraphs (a) - (c) 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 Village and City.
- B. "Bypass" means the diversion of wastewater from any portion of the user's treatment facility.
 - C. "Biochemical Oxygen Demand," or "BOD," means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees Centigrade expressed in terms of weight and concentration as milligrams per liter (mg/l).
 - D. "Capital Charges" means those amounts paid by each user connected to the treatment system to pay the debt service requirements and capital expenditures to enlarge or improve the Wastewater System.
 - E. "Categorical Pretreatment Standard" or "categorical standard" means any regulation containing pollution discharge limits promulgated by the USEPA in accordance with sections 307(b) and (c) of the FWPCA, 33 USC 1317, which apply to a specific category of non-domestic users and which appear in 40 CFR Chapter I, subchapter N, parts 405-471, or Michigan's Act 451 of 1995, or subsequent amendments thereto.
 - F. "Centralized Waste Treater" means a user that treats wastes generated by activities located at a site other than where the treatment occurs and then discharges the wastes into the Wastewater System.
 - G. "CFR" means Code of Federal Regulations.
 - H. "Chapter" means Chapter 28 of the Kalamazoo City Code of Ordinances.
 - I. "Chemical Oxygen Demand," or "COD," means the total demand or quantity of oxygen required by the wastewater as specified in the current edition of "Standard Methods for the Examination of Water and Wastewater" expressed in milligrams per liter.
 - J. "City" means City of Kalamazoo or its duly authorized representative.
 - K. "Commencement of Construction" means either:
 - 1. The beginning, as part of a continuous on-site construction program, of:
 - a. The placement, assembly, or installation of facilities or equipment;
 - or

- b. Significant site preparation work, such as clearing, excavation, or the removal of existing buildings, structures, or facilities when their removal is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- 2. The entrance into a binding contractual obligation for the purchase of facilities or equipment that the purchaser intends to use as a new source within a reasonable time. Entrance into the following contracts does not constitute a commencement of construction: options to purchase, contracts that may be terminated without substantial loss, or contracts for feasibility, engineering, or design studies.
- L. "Compatible Pollutant" means pollutants, which can be effectively removed by the Wastewater System to within acceptable levels for the Wastewater System residuals and receiving stream. Specifically excluded are heavy metals, PCBs, and any pollutants that will likely contribute to or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.
- M. "Compliance Schedule" means a schedule of remedial measures that includes an enforceable sequence of events for the commencement or completion of actions leading to compliance with a pretreatment standard or requirement.
- N. "Composite Sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, over a specified period which provides a representative sample of the average stream during the sampling period. For categorical process samples, this is required to be a minimum of four (4) samples per 24 hours (see 40 CFR 403.12(b)).
- O. "Conventional Pollutants" means BOD, TSS, pH, fecal coliform, and oil and grease (see 40 CFR 401.16).
- P. "Direct Discharge" means the discharge of treated or untreated waters directly or indirectly via storm sewer to the waters of the State or navigable waters of the United States.
- Q. "Director" means Director or acting Director of the department of public services of the City or his/her designee or authorized representative.
- R. "Discharge" means to release a pollutant from or through:
 - 1. Pipes;
 - 2. Conduits;
 - 3. Pumping stations;
 - 4. Ditches;
 - 5. Tank trucks;
 - 6. The ground through defective pipes, pipe joints, or walls;
 - 7. Roof leaders;
 - 8. Cellar, yard, or area drains;
 - 9. Foundation drains;
 - 10. Drains from springs and wetlands;
 - 11. Manhole covers;
 - 12. Crossover pipes from storm sewers and combined sewers;
 - 13. Catch basins;
 - 14. Storm sewers;
 - 15. Surface run-offs;
 - 16. Street wash waters; or
 - 17. Other drainage.
- S. "Domestic Waste" means human waste and other wastes related to personal or residential sanitation including hauled septage waste.
- T. "Domestic Wastewater" means wastewater that contains only domestic waste.

- U. "Exemption" means exemption from categorical pretreatment standards imposed under federal, state or local law.
- V. "Flow Proportioned Composite Sample" means a sampling method which combines discrete aliquots of a sample collected over time, based on the flow of the waste stream being sampled. The aliquots collected shall be at constant time intervals with the volume of each aliquot varying based upon the stream flow. Flow proportional samples can also be a combination of constant volume samples collected at time intervals, which vary, based on the stream flow.
- W. "FWPCA" means the Federal Water Pollution Control Act, as amended, (also known as the Clean Water Act (CWA)), 33 USC 1251 et seq.
- X. "Garbage" means solid waste from the domestic or commercial preparation, cooking, dispensing, storage, handling or sale of food.
- Y. "GPD" means gallons per day.
- Z. "Grab Sample" means a sample, which is taken on a one-time basis with no regard to the flow of the waste stream and over a period of time not to exceed 15 minutes.
- AA. "Hauled Waste" means waste that is discharged to the Wastewater System from a tank truck or other conveyance by vehicle.
- BB. "Indirect Discharge" means the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the FWPCA, (33 USC 1317), into the Wastewater System (including holding tank waste discharged into the System).
- CC. "Individual Control Document" (ICD) means a written mechanism issued by the City to significant industrial users (SIUs) and permitted industrial users (PIUs) to ensure and enforce compliance with applicable pretreatment standards and requirements in accordance with provisions of Chapter 28.
- DD. "Industrial User" means a source of industrial waste. Single and multiple family residential dwellings with discharges consistent with domestic waste characteristics are specifically excluded.
- EE. "Industrial Waste" means any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business trade or research, including the development, recovery or processing of natural resources.
- FF. "Infiltration" means water other than wastewater that enters the Wastewater System (including building drains and building sewers) from the ground through such means as defective pipes, defective pipe joints, defective connections or defective manholes. Infiltration does not include, and is distinguished from, inflow.
- GG. "Inflow" means water other than wastewater that enters the Wastewater System (including building drains and building sewers) from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface run-off, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.
- HH. "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
1. Inhibits or disrupts the Wastewater System, its treatment processes or operations, or its sludge processes, use or disposal; and
 2. Therefore is a cause of a violation of any requirement of the Wastewater System's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal

in compliance with the following statutory provisions and regulations, as amended, or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

- II. "ug/l" means micrograms per liter.
- JJ. "mg/l" means milligrams per liter.
- KK. "MDEQ" means the Michigan Department of Environmental Quality.
- LL. "Municipality" means: Village of Mattawan or its duly authorized representative.
- MM. "New Source" means:
 - 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 FWPCA 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 is 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.
 - d. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (a)(ii) or (a)(iii) of this section but otherwise alters, replaces or adds to existing process or production equipment.
 - e. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (1) Begun, or caused to begin as part of a continuous on site construction program:
 - (a) Any placement, assembly or installation of facilities or equipment; or
 - (b) 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
 - (2) 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.

