

ORDINANCE NO. 2021-06

AN ORDINANCE TO REPEAL EXISTING ARTICLE III (“SEWER SERVICE”) OF CHAPTER 62 (“UTILITIES”) OF THE CITY OF ST. CLAIR CODE OF ORDINANCES, AND TO ENACT A NEW ARTICLE III (“SEWER USE AND PRETREATMENT”) OF CHAPTER 62 (“UTILITIES”) OF THE CITY OF ST. CLAIR CODE OF ORDINANCES, TO REGULATE THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, SEWER INSTALLATIONS AND CONNECTIONS, AND DISCHARGES OF WASTEWATER AND POLLUTANTS INTO THE CITY’S PUBLICLY OWNED TREATMENT WORKS (“POTW”); TO REQUIRE PRETREATMENT OF NONDOMESTIC WASTES BY USERS OF THE POTW, PROVIDE FOR USER PERMITS AND MONITORING AND REPORTING REQUIREMENTS FOR USERS; TO PROVIDE FOR ENFORCEMENT, PENALTIES, AND OTHER RELIEF FOR VIOLATIONS; TO PROVIDE FOR INDUSTRIAL PRETREATMENT PROGRAM FEES; AND TO PROVIDE FOR SEWER SERVICE CHARGES, RATES, AND FEES.

THE CITY OF ST. CLAIR, MICHIGAN, ORDAINS:

1. **Repeal of existing Article III (“Sewer Service”) of Chapter 62 (“Utilities”) of the City of St. Clair Code of Ordinances.** Existing Article III (“Sewer Service”) of Chapter 62 (“Utilities”) of the City of St. Clair Code of Ordinances is hereby repealed in its entirety.

2. **Enactment of a new Article III (“Sewer Use and Pretreatment”) of Chapter 62 (“Utilities”) of the City of St. Clair Code of Ordinances.** A new Article III (“Sewer Use and Pretreatment”) of Chapter 62 (“Utilities”) of the City of St. Clair Code of Ordinances is hereby adopted to read in its entirety as follows:

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CHAPTER 62

ARTICLE III

SEWER USE AND PRETREATMENT

DIVISION 1. GENERAL PROVISIONS

62-61.1. Purpose and Scope

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

1. To establish uniform requirements for discharges by all users of the City of St. Clair Wastewater Treatment Plant (“St. Clair WWTP”) and associated wastewater collection systems and facilities (collectively referred to as the “Publicly Owned Treatment Works” or “POTW”), and to enable the St. Clair WWTP to comply with its NPDES Permit and other applicable State and Federal pretreatment laws and regulations as required by the Federal Water Pollution Control Act (also known as the “Clean Water Act”), as amended, 33 USC 1251, et seq.; the General Pretreatment Regulations (40 CFR Part 403); Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended (“Water Resources Protection”); and Michigan Administrative Code, R 323.2301 et seq., as amended, promulgated pursuant to Sections 3103, 3106 and 3109 of Part 31 of Act 451 of the Public Acts of Michigan of 1994, as amended.
2. To prevent the discharge of wastewater or pollutants into the POTW that do not meet applicable pretreatment standards and requirements; that could interfere with the operation of the POTW; that could pass through the St. Clair WWTP into the receiving waters or the atmosphere, the environment, or otherwise be incompatible with the POTW; that could inhibit or disrupt the St. Clair WWTP’s processing, use, or disposal of sludge; that could cause health or safety problems for POTW workers; or that could result in a violation of the St. Clair WWTP’s NPDES permit or of other applicable laws and regulations.
3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the St. Clair WWTP.

4. To regulate the discharge of wastewater and/or pollutants to the POTW or the environment and to enforce the requirements of this Article through the issuance of user permits and through other means as provided by this Article.
 5. To authorize and require all inspection, monitoring, reporting, and enforcement activities as necessary to ensure compliance with applicable pretreatment standards and requirements and other applicable laws and regulations.
 6. To provide for the equitable distribution and recovery of costs from users of the POTW sufficient to administer regulatory activities and to meet the costs of the operation, maintenance, and replacement of the POTW.
 7. To promote waste minimization in the areas served by the POTW.
 8. To otherwise protect the public health, safety, and welfare, and the environment.
- B. This Article applies to all discharges to the POTW by any person and whether the discharges originate from within the City or outside the City.
- C. This Article also applies to any person owning, using, constructing or maintaining any private system or facility intended or used for the disposal of sewage or wastewater within the City or under the City's jurisdiction.
- E. It shall be unlawful for any person to discharge any wastewater or pollutant to the POTW, or to any storm sewer or natural outlet within the City, or in any area under the jurisdiction of the City, except in accordance with the provisions of this Article and other applicable laws and regulations.
- F. If any user discharges or proposes to discharge wastewaters or pollutants that are prohibited or limited by this Article, the City may take any action as provided by this Article or other applicable laws or regulations to ensure and require compliance with the provisions of this Article.

62-61.2. Definitions

Unless the context specifically indicates otherwise, the following terms shall have the following meanings as used in this Article:

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

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

“Ammonia Nitrogen” or **“NH₃ as N”** means one of the oxidation states of nitrogen in which nitrogen is combined with hydrogen in molecular form as NH₃ or in ionized form as NH⁺₄, and is determined quantitatively in accordance with U.S. EPA procedures set forth in the latest version of 40 CFR Part 136.

“As amended” means (unless otherwise specifically stated) “as amended from time to time.”

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

- A. If the user is a corporation, a responsible corporate officer. “Responsible corporate officer” means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to ensure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the user is a partnership or proprietorship, a general partner or proprietor, respectively.
- C. If the user is a federal, state or local governmental entity, the principal executive officer, ranking elected official, or director having responsibility for the overall operation of the discharging facility.
- D. A duly authorized representative of an individual designated in (A), (B) or (C) above, if the representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.

- (1) To be considered “duly authorized,” the authorization must be made in writing by an individual designated in (A), (B) or (C) above. The authorization must specify either an individual or a position having responsibility for the overall operation of the facility (such as the position of plant manager, operator of a well or well field, or a position of equivalent responsibility, or having overall responsibility for the environmental matters for the company or entity). The written authorization must be submitted to the City Superintendent prior to or together with any reports to be signed by the authorized representative.
- (2) If an authorization under (D)(1) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company or entity, a new written authorization must be submitted to the City Superintendent prior to or together with any reports to be signed by the newly authorized representative.

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

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

“Biosolids” (sometimes referred to as “sewage sludge biosolids”) means solid, semisolid or liquid residues generated during POTW wastewater treatment processes (“sewage sludge”) that

has been treated in accordance with applicable state and/or federal regulatory requirements for land application or other means of disposal.

“BOD” means biochemical oxygen demand.

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

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

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

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

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

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

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

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

“Centralized Waste Treatment Facility” or **“CWT Facility”** means any facility that treats (for disposal, recycling, or recovery of material) any hazardous or non-hazardous industrial wastes, hazardous or non-hazardous industrial wastewater, and/or used material received from off-site. “CWT facility” includes both a facility that treats waste received exclusively from off-site and a facility that treats wastes generated on-site as well as waste received from off-site. For example, an organic chemical manufacturing plant may, in certain circumstances, be a CWT facility if it treats industrial wastes received from offsite as well as industrial waste generated at the organic

chemical manufacturing plant. CWT facilities may also include re-refiners and may be owned by the federal government.

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

“CFR” means Code of Federal Regulations.

“Chlorine demand” means the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter (mg/l).

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

“City Building Inspector” means the City’s Building Inspector and/or the Building Inspector’s designees and authorized representatives.

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

“City Sanitary Sewer System” means the portions of the POTW that are owned by and located within the City, including the City Collection System and the St. Clair WWTP.

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

“City Superintendent” means the City Superintendent for the City and/or the City Superintendent’s designees and authorized representatives, including, but not limited to the DPW Director, the City Engineer, the City Building Inspector, the WWTP Superintendent, the City Treasurer, and/or the City’s consulting engineers.

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

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

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

“Commercial User” means any Nondomestic User other than an Industrial User that by any means, contributes, causes, or permits the contribution, introduction or discharge of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether directly or indirectly. Examples of commercial Users include, but are not limited to, persons or entities whose premises are used to offer services and/or products such as retail and wholesale stores, gasoline stations, restaurants, schools, churches, hotels, motels, nursing homes, hospitals, warehouses, private clubs, theaters, and governmental buildings. A commercial User may also be designated as a Significant Industrial User if the User meets the criteria for a Significant Industrial User as provided by this Chapter.

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

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

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

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

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

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

“County Health Department” means the St. Clair County Health Department or its successor agency.

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

day (except pH and dissolved oxygen). If only one grab sample is collected for a parameter on a given calendar day, the determination whether the daily maximum limitation for that parameter has been exceeded for that calendar day shall be based on the results of that single grab sample.

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

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

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

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

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

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

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

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

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

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

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

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

“EPA” means the United States Environmental Protection Agency.

“Excessive” means at such a flow, rate, magnitude or amount that, in the judgment of the City Superintendent made consistent with Good Utility Practices, it may cause damage to any facility or the POTW; may be harmful to the wastewater treatment processes; may adversely affect the management or operation of the POTW or POTW sludge management or disposal; may cause pass through or interference; may violate any pretreatment standard or requirement; may adversely affect the quality of the receiving waters or the ambient air quality; may endanger worker health and safety; may constitute a public nuisance; may be inconsistent with the

requirements, purposes or objectives of this Article; or may otherwise adversely impact the public health, safety or welfare or the environment.

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

“Floatable Oil” means an oil, fat, or grease in a physical state such that it will separate by gravity from sanitary sewage by treatment in an approved pretreatment facility.

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

“FOG interceptor” shall mean a device meant to receive the drainage from fixtures or equipment with FOG-laden waste from a food service establishment or other Nondomestic User’s premises, and may also be described as a device for separating and retaining FOG, waterborne greases, and grease complexes from wastewater prior to the wastewater exiting the device and entering the public sewer.

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

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

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

that produces a hot, non-drinkable food product in or on a receptacle that requires washing. Certain premises where food or beverages are prepared and served or consumed are excluded from, or may be exempted from, the interceptor/AFPT requirements that otherwise apply to FSEs as provided by Section 62-76.8(G).

“Footing drain.” See definition of “Sewer.”

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

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

“Good Utility Practices” means any of the practices, methods and acts engaged in or approved by a significant portion of comparable publicly owned treatment works facilities during the relevant time period, or other practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability, safety, expedition, applicable local, state, and federal laws and regulations, and at reasonable cost; the term Good Utility Practices is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to constitute a spectrum of acceptable practices, methods or acts generally accepted by comparable publicly owned treatment works facilities.

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

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

areas), while grease interceptors are generally larger devices with higher flow rates located outdoors and underground.

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

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

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

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

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

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

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

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

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

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

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

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

prepared pursuant to Subtitle D of the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

“lbs/day” means pounds per day.

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

“Licensed Contractor” means a contractor that has filed an application and met all bonding, insurance and other requirements as set forth in this article and is thereby authorized by the City to install building sanitary sewers within the City.

“Liquid Industrial By-Product” means any material that is produced by, is incident to, or results from industrial, commercial, or governmental activity, or any other activity or enterprise, that is determined to be liquid by Method 9095 (paint filter liquids test) as described in “Test methods for evaluating solid wastes, physical/chemical methods,” United States Environmental Protection Agency Publication No. SW-846, and that is discarded. Liquid industrial by-product does not include any of the following: (1) Hazardous waste regulated and required to be manifested under Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended; (2) Septage waste regulated under part 117 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended; (3) Medical waste regulated under part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13832; (4) A discharge to the waters of the state in accordance with a permit, order, or rule under Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended; (5) A liquid generated by a household; (6) A liquid regulated under 1982 PA 239, MCL 287.651 to 287.683, as amended; or (7) Material managed in accordance with Section 12102a of Part 121 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ MCL 324.12101 et seq, as amended.

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

“MAC” means the Michigan Administrative Code.

“MAHL” or “Maximum Allowable Headworks Loading” means the estimated maximum influent pollutant loads from all influent sources (such as domestic and nondomestic users and septage) that can be received at the POTW’s headworks without causing pass through or

interference and consistent with applicable laws and regulations, as determined pursuant to the WWTP's most recent MAHL study.

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

“May” is permissive.

“Mobile Food Service Unit” means any motorized vehicle (or towed trailer) in or from which food or beverages are prepared and served or consumed, with or without charge. The term includes vehicles commonly referred to as food trucks or food trailers.

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

“mg/l” means milligrams per liter.

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

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

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

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

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

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

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

“ng/l” means nanograms per liter.

“NH₃-N.” See definition of “Ammonia Nitrogen.”

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

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

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

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

“Normal Strength.” With regard to wastewater, “normal strength” means wastewater for which the levels of all pollutants in the wastewater (including, without limitation, BOD, TSS, ammonia nitrogen, or phosphorous) are at or below the corresponding surcharge thresholds (and/or Background Sewage Concentrations, if any) for each pollutant. Similarly, with regard to any single pollutant parameter, “normal strength” means that the level of the pollutant is at or below the corresponding surcharge threshold (and/or Background Sewage Concentration, if any) for the pollutant. Further, to be considered normal strength, the wastewater must have a pH between 6.5 and 8.5, must not exceed any local limit, and must not contain a level of any constituents (either singly or in combination) that might interfere with POTW treatment processes or cause pass through. The determination of whether or not wastewater or the concentration of a particular pollutant concentration is “normal strength” shall be made by the City Superintendent at the City

Superintendent's sole discretion based on such factors as determined necessary and appropriate by the City Superintendent to achieve the purposes and objectives of this Article.

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

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

"Operation and maintenance" means the satisfactory provision for assuring proper and efficient functioning of the treatment works in accordance with the NPDES permit and U.S. EPA grant conditions.

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

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

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

"PCBs" means polychlorinated biphenyls.

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

"PFAS" means per- and polyfluoroalkyl substances.

"PFOS" means perfluorooctane sulfonate.

“PFOA” means perfluorooctanoic acid.

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

“Piping Code” means the standards, rules, regulations, and specifications adopted by the City Council covering the design and installation of plumbing systems for the protection of the public health, safety, and welfare, as amended.

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

“Plumbing Code” mean the plumbing code adopted and enforced by the City as provided by Article IV (“Plumbing Code”) of Chapter 14 (“Buildings and Building Regulations”) of the City Code of Ordinances, as amended.

“Plumbing Inspector” means the authorized agent or representative of the City charged with the administration and enforcement of the preinspections of this Article and the plumbing code.

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

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

- E. Substances for which control measures on users are necessary to avoid restricting the POTW's residuals management program; to avoid operational problems at the POTW; or to avoid POTW worker health and safety problems.

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

“Potential” means a determination made by the City Superintendent whether or not a certain condition, state, result or circumstance exists, or is likely to exist, based upon the quantitative or qualitative factors or information deemed by the City Superintendent to be relevant and appropriate to the determination, consistent with the purposes and objectives of this Chapter.

“POTW” (Publicly Owned Treatment Works). The complete sewage disposal, transportation and treatment system of the City as defined by the Act and this Article, including the St. Clair WWTP, and any devices, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, sewage or sludge, as well as sewers (including all main, lateral and intercepting sewers), pipes and other conveyances used to collect or convey wastewater or sewage to the St. Clair WWTP (including temporary connections, if any, approved by the City Superintendent), as now or hereafter added to, extended or improved. The term “POTW” shall also include any wastewater collection facilities or sewers outside the City that convey wastewaters to the St. Clair WWTP from persons who are, by contract or agreement with the City, users of the St. Clair WWTP. References in this Article to approvals, determinations, reviews, etc., “by the POTW” shall mean by the City Superintendent, or the City Superintendent’ authorized representatives. The term “POTW” may also be used to refer to the City as the municipality that has jurisdiction over the discharges to, and discharges from, the treatment works, or to the St. Clair WWTP, and its designated representatives, as appropriate to the context in which the term is used.

“Preinspection” means an inspection conducted by the plumbing inspector prior to issuance of a permit to install the building sanitary sewer.

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

“Pretreatment” means the reduction of the amount of pollutants, the elimination or removal of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or

other means, except for the use of dilution (unless expressly authorized by any applicable pretreatment standard or requirement and the City Superintendent) and except for the use other means prohibited by applicable local, state, or federal laws or regulations. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings or discharges that might otherwise interfere with or be incompatible with the POTW, subject to applicable requirements of local, state, and federal laws and regulations.

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

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

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

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

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

“Rate Setting Methodology” means the methodology used by the City to establish rates and charges for Users of the Sewer System, as may be amended from time-to-time by the City Council.

“Rate Study” means the City’s annual rate study using the Rate Setting Methodology to establish rates and charges for the Users of the Sewer System.

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

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

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

“Sanitary Sewage.” See “domestic waste.”

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

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

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

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

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

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

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

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

“Sewage.” See “wastewater.”

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

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

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

“Building Sanitary Sewer” mean the part of a building’s sanitary sewage drainage system that receives the sanitary sewage from the building sanitary drain at a point 5 feet outside the outer face of the exterior building wall and conveys the discharge to a public sanitary sewer in the public right-of-way.

“Combined Sewer” means a sewer receiving both surface runoff and sanitary sewage. Combined sewers are prohibited.

“Footing drain” means a private pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits groundwater or surface runoff.

“Private Sanitary Sewer System” means a septic tank, cesspool or similar device, or part thereof, not connected to a public sanitary sewer. The connection of a private sanitary sewer system to a public sanitary sewer is prohibited.

“Public Sanitary Sewer” means a common sanitary sewer owned by the City located in the public right-of-way and used or intended for use by the public for the collection and transportation to the City WWTP for treatment and disposal of wastewater discharged from individual building sanitary sewers. (A public sanitary sewer does not include any part of a building sanitary sewer, including portions of the building sanitary sewer that is located in the public right-of-way.)

“Sanitary Sewer” means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial facilities, and institutions together with minor quantities of groundwater, stormwater and surface water that are not admitted intentionally.

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

“Sanitary Sewer System” means a term to describe the entire system of sanitary sewer mains, valves, pumps, and other appurtenances owned by the City of St. Clair which are intended to dispose of and treat wastewater for all the customers of the system.

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

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

“Shall” is mandatory.

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

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

- A. Subject to categorical pretreatment standards; or
- B. Any other user that:
 - (1) discharges to the POTW an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater); or
 - (2) contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the WWTP; or
 - (3) is otherwise designated by the City Superintendent as a Significant Industrial User on the basis that the user has a reasonable potential (either singly or in combination with discharges from other users) to adversely affect the operation of the POTW, affect the ability of the POTW to comply with its NPDES permit, to

violate any pretreatment standard or requirement, or because the City Superintendent otherwise determines that a Nondomestic User Permit for the user's discharge is required to meet the purposes and objectives of this Article.

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

“Sludge” includes, but is not limited to, accumulated solid material separated from liquid waste as a result of wastewater disposal, treatment, or pretreatment process. Sewage sludge includes domestic septage. Sewage sludge that has been treated in accordance with applicable state or federal requirements for land application or other means of disposal is sometimes referred to as “biosolids.”