- NN. "Non-categorical" means a process or facility with processes which is/are not regulated by any of the National Categorical Pretreatment Standards listed in 40 CFR Chapter I, Subchapter N.
- OO. "Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, finished product or other chemical additives.
- PP. "Nondomestic waste" means any waste generated from an industrial or commercial process or other means that is not a domestic waste.
- QQ. "Nondomestic wastewater" means wastewater that contains nondomestic waste, including contaminated groundwater and leachate.
- RR. "Pass-through" means a discharge which exits the Wastewater System 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 Wastewater System's NPDES permit (including an increase in the magnitude or duration of a violation).
- SS. "Permitted Industrial User (PIU)" means an industrial user that does not meet the definition of a significant industrial user but is required to have a permit.
- TT. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- UU. "pH" means the logarithm (base 10) or the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- VV. "NPDES or National Pollutant Discharge Elimination System" means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, territorial seas and contiguous zones of the United States pursuant to Section 402 of the FWPCA.
- WW. "Pollutant" means any of the following:
1. Substances regulated by categorical standards;
 2. Substances discharged to the Wastewater System that are required to be monitored, are limited in the Wastewater System's permit, or are to be identified in the Wastewater System's permit application.
 3. Substances for which control measures on nondomestic users are necessary to avoid restricting the Wastewater System's approved residuals management program.
 4. Substances for which control measures on nondomestic users are necessary to avoid operational problems at the Wastewater System.
 5. Substances for which control measures on nondomestic sources are necessary to avoid worker health and safety problems in the Wastewater System.
- XX. "Pretreatment" means the reduction 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 Wastewater System. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d) or subsequent amendments. Appropriate pretreatment

technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slugs loadings that might interfere with or otherwise be incompatible the Wastewater System.

YY. "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user

ZZ. "Pretreatment standard" means any federal or state pollutant discharge limits promulgated in accordance with the Clean Water Act or Michigan's Act 451 of 1995 or subsequent amendments thereto. This term includes the general and specific prohibitions and local limits specified in (or pursuant to) Chapter 28, the Wastewater Use Rules and Regulations, this ordinance (and the rules and regulations promulgated thereunder) or a user's permit or ICD.

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

BBB. "Release" means to spill, leak, dump, pump, dispose, deposit, inject, place and abandon.

CCC. "Residential Equivalent Unit" (REU) is the level of service provided to a typical rural residential dwelling.

DDD. "Shall" vs. "may": Shall means mandatory; may is permissive.

EEE. "Significant Industrial User (SIU)" means any of the following:

1. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.
2. Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the Wastewater System (excluding sanitary non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the Wastewater System treatment plant; or is designated as such by the City on the basis that the industrial user has a reasonable potential for adversely affecting the Wastewater System's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

Upon a finding that an industrial user meeting the criteria in paragraph (b) of this section has no reasonable potential for adversely affecting the Wastewater System'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 from an industrial user or Wastewater System, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

FFF. "Significant Noncompliance" means a user is in significant noncompliance (SNC) if its violation meets one or more of the following criteria:

1. Chronic violations of local, state, or federal wastewater discharge limits whereby sixty-six percent or more of the measurements exceed the same daily maximum limit or the same average limit or the same average limit in a six-month period (by any magnitude);
2. Technical Review Criteria (TRC) Violations whereby thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six month period;

There are two groups of TRCs:

Group I for Conventional Pollutants

(BOD, TSS, Fats, Oil, and Grease)

TRC=1.4

Group II for All Other Pollutants except pH TRC=1.2;

3. Any other violation(s) of an effluent limit (average or daily maximum) that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of Wastewater System personnel or the general public);
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the Director's exercise of his or her authority under Chapter 28 [40 CFR 403.8 (f)(1)(vi)(B)] of the Kalamazoo Code of Ordinances to halt or prevent such a discharge;
5. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a Individual Control Document or compliance order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports on sampling required to be performed during the period, and reports on compliance with compliance schedules or orders;
7. Failure to accurately report noncompliance; or,
8. Any other violation or group of violations, which the Director determines, will adversely affect the operation or implementation of Chapter 28 of the Kalamazoo Code.

GGG. "Slug" means any non-routine batch discharge, including but not limited to discharges resulting from a spill.

HHH. "State" means State of Michigan or its duly authorized representative.

III. "Storm drain or storm sewer" means any drain or sewer intended expressly for the conveyance of stormwater and surface water, street wash, or drainage or other unpolluted water.

JJJ. "Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, wastewater and that is removable by laboratory filtering.

KKK. "Time proportional composite sample" means a sampling method, which combines discrete sample aliquots of constant volume collected at constant time intervals.

LLL. "Upset" means an incident for which a user may have a defense to an enforcement action pursuant to 40 CFR 403.16.

MMM. "USEPA" means the United States Environmental Protection Agency.

NNN. "User" means any person who discharges or causes or permits the discharge of domestic or nondomestic waste into the Wastewater System and/or the owner or occupant of any property from which said discharge is made.

OOO. "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the Wastewater System.

PPP. "Wastewater Collection System" means all sanitary sewers, trunks, interceptors, pumping stations, appurtenances, instrumentalities or properties used or useful in the collection and conveyance of wastewater.

QQQ. "Wastewater System" means:

1. The facilities of the City for collection, transportation, storage, pumping, treatment, and final disposition of domestic and nondomestic wastewater;
2. The wastewater collection facilities of the Municipality; and
3. Any temporary connection authorized by the Director.

RRR. "Wastewater Use Rules and Regulations" (formerly known as Sewer Use Regulations) means any local discharge limitations or prohibited discharges promulgated by the Director and approved by the Kalamazoo City Commission to account for specific operational considerations and concerns of the Wastewater System. "Wastewater Use Rules and Regulations" also refers to the rules and regulations promulgated by the Village Council pursuant to this ordinance.

SECTION 4 STATE AND FEDERAL REQUIREMENTS

A. Federal Categorical Pretreatment Standards.

The national categorical pretreatment standards found at 40 CFR Chapter I, Subpart N, Parts 405-471, and are hereby incorporated. Federal Categorical Pretreatment Standards, if more stringent than limitations imposed under Chapter 28, this ordinance or in the Wastewater Rules and Regulations for sources in that subcategory, shall supersede the limitations imposed under Chapter 28 and this ordinance.

B. State Requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this Chapter 28, in the Wastewater Rules and Regulations, in this ordinance or the rules and regulations promulgated hereunder.

C. Right of Revision.

The Municipality reserves the right to establish more stringent limitations or requirements on discharges to the Wastewater System if deemed necessary to comply with the objectives of Chapter 28 and this ordinance.

Except insofar as the Municipality and/or City may be permitted by law to seek and obtain an exemption, and such exemption is granted, the Municipality and/or City shall implement and enforce federal and state laws and regulations pertaining to its Wastewater System that supplement or supersede Chapter 28 and/or this ordinance. The Municipality and/or City may implement and enforce these regulations after notice of their promulgation has been published in the Federal Register or as otherwise required by law. The Municipality and/or City may implement and enforce these regulations without providing additional notice to users and prior to amending Chapter 28 and/or this ordinance.

SECTION 5 MANAGEMENT OF SYSTEM

A. The Wastewater Collection System of the Municipality shall be and remain under the management, supervision and control of the Village Council, which may employ or designate such person or persons in such capacity or capacities as it deems advisable to carry out the efficient management and operation of the system. The Village Council may make such rules, orders or regulations, as it deems advisable and necessary to assure the efficient management and operation of the system and to provide equitable charges for the services thereof.

B. The Village Treasurer shall cause to be maintained and kept proper books of records and account in which shall be made full and correct entries of all transactions relating to the Wastewater Collection System. Not later than three (3) months after the close of the fiscal year, the Village Treasurer shall cause to be prepared a statement, in reasonable detail, showing the cash income and disbursements of the System at the beginning and close of the operating year and such other information as may be necessary to enable any taxpayer of the Municipality or user of the service furnished to be fully informed as to all matters pertaining to the financial operation of the System during such year.