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

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

“Special Alternative Limit” or **“SAL”** means a discharge limit for a specific User for one or more pollutant parameters developed and approved by the City Superintendent as provided by this Chapter.

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

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

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

“Surcharge” means the additional charges made by the City Superintendent and levied on a user for the treatment of the user’s wastewater containing pollutants in excess of specified concentrations, loadings, surcharge thresholds, or other applicable limits, as provided by this Article.

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

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

“Total PCBs” means the sum of the individual analytical results for each of the polychlorinated biphenyls aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.

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

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

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

Ashes, cinders, sand, cement, spent lime, stone or marble dust, wood, metal, plastic, glass, cloth, rubber, leather, wire, rope, string, fibers, straw, shavings, sweepings, spent grains, spent hops, tar, asphalt residues, residues from refining or processing of fuel or

lubricating oil, mud or glass grinding or polishing wastes or tumbling and deburring stones;

Newspapers, magazines, books, catalogs, or waste paper;

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

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

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

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

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

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

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

“ug/l” means micrograms per liter.

“Unpolluted Water” means water in its natural state, or water which, after use for any purpose, is not substantially changed as to chemical or biochemical qualities or water that would otherwise not be benefitted by discharge to the POTW. The City Superintendent shall determine whether water is unpolluted water.

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

“User” means (1) any person that contributes, causes or permits the contribution, introduction or discharge of wastewater into the POTW, whether intentional or unintentional, and whether directly or indirectly; (2) any person that owns, controls, manages, or operates any Premises having any connection or from which there is a discharge to the POTW, whether intentional or unintentional, and whether direct or indirect; and/or (3) any employee, officer, director, partner, member, contractor or other person who participates in, or is legally or factually responsible for, any act or omission which is, or results in, a violation of this Chapter. User also includes any local unit of government other than the City that discharges to the POTW (as well as the individual Users located within such other local unit of government.

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

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

“WWTP” or “Wastewater Treatment Plant” means the portion of the POTW that is designed to provide treatment, including recycling or reclamation, of wastewater, and that is commonly referred to as St. Clair WWTP.

“WWTP Superintendent” means the person designated by the City to supervise the operation of the St. Clair WWTP and/or the WWTP Superintendent’s designees and authorized representatives.

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

“Waters of the State” means all rivers, streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface, or underground, natural or artificial, public or private,

which are contained within, flow through, or border upon the State of Michigan or any portion thereof, and as otherwise specified by applicable laws and regulations.

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

DIVISION 2. USE OF PUBLIC SANITARY SEWERS REQUIRED

62-62.1. Public Sanitary Sewer System; Declaration of Necessity

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

62-62.2. Unlawful Deposition

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

62-62.3. Unlawful Construction

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

62-62.4. Required Connection To Available Public Sanitary Sewer

- A. As used in this section the following terms shall be defined as follows:
- (1) “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 feet at the nearest point from a structure in which sanitary sewage originates.
 - (2) “Structure in which sanitary sewage 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.
- B. Structures in which sanitary sewage originates located in the City in the area served by the public sewer for which there is an available public sanitary sewer shall not be used or occupied unless such structures are connected to the public sanitary sewer.
- C. The owner of any structure, building or house in which sanitary sewage originates, which is more than 200 feet from a public sanitary sewer and discharges into the waters of the state any raw sewage of human origin, any sewage or any substance which is or may become injurious to domestic, commercial, industrial, agricultural, recreational or other uses which are being made or may be made of such waters, or which is or may become injurious to livestock, wild animals, birds, fish, aquatic life, or plants or whereby the growth or propagation thereof is prevented or injuriously affected or whereby the value of fish and game is or may be destroyed or impaired, shall, within 50 days of a notice to connect, sent by first class mail to the address shown on the latest tax assessment rolls, connect to the public sanitary sewer so that the discharge is abated.
- D. If a structure in which sanitary sewage originates has not been connected to an available public sanitary sewer before use and occupancy, the City shall require the connection to be made forthwith after notice, which notice shall be made by first class mail, sent to the property owner or by posting a copy thereof on the property on which the structure is located. The notice shall give the approximate location of the public sanitary sewer which is available for connection to the structure involved; and advise the property owner of the requirements and of the enforcement provisions of this section.

62-62.5. Private Sewage Disposal

- A. If a public sanitary sewer is not available under the provisions of Section 62-62.4, the building sanitary sewer shall be connected to a private sewage disposal system complying with health department regulations.
- B. At such times as a public sanitary sewer becomes available to a property served by a private sewage disposal system, as provided in Section 62-62.4, direct connection shall be made to the public sanitary sewer in compliance with this Division.
- C. When a structure is to be connected to a public sanitary sewer the following will apply:
 - (1) The septic tank or cesspool, or both, shall be disconnected from the structure and shall be pumped and thoroughly cleaned and its contents removed and properly disposed of by a licensed tank cleaner.
 - (2) The septic tank or cesspool shall be abandoned, and shall then be collapsed and filled with earth, preferably sand, and the earth or sand or both shall be compacted.
 - (3) If the collapsing of the tank is impractical, the tank shall be filled with sand or earth, or both, to at least the tank outlet level, and the inlet to the tank shall be filled with concrete.

62-62.6. Additional Public Health Requirements

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

DIVISION 3. SEWER LATERALS AND CONNECTIONS

62-63.1. Waste Discharge Prohibited Except Through Approved Sewer Connection

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

62-63.2. City Review and Approval Required

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any part or appurtenance of the POTW, nor discharge into the POTW, without first obtaining the City's review and approval.

62-63.3. Unauthorized Use of Public Sanitary Sewer; Connection Procedures and Requirements; Inspection and Testing By City Before Backfilling; Performance Bonds and Insurance

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenances thereof without first obtaining approval and any required permits from the City as provided by this Article.
- B. The owner of any premises proposing to connect to the public sanitary sewer shall request the City's approval to do so according to any procedures required by the City. The request shall include plans and specifications for all plumbing construction from the building or premises to the point of connection or tap into the public sanitary sewer. The plans and specifications shall meet the requirements of this Article, the Plumbing Code, the City Piping Code, and any other applicable City specifications, design, and construction standards (provided that if the requirements of this Article are more restrictive, the requirements of this Article shall control). The request for approval to connect shall be supplemented by such information as required by the City to administer this Article. Fees, if any, associated with the connection of the public sewer shall be paid to the City according to applicable City procedures.
- C. No building sanitary sewer or connection to the public sanitary sewer shall be covered by backfilling until after it has been inspected, tested, location recorded, and approved by the City, according to the requirements, specifications, design, and construction standards as provided by this Section.
- D. The City may deny approval to connect to the public sanitary sewer if the City Superintendent determines that there is a reasonable potential for the anticipated discharges to the public sanitary sewer may interfere with the POTW; be inconsistent with the provisions of this Article, the City's NPDES permit, any other local, state, or federal law or regulation; or in any other way hamper the operations of the POTW.
- E. Connection to a public sanitary sewer will not be allowed (and the City shall not approve connection) until all assessments due and all advance deposits established, if any, have

been paid and unless there is capacity available (in both wastewater volume and strength) at the WWTP and in all downstream public sanitary sewers, pump stations, and related sewer facilities, including, but not limited to, adequate capacity to accept, treat and dispose of BOD, TSS, or other wastewater pollutants or materials as required by applicable local, state, or federal laws, rules or regulations, as determined by the City Superintendent.

- F. If the City Superintendent determines that it is necessary to evaluate the ability or capacity of the POTW to accept any current or proposed discharge, the City Superintendent may require any existing or proposed user to demonstrate to the City Superintendent's satisfaction that the discharge will be compatible with the POTW, will not affect any requirements imposed upon the City on the discharge, will not adversely affect the POTW, and is consistent with the requirements of an applicable User Permit. Such demonstration shall be made by any means determined necessary and appropriate by the City Superintendent, including, but not limited to, a headworks analysis or treatability study to be conducted at the user's sole expense.
- G. Before any approval is granted by the City for excavating for plumbing or drain laying in any public street, easement, or alley, the property owner's licensed contractor may be required to execute and deposit with the City a performance bond with corporate security in the amount of the contracted or estimated work, conditioned upon faithful performance of all work with due care and skill, and in accordance with the laws, rules, and regulations established by the City pertaining to sewers and plumbing. If required, this bond shall state that the person will indemnify and save harmless the City and the owner of the premises against all damages, costs, expenses, outlays, and claims of every nature and kind arising out of mistake or negligence on the person's part in connection with plumbing, sewer line connection, or excavating for plumbing or sewer connection as prescribed in this Section. The bond shall remain in force and must be executed for a period of one (1) year, except that, upon expiration, it shall remain in force as to all penalties, claims, or damages that may have accrued thereunder prior to the expiration. The property owner's licensed contractor may also be required to provide public liability insurance for the protection of the City, the property owner, and all persons, to indemnify them for all damages caused by accidents attributable to the work, with minimum limits of \$1,000,000.00 for one occurrence, \$500,000.00 for bodily injuries per accident, and \$250,000.00 for property damages.
- H. It is unlawful to connect to the public sanitary sewer without obtaining the City's approval as provided by and in full compliance with this Article and except in full compliance with other applicable City procedures, regulations, and requirements. Failure

to comply with any term, condition, or requirement of applicable City procedures, regulations, or requirements is a violation of this Article.

62-63.4. Separate Building Sanitary Sewers; Separate Uses within Buildings

- A. A separate and independent building sanitary sewer shall be provided for every structure from which sanitary sewage originates, except where one of the following conditions exists:
1. One structure stands at the rear of another structure on a lot which has frontage to the public sanitary sewer only on one side, and a building sanitary sewer is not available or cannot be constructed to the rear structure through an alley, court, yard or driveway.
 2. Two or more structures already in existence, constructed on a lot which by the current zoning code cannot be divided.
- B. The structures which meet the conditions of subsections 62-63.4(A)(1) or A(2) of this section may be connected by a single building sanitary sewer if the capacity of the line, conveyance system and treatment system, as determined by the City, is adequate to handle the structures. If the flow from the structures is greater than a six-inch inside diameter sewer will handle, the building sanitary sewer shall be considered a commercial connection and drawings and specifications shall be submitted to the City for review and approval by the City.
- C. Separate and independent building sanitary sewers and/or control manholes may also be required for separate uses within a building or structure, as determined necessary by the City Superintendent.
- D. All discharge limits required to be met as provided by this Article shall apply to that portion of the building sanitary sewer emanating from a single building or from each separate use within a building, as applicable. Compliance with pretreatment standards or local discharge limits prescribed by this Article shall be determined based on each separate discharge to a common sanitary sewer lateral prior to commingling with discharges from other sources.
- E. Under no circumstances shall the City be subject to any liability, obligation, or responsibility for damage caused by or resulting from any single building sanitary sewer

which serves more than one building or more than one use within a building as provided by this section.

62-63.5. Existing Building Sanitary Sewers; Obsolete Sewers

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

62-63.6. Construction Specifications

- A. The pipe size, slope, alignment, materials or construction of a building sanitary sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the this Article, the Plumbing Code, the City Piping Code, and any other applicable City specifications, design, and construction standards (provided that if the requirements of this Article are more restrictive, the requirements of this Article shall control) as specified and determined by the City.

62-63.7. Clean-outs Required.

- A. All newly constructed building sanitary sewers shall have a properly sized clean-out located at the point specified by the Piping Code or as otherwise required by the City Superintendent. The cleanout shall be accessible at all times. This cleanout shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sanitary sewer.
- B. For existing building sanitary sewers, in addition to such clean-outs as may be required by the plumbing code or other applicable requirements at the time of construction, the City shall require an additional clean-out to be installed on any building sanitary sewer located at the point where the sewer crosses the owner's property line (as provided by Section 62-63.7(A)) at such time as the sewer is replaced or at any other time determined

necessary by the City Superintendent to meet the purposes and requirements of this Article.

62-63.8. Building Sanitary Sewer Elevation and Location

- A. Whenever possible, the building sanitary sewer shall be brought to the structure at an elevation below the basement floor. In each structure in which any building sanitary drain is too low to permit gravity flow to the public sanitary sewer, sanitary sewage carried by such building sanitary drain shall be lifted by an approved sanitary sewage pump as listed in the Piping Code and discharged to the building sanitary sewer.
- B. All existing structures not able to be served by gravity as indicated by the consulting engineers employed by the City shall be required to utilize a sanitary sewage pump. The type, size, and installation of a required pump shall be subject to the City's prior review and approval. These pumps will be purchased and supplied by the property owner or the property owner's licensed contractor, at no cost to the City. The cost of installation, operation, and maintenance of the pump shall also be borne solely by the property owner.
- C. No building sanitary sewer shall be laid parallel to, or within three feet of, any bearing wall that might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sanitary sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction shall be made with no more than a forty-five degree bend.
- D. All excavations required for the installation of a building sanitary sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with current City of St. Clair specifications, except that no backfill shall be placed until the City has inspected the work.

62-63.9. Floor Drains; Backwater Valve Devices

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

62-63.10. Street Openings; Protection and Restoration

All street openings shall be subject to the street, easement, and right-of-way requirements of the City Code of Ordinances. All excavations for building sanitary sewer installation, taps, and/or connections shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City at the expense of the property owner.

62-63.11. Pretreatment Of Any Discharge May Be Required

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

DIVISION 4. CONDITIONS OF SERVICE**62-64.1. Responsibilities and Liabilities For Building Sewer Drains and Building Sanitary Sewers**

- A. All costs and expenses incidental to the installation, connection, operation, maintenance, and repair or replacement of building sanitary drains and building sanitary sewers from the building to the public sanitary sewer (including any portion of a building sanitary sewer located within the public right-of-way, street, or utility easement) shall be borne by the property owner. The property owner shall also be responsible for all costs to install, operate, maintain, repair, and replace related private sewer facilities, including, but not limited to, sewage grinder pumps.
- B. The property owner shall maintain, clean and repair building sewer drains or building sanitary sewers and related private sewer facilities on the property at the property owner's expense as necessary to keep the lines free and clear of obstructions and in good working order. Further, the property owner shall be responsible for normal operation and maintenance of the building sanitary sewer out to the public sanitary sewer connection point. Normal operation and maintenance responsibility means, but is not limited to, any of the following, as determined by the City:
 - (1) The building sanitary drains and building sanitary sewers are being and have been used only for uses permitted by and consistent with the purposes and intent of this Article

- (2) Functional grease traps, sand and grit chambers, or such other devices as may be required by the City or other applicable laws or regulations have been installed and maintained by the property owner as determined necessary by the City to ensure the proper functioning of the public sanitary sewer.
- (3) The property owner has taken reasonable precautions to protect the public sanitary sewer from being blocked or damaged due to the activities on the premises.
- (4) The property owner has undertaken maintenance activities such as rodding, flushing, root control, or similar work ensure that the building sanitary drain, building sanitary sewer and related private sewer facilities are operating properly.

If the property owner does not maintain, clean and repair building sewer drains or building sanitary sewers or related private sewer facilities as provided by this Section, the City may order the property owner to do so at the property owner's expense, and if the property owner refuses to obey the City's order, then the City may take the actions as determined necessary by the City to correct any deficiencies and the costs shall be charged to the property owner.

- C. The City shall maintain, clean, televise, and repair as necessary and at the City's expense the public sanitary sewer lines, but shall not be responsible for cleaning, maintenance, repair of, or liability for, private sewer lines, including, but not limited to, building sanitary drains, building sanitary sewers, or related private sewer facilities. The City shall not be held liable for damage caused by cleaning the public sanitary sewer lines due to the property owner's plumbing not meeting code requirements for backflow prevention and air relief or other requirements, as determined by the City.
- D. Any property owner who violates the provisions of this Article shall be liable to the City and may be required to reimburse the City for all costs, expenses, losses or damages incurred by the City directly or indirectly caused by the installation, connection, operation, maintenance, repair, or replacement of any building sanitary drain building sanitary sewer, or other private sewer line or related private sewer facilities. Further, if any property owner fails to maintain such private sewer facilities as required by this Article, in addition to the other penalties prescribed, the private sewer facilities may be declared a public nuisance by the City and the problem may be corrected by the City. Any costs, expenses, or damages so incurred by the City shall be assessed against the

property and become a lien on the property if not timely paid and shall be subject to other remedies as provided by this Article.

- E. Notwithstanding anything to the contrary in this section 62-64.1, the City may, at its discretion and at the City's expense, undertake the repair or replacement of the building sanitary sewer lying within the within the public right-of-way, street, or utility easement when a street or other utility is being reconstructed or relocated by the City or otherwise in conjunction with a road improvement project.

62-64.2. Water Meters

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

62-64.3. Disruption of Service

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

62-64.4. Service Inspections

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

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

62-65.1. Discharge Prohibited Without Required Approvals, Permits, and Treatment

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

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

If any person drains or discharges any unpolluted water by means of conductors, eaves troughs, roof downspouts, foundation drains, footing drains, areaway drains, sump pumps, or otherwise, directly or indirectly, into a storm sewer, or natural outlet in violation of applicable laws or regulations, or into a sanitary sewer, the City shall order its disconnection at the property owner's expense, and if the property owner refuses to obey the City's order, then the City may disconnect the connection and the costs shall be charged to the property owner.

DIVISION 6. REGULATION OF DISCHARGES TO THE POTW

62-66.1. Discharge Prohibitions

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

The general discharge prohibitions under Section 62-66.1(A) and the specific discharge prohibitions under Section 62-66.1(B) apply to every person whether or not the person is subject to any other national, state, or local pretreatment standards or requirements, and whether or not the discharge is made pursuant to a User Permit issued pursuant to this Article.

- A. General Prohibitions. No person shall contribute or cause to be contributed, directly or indirectly to the POTW, any pollutant or wastewater that will pass through or interfere with the operation or performance of the POTW.
- B. Specific Prohibitions. No person shall discharge or contribute to the POTW, directly or indirectly, any of the pollutants, substances, or wastewater as provided by this Subsection 62-66.1(B). This Subsection 62-66.1(B) sets forth the minimum requirements for a user's discharges to the POTW. Additional or more restrictive requirements may be required of

particular users by a User Permit, or as otherwise authorized or required by this Article or other applicable laws and regulations.