- C. A budget, showing in detail the estimated costs of administration, operation, and maintenance of the Wastewater Collection System for the next ensuing fiscal year, including billing, accounting, postage and related costs, and including an amount equal to the bond principal and interest due to be paid in said year, shall be prepared by the Village Treasurer, which budget shall be subject to the approval of the Village Council. The amounts transferred into the operation and maintenance fund during each year shall not exceed the amount set forth in such budget unless approved by vote of the Village Council.

SECTION 6 GENERAL PROHIBITIONS

A. Use of Wastewater Collection System

1. Structures in which Wastewater originates lying within the limits of the village shall be connected to an available public sanitary sewer;
 - a. "Available public sanitary sewer" means a public sanitary sewer located in a right-of-way, easement, highway, street or public way which crosses, adjoins, or abuts upon the property and passing not more than 200' at the nearest point from a structure in which wastewater originates. The measurement of 200' shall be a straight-line distance without regard to the proposed or actual length of any connecting lines from the structure to the public sanitary sewer.
 - b. "Structure in which wastewater originates" or "structure" means a building in which toilet, kitchen, laundry, bathing or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial or other purposes.
 - c. The connection required by this Section shall be completed promptly but not later than 180 days after either (1) publication of a notice by the village in a newspaper of general circulation within the Village of the availability of the public sanitary sewer system or (2) modification of a structure so as to become a structure in which wastewater originates.
 - d. Notwithstanding the above, all multi-family dwellings of four or more residential units, commercial and industrial structures within the Village located on property which abuts a right-of-way, easement, highway, street or public way in which a public sanitary sewer is located or through which a public sanitary sewer system runs, shall connect to the sanitary sewer system within the required time limit regardless of the distance between structures in which the sanitary sewer originates and the public sanitary sewer.
 - e. This Section may be enforced in accordance with the procedure set forth in Section 12753 of the Michigan Public Health Code, MCL 333.12753; MSA 14.15(12753). (Amended by Ord. No. 172, eff. 4-23-99)
2. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Municipality or in any area under the jurisdiction of the Municipality any human or animal excrement or pollutant as defined herein. This paragraph shall not apply to the making or use of compost or fertilizer by said person on his or her own property if done in compliance with any and all laws, ordinances and regulations as part of a lawful business or domestic agricultural activity which poses no substantial threat to public health, safety or welfare and is not a common-law nuisance.
3. It shall be unlawful to discharge to any natural outlet or storm sewer within the Municipality, or in any area under the jurisdiction of the Municipality, any domestic or nondomestic wastewater except where suitable treatment has been provided in accordance with all applicable local, state and federal rules and regulations and as approved by the Director of public services.
4. Except for facilities approved by the Van Buren County Human Services Department in accordance with the county public health code sewage disposal regulations, it shall be unlawful to construct or maintain any privy,

privy vault, septic tank, cesspool, or other facility intended or used for the disposal of domestic or nondomestic wastewater within the Municipality.

5. Except insofar as the Municipality and/or City may be permitted by law to seek and obtain an exemption, and such exemption is granted, all users which discharge or release or cause the discharge or release of nondomestic waste shall pretreat any pollutant which may cause interference, pass-through, violate local, state or federal requirements or otherwise adversely affect the Wastewater System. Pretreatment of such pollutants shall be in accordance with Section 307 of the FWPCA, 40 CFR 403, the ICD's, and as determined by the Director. Users shall come into compliance with applicable pretreatment requirements within ninety (90) days of commencement of discharge or release. Any time extensions for compliance are subject to the written approval of the Director.

B. Interference

A user may not make any discharge into the Wastewater Collection System, which causes interference.

C. Pass-through

A user may not make any discharge into the Wastewater Collection System, which causes pass-through.

D. Bypass

Bypass is prohibited, and the Municipality and/or City may take enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage (see 40 CFR 403.17 (a)(2) for the definition of "severe property damage");
2. There was no feasible alternative 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 backup 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;
3. The user submitted adequate notice to the Director at least ten (10) days before the date of the bypass, if the user knew in advance of the need for a bypass, or the user submits notice as required by Section 17(4);

The Director may approve an anticipated bypass, after considering any of its adverse effects, if the Director determines that the bypass will meet the conditions listed in paragraphs (a), (b), and (c) of this Section.

SECTION 7 SPECIFIC PROHIBITIONS

Users may not discharge the following substances to the Wastewater Collection System:

- A. Pollutants that create a fire or explosion hazard in the Wastewater System, including but not limited to pollutants that result in wastewater with a closed cup flash point of less than 140° F or 60° C using the test methods specified in 40 CFR 261.21;
- B. Wastewater having a corrosive property capable of causing damage to the structures, equipment or personnel of the Municipality and/or City, including but not limited to wastewater with a pH less than or greater than the limits set forth in Chapter 28 and Section 9;
- C. Solid or viscous substances that may obstruct the flow in the Wastewater System or otherwise cause interference with the operation of the Wastewater System;

- D. Wastewater with a temperature that inhibits biological activity in the Wastewater System, including but not limited to any wastewater that causes the influent to the treatment plant to exceed 40° C (104° F) or any wastewater or vapor having a temperature higher than 65° C (149° F) at the point of entrance to the Wastewater System;
- E. Petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, degreasing solvents, oil-based paint, and/or paint thinners in amounts that cause interference or pass through, including but not limited to amounts in excess of the limit set forth in Wastewater Use Rules and Regulations (see Section 8);
- F. Pollutants that result in the presence of gases, vapors or fumes within the Wastewater System that:
 - 1. Cause an odor nuisance, or
 - 2. Create workplace conditions that may cause acute worker health or safety problems;
- G. Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration that may cause interference with the Wastewater System;
- H. Hauled waste, except for hauled waste that consists of domestic wastewater or nondomestic wastewater as approved by the Director that is discharged at a point designated by the Director.
- I. Any wastewater that contains radioactive wastes, except when:
 - 1. The user is authorized to use radioactive material by the U.S. Nuclear Regulatory Commission or other governmental agency with authority to regulate the use of radioactive materials, and
 - 2. The wastewater is discharged in compliance with the regulations of the U.S. Nuclear Regulatory Commission and any other applicable local, state or federal regulations.
- J. Any stormwater, surface water, groundwater, roof run-off, subsurface drainage, non-contact cooling water, or other unpolluted water, except as approved by the Director;
- K. PCB's and/or mercury;
- L. Any nondomestic wastewater before the City has approved a notice of intent submitted according to Section 17 (2);
- M. Any mass, concentration, or volume of a substance in excess of the amount allowed in the user's Individual Control Document;
- N. Discoloring pollutants which impart a color to the wastewater in the Wastewater System, which color cannot be removed by the System's treatment process or which is prohibited by the City's NPDES permit; and
- O. Slug discharges not approved by the Director.

SECTION 8 WASTEWATER USE RULES AND REGULATIONS

- A. The Municipality is authorized to establish, implement and enforce wastewater use rules and regulations.
- B. Rules and regulations adopted under this section may include, but are not limited to, local pollutant limits, submission of plans by users for the pretreatment of wastewater, equipment installation to monitor the nature and quantity of the wastewater being discharged into the Wastewater System or record keeping requirements.