- (1) **Standard Concentration Limits.** Unless a SAL for a pollutant parameter has been developed and approved for a user as provided by Section 62-66.1(C) (“Special Alternative Limits”), no person shall discharge or contribute to the POTW, directly or indirectly, pollutants in concentrations that exceed the maximum concentrations (“Standard Concentration Limits”) listed below in this Subsection 62-66.1(B)(1):

Toxic Pollutants (Standard Concentration Limits)

Parameter	Instantaneous Maximum		Daily Maximum	
	mg/l ¹	Sample Type ²	ug/l ¹	Sample Type ²
Arsenic	---	---	39	Composite
Cadmium	---	---	40	Composite
Chromium (Total)	---	---	1700	Composite
Copper	---	---	230	Composite
Cyanide (Available)	---	---	290	Grab
Lead	---	---	370	Composite
Mercury	NQ ³	Grab	NQ ³	Grab
Molybdenum	---	---	410	Composite
Nickel	---	---	890	Composite
Selenium	---	---	150	Composite
Silver	---	---	330	Composite
Zinc	---	---	2800	Composite

Compatible Pollutants (Standard Concentration Limits)

Parameter	Instantaneous Maximum		Daily Maximum	
	mg/l ¹	Sample Type ²	mg/l ¹	Sample Type ²
BOD5	---	---	400 ⁴	Composite
Total Suspended Solids	---	---	850 ⁵	Composite
Phosphorus (Total)	---	---	14.5 ⁶	Composite
Ammonia Nitrogen (NH3)	---	---	27 ⁷	Composite
FOG (Total) ⁸	---	---	250	Grab
FOG (Nonpolar) ⁹	---	---	79	Grab

Notes:

1. *Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the City Superintendent. The more restrictive discharge limits will be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge, including, without limitation, the specific compounds, if any, listed in Section 62-66.1(B) of this Article.*

Also, see Section 62-66.5, regarding application of most restrictive or additional standards or requirements under local, state, and federal laws and regulations.

The City Superintendent may develop alternative limits to the Standard Local Limits for specific pollutants ("Special Alternative Limits" or "SALs") as provided by Section 62-66.1(C).

2. *See Section 62-69.3 of this Article for specific sample type requirements.*
3. *NQ = Non-quantifiable concentration, defined as at or below the quantification level of 0.2 ug/l using U.S. EPA Method 245.1 (or at or below other quantification levels applicable under alternative test methods required by the City Superintendent or by other applicable laws or regulations). Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user's discharge shall be in accordance with U.S. EPA method 245.1, unless the City Superintendent requires U.S. EPA Method 1631 (or other appropriate method). The quantification level shall be 0.2 ug/l for Method 245.1 or 0.5 ng/l for Method 1631, unless higher levels are approved by the City Superintendent because of sample matrix interference. Any discharge of mercury at or above the level of quantification is a specific violation of this Article. Any detections above the quantification level may require the user to implement a pollutant reduction plan as determined necessary and appropriate by the City Superintendent.*

4. *Any discharge of BOD in excess of 155 mg/l shall be subject to surcharge as provided by this Article.*
5. *Any discharge of TSS in excess of 99 mg/l shall be subject to surcharge as provided by this Article.*
6. *Any discharge of Phosphorous (Total) in excess of 3.4 mg/l shall be subject to surcharge as provided by this Article.*
7. *Any discharge of ammonia nitrogen in excess of 25 mg/l shall be subject to surcharge as provided by this Article.*
8. *FOG (Total) shall not be eligible for a SAL.*
9. *FOG (nonpolar) shall not be eligible for a SAL.*

The IMC and daily maximum limits listed above in this Section 62-66.1(B)(1) (or as listed elsewhere in this Article or in any User Permit, SAL, or Order) for each pollutant parameter are the concentrations which may not be exceeded and at which enforcement begins. The surcharge threshold concentrations established by the City Superintendent as provided by this Article are the concentrations above which surcharges may be imposed. Discharges exceeding the surcharge thresholds, and which also exceed the instantaneous maximum and daily maximum limits (or which violate any other applicable prohibitions, limitations, standards, or requirements), are violations of this Article, and are also subject to surcharges as provided by this Article. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements constitute a violation of this Article, subject to applicable fines, penalties and other enforcement actions. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Article.

- (2) Any pollutant, substance, or wastewater (including, but not limited to, organic, inorganic, or compatible pollutants) that exceed the maximum concentrations, loadings, or flows (instantaneous, daily maximum, monthly average, or other specified limit or prohibition) that is applicable to the person's discharges under any notice, order, permit, decision or determination promulgated, issued or made by the City Superintendent under this Article, or by other applicable, local, state, or federal laws or regulations.
- (3) Any liquid, solid, gas or other pollutant (including, but not limited to, gasoline, benzene, naphtha, fuel or fuel oil) which by reason of its nature or quantity is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to persons, the POTW, or to the operation of the sewerage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F or 60° C using test methods specified

in 40 CFR 261.21; and any pollutant which (alone or by interaction with other substances) causes an exceedence of 10 percent of the lower explosive limit (LEL) at any point within the POTW.

- (4) Any pollutant that may cause corrosive structural damage to the POTW or any related facilities or equipment, or that due to the pollutant's corrosive properties is capable of causing injury to persons or POTW personnel, or harm to fish, animals or the environment. In any case, discharges that have a pH lower than 6 s.u. (instantaneous minimum limit) or greater than 10 s.u. (instantaneous maximum limit) shall not be discharged.
- (5) Any solid, insoluble or viscous substance in concentrations or quantities which may cause obstruction to the flow in the POTW, may create an encumbrance to the POTW operations, or which otherwise may result in interference.
- (6) Any pollutant, including, but not limited to, oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration that may cause pass through or interference with the POTW or constitute a slug loading, or is otherwise discharged to the POTW in excessive amounts.
- (7) Wastewater (or vapor) having a temperature that will inhibit biological activity in the POTW or result in interference, or heat in such quantities that the temperature at any lift station or at the WWTP exceeds 104° Fahrenheit (40° C). No discharge to the POTW shall have a temperature less than 40° Fahrenheit (4.4° C) or greater than 135° Fahrenheit (57.2° C), unless approved in advance by the City Superintendent.
- (8) Petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, in amounts that may cause interference or pass through.
- (9) Pollutants that result in the presence of gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems. This prohibition includes, but is not limited to, wastewaters which contain liquids, solids or gases that cause gases, vapors or fumes from the discharge to exceed 10% of the immediately dangerous to life and health (IDLH) concentration. Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the City Superintendent. The more restrictive discharge limits shall be

calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge.

- (10) Substances that, either alone or by interaction with other substances, cause or substantially contribute to increases in sewer gas hydrogen sulfide levels above 10 parts per million vapor (ppmv) concentration in downstream collection system lift stations, manholes or sewers. If the City Superintendent determines that a User's discharge is in violation of this prohibition, the City Superintendent may require the User to take whatever actions are determined necessary and appropriate by the City Superintendent to reduce the concentration of sewer gas hydrogen sulfide levels to less than 10 ppmv.
- (11) Trucked or hauled pollutants, except those introduced into the system at discharge points designated by the City Superintendent, subject to the prior approval of the City Superintendent and prior issuance of a User Permit.
 - (a) The City Superintendent shall determine whether to allow the discharge of trucked or hauled pollutants based on the particular nature, character or quantity of the proposed discharge in accordance with the discharge prohibitions, limitations and requirements provided by this Section.
 - (b) The City Superintendent may impose any conditions on the discharge determined necessary to ensure compliance with this Section, including, without limitation, conditions regarding the time, place, and manner of discharge, restrictions on the quantity and quality of the discharge, and sampling requirements.
 - (c) The discharge shall not commence without prior notice to, and authorization from, the City Superintendent, and a representative of the POTW shall be present at all times during the discharge.
 - (d) All trucked or hauled wastes to be discharged to the POTW must be accompanied by a completed waste manifest form signed by the permittee and the hauler as provided by the minimum requirements of this Section. The permittee shall certify in writing on the manifest as to the source of all wastes in the load proposed to be discharged and that the wastes have been pretreated as required by applicable pretreatment standards and requirements. The hauler shall certify in writing on the manifest that the hauler has accepted no wastes other than those listed on the manifest. The

manifest must be reviewed by the City Superintendent prior to commencing discharge of the load. Failure to accurately record every load, falsification of data, or failure to transmit the form to the City Superintendent for review prior to discharge shall constitute a violation of the permit and may result in revocation of the permit and/or the imposition of fines and penalties as provided by this Section.

- (e) The permittee's discharge of hauled wastes shall be subject to sampling by the City Superintendent at any time, including, without limitation, prior to and during discharge, at no cost to the POTW. The City Superintendent may require the permittee to refrain from, or suspend, discharging until the sample analysis is complete.
 - (f) Trucked or hauled pollutants will be accepted only if transported to the POTW in compliance with state and federal hazardous waste and liquid industrial waste laws.
 - (g) Each discharge of trucked or hauled pollutants will be accepted only after payment to the POTW of a trucked or hauled pollutant discharge fee as required by the City Superintendent. Additional fees and charges may also be assessed to cover the POTW's administrative, consulting and legal expenses, and any additional treatment, handling or inspection expenses incurred by the City Superintendent in connection with the discharge. Any such additional fees shall be established, paid, and collected as provided by this Article for IPP fees. This discharge fee and any other fees and charges as provided by this subsection shall be in addition to surcharges that are otherwise applicable to the discharge.
 - (h) The discharge of septage waste of any kind is prohibited unless approved in advance by the City Superintendent, only at septage receiving stations as specifically designated by the City Superintendent, and subject to compliance with any additional regulations and requirements established by the City Superintendent
- (12) Wastewater with color or light absorbency characteristics that may interfere with or analytical determinations, or pass through treatment processes, including, without limitation, dye wastes and vegetable tanning solutions.

- (13) Any garbage (commercial or residential); provided that disposal of domestic food waste into the POTW shall be permitted only after it has been pulverized by an installed food-waste-grinder unit installed in accordance with the current Plumbing Code, adopted by the City and enforced by the City.
- (14) Solvent extractibles, including, without limitation, oil, grease, wax, or fat, whether emulsified or not, in excess of applicable local limits; mineral oils from the viscosity range of kerosene on up; or other substances that may solidify or become viscous (with a viscosity of 110% of water) at temperatures between 32° Fahrenheit and 150° Fahrenheit in amounts that may cause obstruction to the flow in sewers or other interference with the operation of the POTW.
- (15) Any wastewater or substance that contains insoluble solids in excess of 10,000 mg/l or exceeds a daily maximum of 500 mg/l or that contains a combination of soluble and insoluble material in excess of 20,000 mg/l and must not contain any insoluble substances having a specific gravity greater than 2.65.
- (16) Soluble substances in a concentration that may increase the viscosity to greater than 10% over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.
- (17) Any substance that exerts or causes a high or unusual concentration of inert suspended solids, as determined by the City Superintendent, including, but not limited to, lime slurries, diatomaceous earth, and lime residues.
- (18) Any wastewater that contains suspended solids of such character, quantity or concentration that special attention is required, or additional expense incurred, to process or handle such materials at the POTW.
- (19) Any substance that exerts or causes a high or unusual concentration of dissolved solids, including, but not limited to, sodium chloride or sodium sulfate.
- (20) Any substance, including, but not limited to, noxious or malodorous liquids, gases, fumes, or solids, that either singly or by interaction with other wastes are sufficient to create a public nuisance, cause workplace conditions in violation of any applicable workplace health or safety standard, pose a hazard to life, sufficient to prevent entry into the sewers for maintenance and repair, or cause any hazardous or unsafe conditions for the general public.

- (21) Anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, cleaning solvents, oil-based paint, water-based paint with mercury biocides, and paint thinners.
- (22) Any radioactive wastes or isotopes of a half-life or concentration unless the user is authorized to use radioactive material by the U.S. Nuclear Regulatory Commission or other governmental agency with authority to regulate the use of radioactive materials; and the discharge is otherwise in full compliance with the regulations of the U.S. Nuclear Regulatory Commission and any other applicable local, state, or federal regulations.
- (23) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to cause or result in excess foaming during the treatment process. Excess foaming is any foam that, in the opinion of the City Superintendent, may interfere with the treatment process.
- (24) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to cause or result in foam in the POTW's effluent.
- (25) Wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, animals, fish or aquatic life, create a toxic effect or hazard in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.
- (26) Any hazardous waste as defined by this Article.
- (27) Any medical or infectious wastes, as defined by EGLE.
- (28) Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal, or otherwise interfere with the reclamation, reuse, or disposal process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under 40 CFR Part 503; under Section 405 of the Act; under the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management

plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; or any more stringent state or local regulations, as applicable.

- (29) Any unpolluted water, including but not limited to, non-contact cooling water, air-conditioning water, swimming pool water, storm water, surface water, groundwater, roof runoff, and surface or subsurface drainage, except to a storm sewer as authorized by this Article and other applicable local, state, and federal laws and regulations, and subject to the prior approval of the City Superintendent and EGLE.
- (30) Any contaminated groundwater or landfill leachate determined by the City Superintendent to have a reasonable potential to adversely affect the operation of the POTW, to result in pass through or interference, or to violate any pretreatment standard or requirement.
- (31) Any wastewater or substance that may cause the POTW to violate its NPDES permit, or that does not comply with pretreatment standards or requirements, the receiving water quality standards, or associated local, state, or federal laws, rules or regulations.
- (32) Any wastewater or substance in quantities that contribute to a high chlorine demand, including, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulfate. In no case shall any wastewater with a chlorine demand in excess of 15 mg/l be discharged.
- (33) Any wastewater that exceeds applicable categorical pretreatment standards, requirements or limits prescribed by local, state, or federal laws, rules or regulations.
- (34) Any compatible or incompatible pollutant in excess of the allowed limits as determined by applicable local, state, or federal laws, rules or regulations.
- (35) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any person's wastewater or air pollutants.
- (36) Residue (total on evaporation) in an amount that will cause obstruction to the flow in the POTW resulting in interference.

- (37) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment to only such degree that the WWTP effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (38) Any nondomestic wastewater before the POTW has approved a Notice of Intent submitted according to Section 62-68.8.
- (39) Waste not typically discharged to a sanitary sewer system unless specifically authorized by the City Superintendent pursuant to policies and procedures established by the City Superintendent and subject to limitations set forth in this Article.
- (40) Any discharge not in compliance with the mass, concentration, volume, flow rate, or other limitations or requirements specified in a User Permit.
- (41) Any discharge with an average daily flow greater than 2% of the POTW's average daily wastewater flow, or having a rate of flow (gallons per day) greater than 10% of the POTW's average daily wastewater flow for a period of one (1) hour or more, except with the prior review and approval of the POTW.
- (42) Any discharge with detectable levels of a fungicide, herbicide, or pesticide.
- (43) Fats, oils, or greases of animal or vegetable origin in amounts that may cause interference or pass-through.
- (44) Any waste that contains floatable oil in any quantity.
- (45) Any trash.
- (46) Any discharge of PFAS, including but not limited to, PFOS and/or PFOA, in amounts that have the potential to cause pass through or interference, or that is otherwise discharged in an excessive amount.
- (47) Any detectable discharge of Total PCBs. The limitation for total PCBs is non-detect. Total PCBs shall not be discharged at detectable levels based upon Environmental Protection Agency Method 608 and the quantification level shall not exceed 0.2 ugm/l unless a higher level is appropriate because of demonstrated

sample matrix interference. Where one or more samples indicate detectable levels of total PCBs, the user shall be required to demonstrate compliance. This demonstration may be made using analytical data showing that the total PCBs concentration is below the detection level, or, if approved by the City Superintendent, submission of a pollutant reduction plan or best management practices plan as otherwise provided by this Article.

- (48) Any discharge from a centralized waste treatment facility (“CWT”) unless approved in advance by the City Superintendent.
 - (49) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to:
 - (a) create a chemical reaction with any materials of construction to impair the strength or durability of sewer structures;
 - (b) cause a mechanical action that will damage or destroy sewer structures;
 - (c) impede or restrict the hydraulic capacity of the POTW or causes a hydraulic surge in the POTW;
 - (d) cause or result in turbidity, color, excessive odor, oil films, floating solids, settleable solids or deposits in the POTW’s effluent;
 - (e) interfere with normal inspection or maintenance of sewer structures;
 - (f) place unusual demands upon the wastewater treatment equipment or processes by biological, chemical, or physical means; or
 - (g) cause a hazard to human life or create a public nuisance.
- C. Special Alternative Limits. Notwithstanding the Standard Concentration Limits provided by Section 62-66.1(B)(1), the City Superintendent may, but shall not be required to, develop alternative maximum concentration or mass-based limits for specific pollutants for a specific user (“Special Alternative Limits” or “SAL”), as provided by this Section 62-66.1(C).

- (1) Requests by users to develop a SAL for one or more pollutants shall be made in writing to the City Superintendent. The City Superintendent may also initiate the development of a SAL for one or more pollutants for a user.
- (2) After reviewing a request or initiating the development of a SAL, the City Superintendent may require the user to submit any additional information that the City Superintendent determines will be necessary to adequately evaluate the proposed SAL. This information may include, but shall not be limited to, any of the information that is required to be provided in a User Permit application as set forth in Section 62-67.4. of this Article.
- (3) The City Superintendent may require a review of historical data from sampling and monitoring the user's discharge, including, but not limited to, concentration and flow data. The user may be required to update this data using any means or methods determined necessary by the City Superintendent. The City Superintendent may also require a review of typical discharge concentrations and flows for similar users, and any applicable categorical standards.
- (4) A site inspection may be required if deemed necessary by the City Superintendent.
- (5) The City Superintendent shall review the status of the WWTP's current MAHL and MAIL for the pollutant for which the SAL is being requested to determine if sufficient loading remains to accommodate all, any part, or none, of the requested SAL.
- (6) The City Superintendent shall also review whether the pollutant for which the SAL is being requested is, or should be, subject to a Collection System Limitation.
- (7) If determined necessary by the City Superintendent, the City Superintendent may require that an updated MAHL study be conducted to determine whether there is sufficient loading capacity to accommodate a proposed SAL for the pollutant in question.
- (8) After completing the review of a proposed SAL, the City Superintendent may approve, approve subject to conditions (including, but not limited to, required monitoring methods and frequencies), or deny the SAL, as determined appropriate by the City Superintendent; provided that no proposed or existing SAL shall: (1)

significantly hinder the capacity of the POTW to accept additional waste from new or existing domestic or nondomestic customers; (2) result in an exceedance of the WWTP's MAHL for the SAL pollutant; (3) result in an exceedance of the WWTP's MAIL for the SAL pollutant; (4) have a discharge concentration (or equivalent discharge concentration if the SAL is a mass limit) that exceeds a Collection System Limitation applicable to the SAL pollutant (unless approved by EGLE); or (5) be approved or allowed to continue unless the City Superintendent has determined that the SAL is reasonable and appropriate under all of the circumstances, consistent with the purposes and objectives of this Article, the City's NPDES permit, and other applicable laws and regulations. All SALs are subject to review and approval by EGLE.

- (9) If a SAL is approved, or approved subject to conditions, and the user accepts the SAL as approved, the City Superintendent may modify or reissue the user's User Permit to incorporate the SAL in the permit.
- (10) The development of a SAL or implementation of a SAL in a User Permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state or federal laws or regulations. A SAL may be reviewed, reevaluated, modified, and/or revoked without notice at any time and for any reason determined appropriate by the City Superintendent. At a minimum, all existing SALs shall be reviewed whenever the City's NPDES permit is subject to renewal.
- (11) All costs and expenses, direct and indirect, associated with developing a SAL for a user shall be paid for by the user, including, but not limited to, the costs of reviewing the user's request for a SAL, all studies and reports, and all monitoring, sampling and generation of data; the full value of any POTW staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees (including the POTW's legal counsel and any special legal counsel), associated with developing the SAL for the user. At any time prior to, during, or after the SAL development process, the POTW may require a user that requests a SAL to post a performance bond (or other form of surety acceptable to the City Superintendent) sufficient to cover all costs and expenses (direct and/or indirect) that might reasonably be incurred by the City Superintendent as a result of the user's request or implementation of an approved SAL, as determined necessary by the City Superintendent.