SECTION 9 pH REGULATION

- A. A user may not discharge any wastewater having a pH lower than 6.2 or higher than 9.8 standard units (SU), measured at the point of entry to the Wastewater System, or having any other corrosive property capable of causing damage to any equipment or portion of the Wastewater System or injury to the system's personnel.
- B. Where a user continuously measures the pH of a wastewater discharge through use of electronic sensing and recording instrumentation, or such measurement is performed by the Director, the user shall maintain the pH of such discharge within the range set forth in this regulation, except that excursions from the range are permitted subject to the following conditions:
 - 1. The total time of excursions from the range shall not exceed one percent of any calendar month or one percent of the monitoring period if less than one month.
 - 2. No individual excursion from the range shall exceed 60 minutes.
 - 3. A user with a total wastewater discharge that is equal to or less than one percent of the average daily dry weather flow received by the City Water Reclamation Plant may, at the discretion of the Director, be allowed an exemption from the pH limits of 6.2 to 9.8 SU provided that the user is in compliance with the requirements established in Section 9. A user granted such exemption shall be issued an Individual Control Document specifying the special conditions under which the exemption may exist.
- C. Any wastewater discharge with a pH value less than 5.0 SU shall be considered a prohibited slug discharge regardless of duration or volume.

SECTION 10 EXCESSIVE DISCHARGE

- A. No discharge shall exceed the peak flow rate as indicated in the Individual Control Document.
- B. No wastewater shall be discharged at a rate, which upsets or interferes with the treatment process or causes a hydraulic surge in the Wastewater System.

SECTION 11 DILUTION PROHIBITION

Unless authorized to do so by an applicable pretreatment standard or requirement, a user may not increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with any applicable pretreatment standard or requirement. The Director may impose mass limits on a user that is using dilution to meet the applicable pretreatment standards or requirements or in any other case where mass limits are appropriate.

SECTION 12 NEW SOURCE COMPLIANCE

Before beginning to discharge, new sources shall install, have in operating condition, and start-up all pollution control equipment needed to comply with the applicable pretreatment standards and requirements. Within the shortest feasible time not to exceed 90 days, new sources shall meet all applicable pretreatment standards and requirements.

SECTION 13 CATEGORICAL PRETREATMENT STANDARDS

- A. Existing sources shall comply with any applicable categorical pretreatment standard within three years from the date that the standard is effective unless a shorter compliance date is specified in the standard.
- B. Existing sources that become users after promulgation of an applicable categorical pretreatment standard shall comply with the categorical pretreatment standards for existing sources on the commencement of discharge to the Wastewater System.

- C. Limits in a categorical pretreatment standard apply to the effluent from the process regulated by the standard regardless of the site of effluent discharge.
- D. The calculation of equivalent mass and concentration limits using the combined waste stream formula will be done in accordance with 40 CFR 403.6 (c), (d), and (e).
- E. The Director may adjust categorical pretreatment standards to reflect the presence of pollutants in the user's intake water in accordance with 40 CFR 403.15.

SECTION 14 STORM SEWER DISCHARGES

- A. It shall be unlawful for any user to discharge, release or allow, or cause to be discharged, released, or allowed, any pollutants into any storm drain or storm sewer, or drain or pipe connected with or emptying into any storm sewer or storm drain, except pollutants resulting from rainfall or the melting of snow and ice, or unless it is in compliance with a state-issued NPDES permit authorizing the discharge.
- B. No user shall connect or attach any downspout, pipe, or drain, or cause the same to be connected or attached to any public storm sewer without first having obtained permission, in writing, to do so from the Municipality. Application for such permission shall be filed with the Municipality and shall state the location of the connection and the name and address to be connected and shall be accompanied by sufficient plans and specifications as to enable the public services department to determine whether the same is proposed to be done in a good and workmanlike manner and in accordance with standard practices and so as not to endanger pedestrians and others using the public streets, alleys, and places. Upon compliance with the foregoing requirements, the public services department shall issue such permit, but upon the express condition that the applicant shall not use the downspout, pipe, or drain, or permit the use thereof, for any purpose other than those allowed and set forth in Section 14.

SECTION 15 CONNECTIONS TO THE WASTEWATER SYSTEM

- A. It shall be unlawful to connect to the Wastewater Collection System without securing written permission from the Municipality. Written permission shall be contingent upon a user providing connection plans that conform to the Wastewater Collection System. A certificate of approval of such connection plans by the MDEQ shall also be furnished where, by law, such plans are required to be approved.
- B. Permission to connect to the Wastewater Collection System shall not be granted until all assessments due and all advance deposits established have been paid and until the Municipality has determined that there is capacity available for the additional discharge in all downstream sewers, lift stations, force mains and the City Water Reclamation Plant including capacity for compatible waste.
- C. The Municipality may require from any proposed user or from any existing user who is altering the composition of the wastewater, a compatibility study to demonstrate to the satisfaction of the Municipality that the wastewater to be discharged is compatible with the existing Wastewater System, will not affect any requirements imposed upon the City and/or Municipality, will not adversely affect the Wastewater System, and is consistent with the user's Individual Control Document.

SECTION 16 INDIVIDUAL CONTROL DOCUMENTS

- A. Applicability

All Significant and Permitted Industrial Users shall be administratively regulated by an Individual Control Document (ICD). Application for issuance, modification or renewal of ICD shall be made to the Director of the City's department of public services.
- B. ICD Elements

Individual Control Documents shall include the following elements:

1. A statement of duration not to exceed five (5) years; existing permittees shall apply for permit reissuance a minimum of 90 days prior to the expiration of their existing permit. Upon timely application for reissuance of a permit in accordance with this paragraph, the expired permit shall be automatically extended until a final decision regarding the application is made.
2. An ICD shall be issued to a specific SIU or PIU for specific processes and operations at a specific location;
3. An ICD is not transferable to another user, process, operation, or location without prior approval from the Director; a copy of the ICD shall be issued to the new owner or operator by the Director;
4. Except insofar as the Municipality and/or City may be permitted by law to seek and obtain an exemption and such exemption is granted, an ICD shall include effluent limitations based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, Chapter 28, Wastewater Use Rules and Regulations, this ordinance and state and local law; if exemption has been granted, the ICD shall include the terms of same.
5. Self-monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on applicable pretreatment standards in 40 CFR 403, categorical pretreatment standards, Chapter 28, Wastewater Use Regulations, this ordinance and state and local law;
6. A statement of applicable civil and criminal penalties for violation of pretreatment requirements and standards, and any applicable compliance schedule; and
7. Any other applicable requirements.

C. ICD Modification

Change, modification, revocation, or reissuance of an ICD shall be at the sole discretion of the Director. Before taking possession or control of the processes or operations to which an ICD applies, the user taking possession or control shall apply to the Director for the issuance of an ICD; application shall be made a minimum of 90 days before the user takes possession or control.

SECTION 17 REPORTING REQUIREMENTS

A. Baseline Monitoring Reports.

Within either 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), whichever is later, users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the Wastewater System, shall be required to submit to the Director a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Director a report which contains the information listed below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

1. Identifying Information. The name and address of the facility, including the name of the operator and owners.
2. Environmental permits. A list of any environmental control permits held by or for the facility.