- D. Local Initiative Limits. The City Superintendent may, in a User Permit or an order, impose a local initiative limit ("LIL") for any pollutant not specifically regulated in Section 62-66.1(B)(1). In determining a LIL (concentration or mass), the City Superintendent shall consider the acceptable discharge level of the pollutant based on current influent loading, treatment plant design, treatability, potential for pass-through or interference, potential for fire/explosion or fume toxicity, potential for adverse impact to the collection system, and other factors as deemed relevant by the City Superintendent. A LIL shall be subject to EGLE review and approval before implementation.
- E. Pollutant Reduction Plans. If the City Superintendent determines that a user has the reasonable potential to discharge any regulated pollutant (including, but not limited to, mercury or PCBs) to the POTW in quantities or magnitude that may cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause noncompliance with applicable federal or state laws or regulations; cause the POTW to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this Article, then the City Superintendent may require the user to develop, submit for approval, and implement a Reduction Plan ("RP") for the pollutant, as provided by this Section. The RP may be imposed as a condition to a User Permit, or may be required independently and even if a User Permit has not been issued to the user.
- (1) At a minimum, the RP shall contain such requirements and conditions, as determined necessary by the City Superintendent to ensure that the pollutant reduction efforts will be effective in achieving the goals of this Article (including, but not limited to, requirements and conditions regarding user source identification; best management practices; schedules of compliance; monitoring, sampling and analysis; reporting; treatment system for removal of the pollutant from the discharged wastewater; written procedures for disposal of contaminated wastes and wastewater; employee training, and on-going employee training requirements regarding pollutant related issues; elimination, if feasible, of any purchased materials containing the pollutant; and any other elements determined necessary and appropriate under the circumstances by the City Superintendent).
 - (2) The goal of an RP shall be to maintain the amount of one or more pollutants or substances at or below the applicable discharge limits or levels, or such other goals as required by the City Superintendent. The City Superintendent may, in the City Superintendent's sole discretion, consider cost-effectiveness during the development and implementation of an RP.

- (3) The City Superintendent may require any user to submit an RP that describes the control strategy designed to proceed toward achievement of the specified goal and shall at a minimum include, but shall not be limited to, all of the following as determined necessary by the City Superintendent on a case-by-case basis:
- a. Periodic monitoring for the pollutant in the user's discharge.
 - b. Periodic monitoring of the potential sources of the pollutant in the user's discharge.
 - c. A commitment by the user that reasonable control measures and/or best management practices will be implemented when sources of the pollutant are discovered. Factors to be considered by the City Superintendent may include the following:
 - (i) Significance of sources.
 - (ii) Economic considerations.
 - (iii) Technical and treatability considerations.
 - (iv) Such other factors as determined appropriate by the City Superintendent.
 - d. An annual status report. The report shall be sent by the user to the POTW and shall include, at a minimum, all of the following:
 - (i) All RP monitoring results for the previous year.
 - (ii) A list of potential sources of the pollutant in the user's discharge.
 - (iii) A summary of all actions taken by the user to reduce or eliminate the identified sources of the pollutant or substance.
- (4) As determined necessary by the City Superintendent, the City Superintendent may require a user to develop, submit and implement an RP for any pollutant or substance regulated by this Article. The City Superintendent may also modify an approved RP at any time as determined necessary by the City Superintendent to meet the goals and objectives of this Article.
- (5) Failure to submit an approvable RP within the specified deadlines or to fully and timely comply with any condition or requirement of an approved RP shall constitute a violation of this Article, subject to the fine, penalty, and other enforcement provisions of this Article.

- (6) Holding enforcement action in abeyance. Except as provided for in Section 62-66.1(E)(6)(c)(iv) and (vi), if the effluent sample analysis results of a user's discharge exceeds the applicable discharge limit, detection level, or quantification level for a pollutant, the City Superintendent may, in the City Superintendent's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance, subject to the terms, conditions, and requirements of this Section 62-66.1(E)(6), as follows:
- a. If an approved RP is already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is already in place, then the City Superintendent may, in the City Superintendent's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance for the period that the sample represents if the RP (and all terms, conditions and requirements thereof) is being fully and continually performed in good faith by the user, as determined by the City Superintendent, and subject to all of the requirements and conditions of Section 62-66.1(E)(6)(c).
 - b. If an approved RP is not already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is not already in place, then the City Superintendent may, in the City Superintendent's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement regarding the prohibited discharge in abeyance, subject to all of the requirements and conditions of Section 62-66.1(E)(6)(c), and provided further as follows: The user with the non-compliant discharge shall develop and implement an RP approved by the City Superintendent to minimize the user's discharges of the pollutant in question to the POTW. The RP shall meet all of the requirements of this Section 62-66.1(E).
 - c. The following requirements and conditions shall apply to any situation under this Section 62-66.1(E)(6) in which an enforcement action is held in abeyance as provided by this subsection (regardless of whether or not an RP was in place at the time of the non-compliance):
 - (i) The user with the non-compliant discharge shall have a POTW-accessible point for monitoring all discharges from the user to the

POTW, as approved by the City Superintendent. All costs and expenses for and related to the installation and maintenance of this monitoring point and any required sampling devices shall be paid for solely by the user.

- (ii) The user with the non-compliant discharge shall routinely self-monitor its discharges to the POTW for the pollutant in question using the sampling methods, procedures, preservation and handling, and analytical protocol required by the City Superintendent and at the frequency specified by the City Superintendent. All costs and expenses of this sampling and analysis shall be paid for solely by the user.
- (iii) The POTW may collect any additional samples of the user's discharge as determined necessary by the City Superintendent, all costs and expenses to be paid for by the user.
- (iv) If the user complies with all of the requirements and conditions for the RP as specified by the City Superintendent; and if the City Superintendent determines that all reasonable and cost-effective actions based on the economic, technical, and treatability considerations, including, but not limited to, all elements of the user's RP, have been, and continue to be, fully and satisfactorily implemented by the user; and if the user's discharge does not cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause noncompliance with applicable federal or state laws or regulations; cause the POTW to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this Article, then the City Superintendent may, in the City Superintendent's sole discretion, hold enforcement action in abeyance and allow the user to continue the non-compliant discharge.
- (v) Notwithstanding any provision of this Section 62-66.1(E)(6) to the contrary, and regardless of whether a user fully complies with all requirements and conditions of this Section and/or of an approved RP, the City Superintendent shall have the unconditional right to prohibit and terminate any non-compliant discharge at any time and without prior notice, and to take any enforcement action in

response thereto, including any enforcement action that had previously been held in abeyance under this Section 62-66.1(E)(6).

- (vi) Notwithstanding any provision of this Section 62-66.1(E)(6) to the contrary, the City Superintendent shall not hold an enforcement action in abeyance as provided by this subsection for any pollutant parameter other than mercury and PCBs unless the City Superintendent has first obtained approval from EGLE to implement the requirements of this Section 62-66.1(E)(6) for the specific pollutant parameter in question.

62-66.2. Pretreatment Standards and Requirements

- A. Compliance with applicable standards and requirements. The national categorical pretreatment standards as established for specific industries under 40 CFR chapter I, subchapter N, Parts 405-471 are hereby made a part of the requirements of this Article in accordance with federal and state laws and regulations and are incorporated by reference as if fully set forth in this Article. A user shall comply with all categorical pretreatment standards and any other pretreatment requirements established under the Act that are applicable to that user. A user shall also comply with all other applicable pretreatment standards and requirements established under this Article or under state and federal laws and regulations.
- B. Deadlines for compliance. Compliance by existing sources with categorical pretreatment standards shall be within three (3) years of the date the standard is effective unless a shorter compliance time is specified by 40 CFR chapter I, subchapter N. Existing sources that become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of “new source.” New sources (whether or not subject to categorical standards) shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge. Within the shortest feasible time, not to exceed ninety 90 days, new sources (whether or not subject to categorical standards) must meet all applicable pretreatment standards and requirements.
- C. Alternative categorical limits. Categorical pretreatment standards shall apply to a user subject to categorical standards, unless an enforceable alternative limit to the corresponding national categorical standards is derived using any of the methods specified in MAC R 323.2313 (regarding removal credits, fundamentally different factor

variances, net/gross calculations, equivalent mass per day limitations, and combined wastestream formula alternative limitations). The use of any alternative categorical limit shall be subject to the prior approval of the City Superintendent. If local limits are more stringent than derived alternative categorical limits, the local limits shall control. All costs incurred by the City in determining or applying an alternative limit shall be reimbursed to the City by the user.

- D. Categorical pretreatment standard limits apply (and samples shall be taken) immediately downstream from pretreatment facilities if such exist for a regulated process discharge within the user's premises or immediately downstream of the regulated process discharge if no pretreatment exists, at the location(s) determined by the City Superintendent. Categorical pretreatment standard limits are in addition to any other pretreatment standards, limits, and requirements applicable to a user's discharge to the POTW under a User Permit, this Article, or other local, state, and federal laws and regulations. If the categorical pretreatment standard limit applicable to a pollutant in a user's regulated process discharge is more stringent than other applicable discharge limits for that same pollutant in the user's discharge, the more stringent categorical pretreatment standard limit shall be complied with at the end-of-process categorical sampling location. If the categorical pretreatment standard limit applicable to a pollutant in a user's regulated process discharge is less stringent than other applicable discharge limits for that same pollutant in the user's discharge, the other more stringent limit shall nevertheless be complied with at the point of discharge to the POTW.
- E. Compliance with other applicable laws and regulations. Users of the POTW shall comply with all local, state, and federal laws and regulations that may apply to their discharges to the POTW, including, but not limited to, Article II, Air Pollution Control, Part 55 of Act 451 of the Public Acts of Michigan of 1994 (the Natural Resources and Environmental Protection Act).