3. 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 industrial user. This description should include a schematic process diagram, which indicates points of discharge to the Wastewater System from the regulated processes.
4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the Wastewater System from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
5. Measurement of Pollutants
 - a. Identify the categorical pretreatment standards applicable to each regulated process.
 - b. Submit the results of sampling, analysis and reporting 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. Sampling and analyses shall be performed in accordance with 403.12(b)(5).
6. 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 operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
7. Compliance Schedule. If additional pretreatment or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide the additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards. The following conditions shall apply to this schedule.
 - a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (for example, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and beginning and conducting routine operation).
 - b. No increment referred to in division (i) above shall exceed nine months.
 - c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director, including, as a minimum, whether or not it complied with the increment of progress to be met on that date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between the progress reports to the Director.
 - d. In no event shall more than nine months elapse between such progress reports to the Director.
8. Within 60 days after modification of a categorical pretreatment standard by a removal allowance, the combined wastestream formula, a fundamentally different factors variance, or after more than one of these modifications, the user shall submit any necessary amendments to the information requested by the certification provision at Section 17(1)(f) and the schedule at Section 17(1)(g).

B. Compliance Date Report.

Within 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 Wastewater System any user subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in Section 17(1). 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. This report must be signed and certified in accordance with Section 17(1)(f).

C. Periodic Compliance Reports.

1. All SIUs and PIUs 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 effluent which are limited by the pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. Periodic compliance reports of categorical industrial users must be signed and certified in accordance with Section 17(1)(f).
2. All wastewater samples must be representative of the industrial 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 an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.
3. If an industrial user subject to the reporting requirement in and of this section monitors any pollutant more frequently than required by the Wastewater System, using the procedures prescribed in Section 17(1)(e), the results of this monitoring shall be included in the report.

The sampling and analysis required in paragraphs (a), (b) and (c) of this section may be performed by the Municipality and/or City in lieu of the industrial user. Where the Wastewater System performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the report.

D. Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by an industrial user indicates a violation, the user must notify the Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the violation. The industrial user is not required to resample if the Wastewater System performs monitoring at the industrial user at least once a month or if the Wastewater System performs sampling between the industrial user's initial sampling and when the industrial user receives the results of his/her sampling.

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

E. Report of Changed Conditions.

Each user is required to notify the Director of any planned changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 60 days before the change.

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

2. The Director may issue or modify an existing wastewater discharge permit or ICD.
3. No user shall implement the planned changed conditions until and unless the Director has responded to the industrial user's notice.
4. For purposes of this requirement flow increases of 20% or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

F. Reports of Potential Problems.

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, non-customary batch discharge, or a slug load which may cause potential problems for the Wastewater System, it is the responsibility of the industrial user to immediately orally notify the Director of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
2. Within five days following such discharge, the industrial 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 industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the Wastewater System, natural resources or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties or other liability which may be imposed by Chapter 28, this ordinance or other applicable law.
3. Failure to notify the Director of potential problem discharges shall be deemed a separate violation of this ordinance.
4. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place-advising employees whom to call in the event of a discharge described above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

G. Users must provide any and all other reports required by 40 CFR 403.12.

H. Prior to installation and implementation of any plant and equipment that may affect the pretreatment, volume or discharge of wastewater or pollutants, the user shall submit designs of any proposed changes for review and approval to the Director. Additional approvals as required by local, state or federal regulations are the responsibility of the user. No construction shall commence until the user has obtained all appropriate approvals in writing.

I. Upon request of the Director, a user must provide the following information:

1. Discharge peak rate and volume over a specified time period;
2. Analyses of wastewaters; pursuant to 40 CFR Part 136 or other validated procedures approved by the Director;
3. Information on raw materials, processes, and products affecting wastewater volume and quality;
4. All relevant information on pollutants including type and quality;
5. A blueprint documenting the user's property showing sewer and pretreatment facility location;
6. Information on pretreatment facilities;

7. Spill control and prevention information;
 8. Submission of all notices and self-monitoring reports from users as are necessary to assess and assure compliance with pretreatment standards and requirements including compliance schedules; and
 9. Such other information as may be required by the Director.
- J. Hazardous Waste Report
1. A user shall report discharge of waste that if otherwise disposed would meet the definition of a hazardous waste in accordance with 40 CFR 403.12(p). These reports shall be on forms supplied by the Director.
- K. A user must notify the Director immediately of all discharges that could cause problems for the Wastewater System, including slug loadings.
- L. Recordkeeping Requirements
1. For each sample taken to satisfy the requirements of Chapter 28 and this Ordinance, users shall record the following information:
 - a. The exact place, date, and time of the sampling;
 - b. The type of sample;
 - c. The names of the person taking the sample, the person doing the analysis, and the laboratory where the analysis was done;
 - d. The dates the analyses were performed;
 - e. The analytical techniques and methods used; and
 - f. The results of all required analyses.
 2. Users shall retain and preserve for no less than 3 years all records relating to monitoring, sampling, and chemical analyses made by or on behalf of the user. If a record pertains to matters that are the subject of an order, litigation, or other enforcement action, then the user shall retain and preserve the record until all enforcement activities have concluded and all periods of limitations for appeals have expired. Users shall make these records available upon request to the Director for inspection and copying.
- M. Public Information
- All written information submitted to the Director shall be available without restriction to any person upon request according to the Michigan Freedom of Information Act, unless:
1. The user provides, at the time the user submits the information, a written notice to the Director that the user claims that all or part of the information is exempt from disclosure according to the Michigan Freedom of Information Act; and
 2. The user demonstrates to the Director's satisfaction that the information is a trade secret.
 3. When granted confidentiality, the portion of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this ordinance, the NPDES, sludge or pretreatment programs

provided, however, that the information shall be treated as confidential by the governmental agency, until such time the information has been determined to be non-confidential by the governmental agency.

SECTION 18 MONITORING, INSPECTIONS, AND SURVEILLANCE

A. Inspections

1. Users of the Wastewater System are subject to facility inspections and record review at the request of the Director during all reasonable business hours and in an emergency at any time. Said inspections may include, but are not limited to, monitoring of these users' operations.
2. The premises of any user may be inspected at all reasonable hours for the purpose of determining whether any violation of Chapter 28 or this ordinance exists and in an emergency at any time.
3. When required by the Director, a user of any property serviced by a building sewer carrying nondomestic wastes shall install a suitable structure(s) together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Director. The structure shall be installed by the user at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times. Following approval and installation, such structures may not be removed without the consent of the Director.
4. If a user refuses to grant the Director entry upon request, the Director may seek an administrative warrant for an inspection from any court authorized to issue search warrants under Michigan law.
5. In an emergency, which creates an immediate and substantial danger to the health, safety, and welfare of individuals or property, the premises of a user may be inspected at any time and without permission or a warrant.

B. Monitoring and Sampling

Reports required by Chapter 28 and this ordinance shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report. This data shall be representative of conditions occurring during the reporting period. The monitoring frequency as established by the Director shall be sufficient to show compliance with all applicable standards and requirements.

1. Users shall collect grab samples for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, users shall collect flow proportioned composite samples collected over 24 hours or the duration of the discharge if the duration of the discharge is less than 24 hours unless otherwise indicated by the Director. In such cases, users may use time proportioned composite samples, grab samples, or another type of sample that will provide a representative sample and has been approved by the Director.
2. For baseline monitoring reports, users shall take a minimum of four (4) grab samples for the pollutants for which grab samples are taken.
3. The Director may require continuous monitoring for pH or other parameters. All sampling and analysis shall be performed in accordance with 40 CFR Part 136, standard methods or other methods if approved by the Director. The use of "other methods" also requires EPA approval.

C. Monitoring locations shall not be changed without the approval of the Director.

SECTION 19 HAULED WASTE

Hauled waste may be discharged only at the dump station located at the City Water Reclamation Plant unless authorized in writing by the Director. Hauled waste may be discharged only if all of the conditions of either (1) or (2) which are detailed below are met:

- A. The hauled waste is domestic waste and:
 - 1. Consists only of septage waste;
 - 2. Is delivered by a unit licensed for septage waste hauling under Michigan law. A copy of the current septage waste-hauling license must be provided to the Director prior to disposal.
- B. The hauled waste is a nondomestic waste and:
 - 1. Consists only of a nonhazardous waste;
 - 2. Is delivered by a unit licensed for hauling liquid industrial waste, under Michigan law. A copy of the license must be provided to the Director prior to disposal;
 - 3. The generator provides, in writing, a description of the origin of the waste, the identification of all pollutants, and certification that the waste is not hazardous by either listing or characteristic as defined by the Resource Conservation and Recovery Act (RCRA);
 - 4. Prior to discharge of hauled waste, the generator shall provide sample analyses which demonstrates that the waste is not a RCRA characteristic hazardous waste and meets all local discharge limits and applicable categorical pretreatment standards.
 - 5. Has been approved by the Director prior to hauling to the City Water Reclamation Plant.
 - 6. Delivery times have been arranged with City Water Reclamation Plant personnel prior to disposal.
- C. In addition to (1) or (2) above, the waste must meet any other applicable conditions imposed by the Director.
- D. Upon delivering waste to the City Water Reclamation Plant, a hauler must accurately complete and sign a form provided at the dump station. The form details the source of the waste and presents a certification statement that the waste is nonhazardous and the hauler understands the consequences for noncompliance.

SECTION 20 ENFORCEMENT BY VILLAGE

- A. The Village shall undertake the enforcement actions necessary to promote the purposes set forth in Section 1. The Village has the primary responsibility for enforcing all applicable pretreatment standards and requirements. However, users may also be subject to citizen suits under 33 U.S.C. 1365 or enforcement actions by the State of Michigan (or department thereof) or the USEPA.
- B. The Village may take any enforcement action at any time as appropriate to the circumstances of the case. The Village is not required to take enforcement actions in the order in which they are presented in this section.
- C. The Village may enter into an intergovernmental agreement with the City providing for and specifying the conditions under which the City may undertake enforcement actions, on behalf of and as agent for the Municipality.

SECTION 21 ENFORCEMENT RESPONSE PLAN

- A. The Village shall develop and implement an enforcement response plan. This plan shall contain procedures for investigating and eliminating noncompliance with pretreatment standards or requirements. At a minimum, the plan shall discuss:

1. How the Village will investigate instances of noncompliance;
 2. The various types of enforcement responses used by the Village, the violations for which the responses will be used, and the timing of these responses; and
 3. The persons responsible for each response.
- B. The enforcement response plan provides only explanatory material and is merely informational in nature. The enforcement response plan does not create legal rights or obligations and does not limit the enforcement discretion of the Village.

SECTION 22 ENFORCEMENT ACTIONS AND PENALTIES

A. Civil Remedies and Penalties

A user shall be liable for a civil infraction and for all costs incurred if:

1. The user has violated any provision of this ordinance, Chapter 28, the Wastewater Use Rules and Regulations, local limits, a wastewater discharge permit, an ICD, or an order issued hereunder or any other pretreatment standard or requirement; or
2. The user's discharge, alone or in conjunction with other discharge(s), has caused the City and/or Village to violate any requirement of its NPDES permit or increased the magnitude or duration of a violation; or
3. An enforcement action against the City and/or village by the State of Michigan (or department thereof), the U.S. Environmental Protection Agency, or other person results in penalty or other liability being imposed upon the City and/or Village as a result of any action by the user.

B. The following enforcement actions or penalties are applicable to a user who violates (A)(1), (2) or (3) above:

1. The user is subject to judicial or other equitable injunctive relief for noncompliance;
2. The user is deemed to have committed a civil infraction subject to a civil fine of \$1,000.00 per violation, as required by federal regulations, or such other maximum fine provided by law in an amount not to exceed \$1,000.00. Procedures governing the issuance and service of civil infraction citations shall be governed by applicable state laws.
3. The user is subject to relief for noncompliance through administrative actions up to and including termination of services; services of SIUs or PIUs that do not comply with their Individual Control Documents may be terminated;
4. The user is subject to immediate termination of Wastewater System service in case of emergency to health, safety, welfare, or the environment, as determined by the Director. The City and/or Village may seek any other remedies allowed by law for any violations of Chapter 28 and/or this ordinance; an action for civil penalties/remedies is not a bar to or a prerequisite to taking any other action against a user.

C. Criminal Prosecution

1. A user who knew or should have known that the user's action or inaction violates any provision of this ordinance, Chapter 28, the Wastewater Use Rules and Regulations, local limits, a wastewater discharge permit, ICD, or an order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine up to five hundred dollars (\$500), or imprisonment for not more than 90 days, or both.

2. A user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this ordinance and/or Chapter 28, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance and/or Chapter 28 shall, upon conviction, be punished by a fine up to five hundred dollars (\$500), or imprisonment for not more than 90 days, or both.
3. A user who introduces any substance into the Wastewater System which the user knew or should have known would cause personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty up to five hundred dollars (\$500) and be subject to imprisonment for not more than 90 days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

D. Violations

The following provisions apply to any violation of this ordinance:

1. A separate violation occurs for each pollutant that exceeds an applicable pretreatment standard or requirement;
2. Each day on which a violation occurs is a separate violation;
3. If a user is in noncompliance with any pretreatment standard that is a monthly average, 30-day average, or 4-day average, then the user has one violation on each day of the averaging period;
4. If, for any period, a user has violated both a maximum and an average pretreatment standard for a particular pollutant, then the total number of violations is the sum of the days on which the maximum standard was violated and the days in the averaging period;
5. A separate violation occurs on:
 - a. Each day that a report is late; and
 - b. Each day after an action required to be completed is not completed.
6. Making a statement or certification in any application, record, report, plan, or other document or making a monitoring device or method inaccurate may result in penalties under the legal remedies available.
7. If a user's discharge results in a deposit, obstruction, damage, or an impairment of the Wastewater Collection System and/or the Wastewater System, then the user shall be liable for the costs of cleaning, repairing, or replacing the affected components as well as other associated fines or costs.
8. In addition to any fine recovered for a civil infraction, misdemeanor violation, or administrative penalty, the Village may also recover the costs and fees associated with enforcement activities, including, but not limited to, the Village's costs for sampling analysis, additional monitoring, investigating, pumping or treating of discharge, lost revenues or grants, damage or loss to the Wastewater Collection System and/or Wastewater System or public resources, fines and penalties incurred by the Village, time devoted to the action by any Village employee or contractual staff and legal fees and costs incurred by the Village. The user shall be notified of all charges assessed pursuant to this provision.
9. The Village shall give public notice, at least once per year in the largest daily newspaper published in the area, of all users who have been in significant noncompliance at any time during the previous twelve (12) months.

10. An SIU or PIU may be found to be in violation of its ICD, which may result in termination of service, for the following reasons:
 - a. Failure to accurately report wastewater constituents or other characteristics of the discharge;
 - b. Failure to report changes in wastewater pollutants or other characteristics;
 - c. Failure to submit timely reports;
 - d. Failure to allow the Village reasonable access to the user's premises for inspection or monitoring;
 - e. Discharging any pollutant prohibited by Chapter 28 and/or this ordinance;
 - f. Discharging a pollutant in excess of the amount allowed in the ICD or in excess of the amount allowed by Chapter 28 and/or this ordinance;
 - g. Failure to pay the costs imposed upon the user by the Village; or
 - i. Any other violation of the ICD, Chapter 28, this ordinance, an order of the Director, a judicial order, or any other applicable local, state, or federal law.

E. Public Nuisance

Every violation of this ordinance shall be deemed a public nuisance.

F. Notice of Noncompliance

1. If the Village has determined that a user has violated or is violating Chapter 28 and/or this ordinance, the Wastewater Use Rules and Regulations, the user's ICD, local limits, an order, any pretreatment standard or requirement, or any other applicable local, state, or federal law, then the Village may issue to the user a notice of noncompliance.
2. A notice of noncompliance shall identify the violation and the consequences of further violation.
3. As appropriate to the circumstances, the notice of noncompliance may:
 - a. Require description of the nature and cause of the violation;
 - b. Require a description of the remedy;
 - c. Require the submission of certain information before a certain date;
 - d. Provide notice that the Village will be increasing its surveillance of the user; or
 - e. Contain other provisions that promote a return to compliance.

G. Letter of Violation

1. If the Village has determined that a user has violated or is violating Chapter 28 and/or this ordinance, the Wastewater Use Rules and Regulations, the user's ICD, local limits, an order, any pretreatment standard or requirement, or any other applicable local, state, or federal law or has failed to respond to a notice of compliance, then the Village may issue to the user a letter of violation.
2. Any letter of violation issued by the Village shall:

- a. Be written;
 - b. Be either hand delivered or delivered by certified mail, return receipt requested;
 - c. State the nature of the violation;
 - d. Describe the administrative procedures that are available to review the Village's determination.
3. A letter of violation may require the user to:
- a. Attend a meeting with the Village;
 - b. Submit a proposed compliance schedule; or,
 - c. Take other actions to identify the nature of the violation, the cause of the violation, or a remedy for the violation.

H. Compliance Order

- 1. A compliance order may be issued at the discretion of the Village, and specifically details the method and means a user must follow to correct violations of Chapter 28 and/or this ordinance, the Wastewater Use Rules and Regulations, local limits, ICD, an order, pretreatment standard or requirement, or any other applicable local, state or federal law, in order to come into compliance. The order may contain a compliance schedule detailing time frames within which the user must come into compliance. The order shall be written, describe the administrative procedures that are available to review the Village's determination and be hand delivered or delivered by certified mail, return receipt requested.
- 2. If the user fails to adhere to the compliance order and/or fails to achieve compliance, the Village shall take further appropriate action.
- 3. If a user acts in full accordance with a compliance schedule, other than SNC publication, no further enforcement actions need be issued for parameter violations addressed by the schedule.

I. Notice of Administrative Penalty

When noncompliance warrants the exacting of a monetary penalty or cost recovery, the Village may issue a Notice of Administrative Penalty, which may include a compliance order.

J. Show Cause Order

A show cause order may be issued by the Village. The show cause order shall direct the user to explain its noncompliance and show cause why more severe enforcement actions, up to and including termination of services, should not be carried out.

- K. After a user has received notice that the Village has revoked the user's ICD, the user shall immediately cease all discharges as required by the Village to the Wastewater System, and the Village shall take all steps necessary to assure that no further such discharges occur.

- L. Village approval of plans, specifications, or operating procedures does not entitle a user to relief from enforcement actions if the user does not achieve compliance with the applicable pretreatment standards or requirements.

SECTION 23 ADMINISTRATIVE REVIEW (DUE PROCESS)

- A. The administrative review process is available under the following instances:

1. Any user aggrieved by a decision of the Village may request an Administrative Hearing.
 2. Whenever the Village has reason to believe that any user has committed or is committing a violation of Chapter 28 and/or this ordinance, local limits, the Wastewater Use Rules and Regulations, ICD, an order, or any pretreatment standard or requirement, or any other applicable local, State or federal law, or the user has not responded to or corrected previous violations, the Village may issue a written notice to the user to appear for an Administrative Hearing to show cause why Wastewater System service should not be terminated.
 3. In nonemergency situations, enforcement actions involving termination services will be stayed pending an administrative hearing.
 4. In emergency situations where Wastewater System service is terminated, the user is entitled to an administrative hearing. Termination of service is not stayed pending an administrative hearing. If a user fails to comply with a termination of service, the Village shall take such steps as it deems necessary, including severance of the sewer connection, to prevent or minimize damage to the Wastewater System, the receiving stream, or endangerment to individuals.
 5. A request for an administrative hearing is deemed to include an appeal of permit or ICD conditions. Decisions made after an administrative hearing, 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 action for purposes of judicial review.
 6. Where the Village initiates an administrative hearing, a written notice or show cause order shall be served upon the user by personal service or by certified mail, return receipt requested to the user's last known address.
- B. The administrative hearing shall be conducted by an impartial hearing officer appointed by the Village Manager. The hearing officer will listen to any oral evidence and review any written documents requested. Admissibility of evidence at the administrative hearing shall be within the discretion of the hearing officer. The user shall be entitled to be represented at the Administrative Hearing in person or by an attorney at his/her own expense and shall be entitled to examine witnesses for the Village and present evidence on his/her own behalf. A record shall be made of the proceedings, but such record need not be verbatim. The hearing officer shall render a written decision within fourteen (14) days after the administrative hearing detailing his decision.
- C. During the pendency, in any forum of any challenge to a Village decision, a user affected by the decision shall comply with the decision.

SECTION 24 AFFIRMATIVE DEFENSE

- A. If the Village brings an action against a user alleging a violation of Sections 6(2); 6(3); 7(3); 7(4); 7(5); 7(6); or 7(7) (and/or the corresponding section of Chapter 28) then the user may assert as an affirmative defense that:
- The user did not know or have reason to know that its discharge, alone or in combination with discharges from other sources, would cause pass through or interference; and either:
1. A Wastewater Use Rule or Regulation designed to prevent pass through or interference was developed and the user was in compliance with the Wastewater Use Rule or Regulation immediately before and during the pass through or interference, or
 2. A Wastewater Use Rule or Regulation was not generated or applicable and immediately before and during the pass through or interference the user's discharge did not substantially change in volume or pollutants from the user's previous discharges when the City was in compliance with its NPDES permit and all applicable requirements for sludge use or disposal.

SECTION 25 UPSET DEFENSE

- A. "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.
- B. A user shall have an affirmative defense to an action brought for noncompliance with a categorical pretreatment standard if:
 - 1. The user demonstrates, through properly signed, contemporaneous operating logs or other evidence:
 - a. The cause of the noncompliance;
 - b. That the noncompliance was unintentional and temporary;
 - c. That the facility was being operated in a prudent manner in compliance with all applicable operation and maintenance procedures; and
 - d. That the noncompliance was caused by factors beyond the reasonable control of the user and not caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation; and
 - e. The user reports the noncompliance according to Section 17.

SECTION 26 APPEALS

If a user is aggrieved by a decision of the hearing officer, the user shall have the right to appeal that decision by way of an action for superintending control in the Van Buren County Circuit Court. Such an appeal shall be filed within 21 days of the decision at issue, and shall be governed by applicable Michigan Court Rules.

SECTION 27 SYSTEM TO BE OPERATED ON RATE BASIS

The Wastewater System (including the Municipality's Wastewater Collection System) shall be operated and maintained on the rate basis as authorized by law and provided for in Chapter 28 and/or this ordinance.

SECTION 28 CONNECTION CHARGES

- A. The Village Council shall determine and establish a schedule of construction charges for the various sizes and types of sanitary sewer connections for each calendar year. Each schedule shall become effective when approved by motion duly adopted by the Village Council. Such schedule of charges shall be based on the following, as applicable:
 - 1. Recovery of all costs normally incurred for this type of construction.
 - 2. The size and length of pipe to be used for connection.
 - 3. Extra costs of construction during winter months.
 - 4. Repair or replacement of pavement and sidewalk.
 - 5. Exceptional surface repairs, including landscaping.
- B. The Village Council may establish advance deposits for sanitary sewer connection construction charges for each calendar year.

1. Advance deposits toward sanitary sewer connection construction charges established under this section shall be made before construction. Any balance owed shall be due within thirty (30) days after billing. Interest at the rate of one (1) percent per month shall be charged upon any delinquent unpaid balance. If such unpaid balance, with interest, is not paid within six (6) months, that fact shall be reported to the Village Council for the establishment for a lien against the real estate.

SECTION 29 TO BE CHARGED FOR ALL CONNECTIONS; BASIS, REU's

- A. The rates to be charged for wastewater service shall be charged to all buildings or premises having any connection with the system. Such rates shall be based upon a schedule of Residential Equivalent Units (REU's) with maximum flow rates per REU, which shall be established by resolution of the Village Council. Flows in excess of the allowed maximum based on REU's will be billed based on a per gallon charge which shall be established by resolution of the Village Council. All rates may be amended from time to time by the Village Council by resolution as circumstances may warrant.
- B. A user receiving water from any source other than the Village water system shall register the same with the Village. If Village water is not available to a user, the Village may elect to place a meter on the private water service at Village expense. If Village water is available to a user but not used, the Village may elect to place a meter on the private water service at the user's expense to measure such private supply. Commercial users shall be metered at their expense. The meters shall be provided, maintained, and read by the Village, for which the customer shall be charged the applicable water service charge in addition to the established charges for wastewater services. In any interim period allowed by the Village prior to such installation, the Village may establish such charges as he deems equitable, considering the anticipated wastewater discharge.
- C. Any user may elect to rearrange his/her water supply pipes and metering, for the purpose of eliminating from the total water consumption applicable to wastewater charges the water not running to the Wastewater System, or the user may elect to establish metering facilities registering the discharge from his/her facility. All such arrangements shall be made subject to the approval of the Village, and the expense thereof, including installation, maintenance, and operation, shall be borne by the user. Any changes made by the user without Village approval, shall be considered a violation of this section, and in addition thereto, the water shall be shut off from the facility and not turned on again until written approval for all changes has been obtained from the Village.
- D. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Village and/or City and any user whereby a nondomestic waste of unusual strength or character may be accepted by the Village and/or City for treatment. Any user who enters into a special agreement or arrangement with the City shall be subject to all user costs or fees established in the special agreement. No special agreement shall be entered into which is in conflict with Section 307 of Public Law 92-500 or with any other local, state, or federal law or regulation.

SECTION 30 RATES ESTABLISHED

- A. Each user of the wastewater system shall pay charges at a rate, which shall be established from time to time by resolution of the Village Council. The system of user charges and capital charges shall be reviewed biennially and revised periodically as required to insure that every user pays its proportionate share of such charges.
- B. In addition to said rates, each user shall pay the charges for miscellaneous service and monitoring as determined by the Village. The charges may be revised by the Village whenever in its opinion it is deemed appropriate. All funds received, as a result of the miscellaneous charges, will be credited to the Wastewater System Receiving Account.
- C. Any person who is responsible for discharging prohibited material shall be charged the actual expense incurred by the Municipality and/or City for the handling, treatment and/or removal of said material in the wastewater system.
- D. Any person who is responsible for damage to the wastewater system shall be charged the full cost of repair of the damage to the wastewater system. The cost shall include but is not limited to labor, equipment, materials, administrative

expense, interest on borrowed funds, engineering, legal or other professional fees, and charges to the Municipality by other utilities or departments.

SECTION 31 BILLING, RESPONSIBILITY FOR PAYMENT

Wastewater service charges shall be billed monthly, except that users billed monthly for water shall be billed monthly for the wastewater service charge. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges attributable to wastewater treatment services. The person paying or responsible for payment of the water bill shall, in like manner, be responsible for payment of the wastewater service bill. (Amended by Ord. No. 175, eff. 5-15-99)

SECTION 32 DUE DATES AND PENALTIES

All charges for wastewater service shall become due and payable on the date indicated on each bill. Payment made after such date shall include an additional ten percent (10%) of the amount due on the due date.

SECTION 33 CHARGES AS LIEN; COLLECTION BY SUIT, DISCONTINUING WASTEWATER SERVICE FOR FAILURE TO PAY

- A. The charges for wastewater service are hereby recognized to constitute a lien on the premises receiving such service. This lien shall become effective immediately upon providing wastewater service to the user but shall be not enforceable for more than three (3) years after it becomes effective. Whenever any such charge against any user shall be delinquent for three (3) months, the Village Treasurer in charge of the collection thereof may certify to the tax assessing officer of the Municipality the fact of such delinquency, whereupon such charge shall be entered upon the next roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general taxes against such premises are collected and the lien thereof enforced. Nothing in this section, however, shall be deemed to prevent the Municipality from suing in a court of law to collect the amount due it for wastewater service charges as provided in subsection (3) below. In addition to the other remedies provided in this section, the Municipality shall have the right to shut off and discontinue the supply of water service to any premises for the nonpayment of wastewater service charges when due in accordance with the procedure established in subsection (2) below.
- B. If a charge for wastewater service prescribed by this article is not paid within forty-five (45) days after the billing therefor, and after the user has been given notice and an opportunity to be heard as provided by law, all water service may be shut off and discontinued to the customer owing or liable for such charge. Water service shut off pursuant to this section shall not be restored until all sums due and owing have been paid in full, including a collection fee of fifteen dollars (\$15.00) and appropriate security deposits.
- C. At its option the Municipality may, in addition to the remedies above, in its corporate name, bring suit in any court of competent jurisdiction for the collection of any wastewater service charge which, thirty (30) days after the billing therefor, has not paid. The production of the meter record or cost record shall be prima facie evidence of the liability to pay the amount therein shown to be due.

SECTION 34 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance shall be held invalid for any reason by any court of competent jurisdiction, the same shall not affect the validity of any other provision of this ordinance, which shall remain in full force and effect.

SECTION 35 EFFECTIVE DATE AND REPEAL OF INCONSISTENT PROVISIONS

This ordinance shall take effect upon publication. All ordinances or parts of ordinances in conflict herewith are hereby repealed.