62-66.3. Right of Revision

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

62-66.4. POTW's Right To Refuse or Condition Discharge

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

62-66.5. Most Restrictive Standards and Requirements Apply

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

62-66.6. Dilution Prohibited as Substitute for Treatment

Unless expressly authorized to do so by an applicable pretreatment standard or requirement and subject to the prior approval of the City Superintendent, no user shall ever increase the use of process water, mix separate wastestreams, or in any other way attempt to dilute, thin, or weaken a discharge as a partial or complete substitute for adequate treatment to achieve compliance with

a federal, state, or local standard, requirement, or limitation. The City Superintendent may impose mass limitations on Nondomestic Users that are using dilution to meet applicable pretreatment standards or requirements and in other cases where the imposition of mass limitations is appropriate. No user intending to use dilution as a substitute for treatment shall do so without the prior approval of the City Superintendent consistent with the requirements of this Section.

DIVISION 7. USER PERMITS

62-67.1. User Permit Required

- A. Nondomestic User Permits. It is unlawful and prohibited for any significant industrial user (SIU), or any other user as determined necessary by the City Superintendent to carry out the purposes of this Article, to discharge to the POTW without a Nondomestic User Permit as provided by this Section.
- B. General User Permits. The City Superintendent may require any person other than a SIU to obtain a General User Permit to discharge to the POTW, subject to such terms and conditions as are determined necessary and appropriate by the City Superintendent to achieve the purposes, policies, and objectives of this Article.
 - (1) A General User Permit may contain, but shall not be required to contain, any of the terms and conditions that would apply to a Nondomestic User Permit issued to a SIU as provided by this Section to comply with the general and specific discharge prohibitions of this Article, including, but not limited to, discharge limitations, and requirements regarding sampling and monitoring; pretreatment; pollution prevention, minimization or reductions plans; accidental discharge, spill prevention, and containment requirements; flow equalization; and implementation of best management practices or a best management practices plan.
 - (2) To the extent determined appropriate by the City Superintendent on a case-by-case basis, a General User Permit issued under this Subsection shall be subject to provisions otherwise applicable to permits for SIUs. However, all General User Permits shall be non-transferable, and are subject to the permit fee and permit appeals provisions of this Article.
 - (3) It is unlawful and prohibited for any person required by the City Superintendent to obtain a General User Permit to discharge to the POTW without a General User Permit as provided by this Section.

- (4) Failure to comply with a General User Permit issued under this Subsection constitutes a violation of this Article.
 - (5) In no case shall a General User Permit be construed to authorize the illegal discharge or otherwise excuse a violation of this Article.
- C. Notwithstanding any provision of this Article to the contrary, if determined necessary by the City Superintendent to achieve the goals and purposes of this Article, the City Superintendent may issue a User Permit to any person without first requiring the person to submit or complete a permit application.
- D. Any violation of the terms or conditions of a User Permit is a violation of this Article, subject to the fine, penalty, and other enforcement provisions of this Article. Obtaining a User Permit shall not relieve a person of the obligation to obtain other permits or approvals that may be required by other local, state, or federal laws or regulations.
- E. The issuance of a User Permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state, or federal laws or regulations.

62-67.2. Determination Of User Status

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

issue a written authorization in place of a permit, which authorization shall be valid for a period not to exceed 60 days.

62-67.3. Permit Application Deadlines

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

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

The City Superintendent may also require any other person to file the information required by Section 62-67.4 of this Article (whether or not that person is currently a user, and whether or not that person is otherwise currently discharging to the POTW, a storm sewer, or receiving waters), if the City Superintendent determines that there is a reasonable potential for the person to discharge to the POTW, a storm sewer, or receiving waters, whether due to an accidental spill or for any other reason. Any person directed by the City Superintendent to submit the required shall do so within the time frame as directed by the City Superintendent.

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

62-67.4. Permit Application Requirements

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

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

applicant as its agent to accept service of legal process, and the address and telephone number of such representative.

- E. The Standard Industrial Classification (SIC) numbers of all processes at the location for which application is made, according to the Standard Industrial Classification Manual, as amended (or, if applicable, the North American Industrial Classification System (NAICS) designation).
- F. Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application, including, but not limited to, any pollutants that are limited or regulated by any federal, state, or local standards or requirements. The information provided for such parameters shall include all of the following:
- (1) Pollutants having numeric or narrative limitations as provided by this Article.
 - (2) Pollutants limited by National Categorical Pretreatment Standards regulations for similar industries.
 - (3) For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided.
 - (4) For industries subject to National Categorical Pretreatment Standards or requirements, the data required shall be separately shown for each categorical process wastestream and shall include all information required in Section 62-68.1(A) for a Baseline Monitoring Report.
 - (5) Combined wastestreams proposed to be regulated by the combined wastestream formula shall be specified.
 - (6) Identification of any other potential pollutants of concern, even if not limited by numeric or narrative limitations as provided by this Article or subject to National Categorical Pretreatment Standards or requirements, including, but not limited to, all substances of a chemical, biological, or radioactive nature, and any pollutants not found in the source water supply that will be discharged from the premises.
- G. For purposes of information required by the application, sampling and analysis shall be performed either by the applicant or the City, as determined by the City Superintendent, in accordance with the following: Procedures established by U.S. EPA pursuant to Section 304 (g) of the Act and as contained in 40 CFR 136, as amended. If 40 CFR 136

does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures in U.S. EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments or revisions thereto, or where appropriate and applicable, in accordance with any other sampling and analytical procedures approved by EPA, or as otherwise specified by the City Superintendent.

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

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

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

of less than 55 gallons or the equivalent need not be included unless lesser quantities could cause interference or pass through to the sewerage system.

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

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

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

- (2) No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between submissions of the progress reports to the POTW.
- X. The names and qualifications of the person or persons that will control or supervise the waste treatment facilities, process facilities, waste streams, spill containment, accidental discharge control, or other facilities generating wastes or possessing potential discharges to the POTW.
- Y. Any other information determined necessary by the City Superintendent to adequately evaluate the application. To the extent that actual data is not available for a new source, the applicant shall supply estimated or expected information.
- Z. All applications (and reapplications) shall be signed and certified by an “authorized representative” of the user as defined by this Article.

62-67.5. Permit Issuance, Denial, or Determination that Permit not Required

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

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

62-67.6. Permit Conditions

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

- (7) Specifications for monitoring programs which shall include, but are not limited to, sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (8) Compliance schedules.
- (9) Requirements for submission of technical reports or discharge reports.
- (10) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City Superintendent and affording the POTW access to those records.
- (11) Requirements for notifying the POTW if self-monitoring indicates a violation as provided by Section 62-68.4 of this Article, and for repeat sampling and analysis as provided by Section 62-69.6 of this Article.
- (12) Requirements for notification of any new introductions of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW, including listed or characteristic hazardous waste for which the user has submitted initial notification under MAC R 323.2310(15).
- (13) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.
- (14) Requirements for notification of accidental or slug discharges, or discharges that exceed a discharge prohibition.
- (15) Requirements for notification and need for prior approval from the City Superintendent for any proposed change in a sampling location.
- (16) A statement regarding limitations on transferability of the permit.
- (17) A statement of the duration of the permit.
- (18) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable pretreatment standards and requirements, including those that become effective during the term of the permit.

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

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

62-67.7. Discharge Limits

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

- A. In developing discharge limits for a user's discharge, the City Superintendent may require the user to submit any information that the City Superintendent determines will be necessary to adequately evaluate the user's discharge. This information may include, but shall not be limited to, any of the information that is required to be provided in a User Permit application as set forth in Section 62-67.4 of this Article.

- B. The City Superintendent may require a review of historical data from sampling and monitoring the user's discharge if available, including, but not limited to, concentration and flow data. The user may be required to update this data using any means or methods determined necessary by the City Superintendent. The City Superintendent may also require a review of typical discharge concentrations and flows for similar users, and any applicable categorical standards.
- C. A site inspection may be required if deemed necessary by the City Superintendent.
- D. The City Superintendent shall review the status of the POTW's current MAHL and/or MAIL for each pollutant for which a discharge limit is required to determine if sufficient loading remains to accommodate all or any part of a user's discharge.
- E. The City Superintendent shall also review whether the pollutant for which the discharge limit is being developed is, or should be, subject to a Collection System Limitation.
- F. Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the City Superintendent. The more restrictive discharge limits will be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge.
- G. If determined necessary by the City Superintendent, the City Superintendent may require that an updated MAHL study be conducted to determine whether there is sufficient loading capacity to accommodate the user's discharge or a proposed discharge limit for a particular pollutant in the user's discharge.
- H. After completing the review, the City Superintendent may establish a discharge limit for one or more pollutants in a user's discharge, subject to any terms, conditions, or requirements determined necessary by the City Superintendent, including, but not limited to, required monitoring methods and frequencies; provided that no proposed or existing discharge limit shall: (1) significantly hinder the capacity of the POTW to accept additional waste from new or existing domestic or nondomestic customers; (2) result in an exceedance of the POTW's MAHL for the discharge limit pollutant; (3) result in an exceedance of the POTW's MAIL for the discharge limit pollutant; (4) have a discharge concentration (or equivalent discharge concentration if the discharge limit is a mass limit) that exceeds a Collection System Limitation applicable to the discharge limit pollutant; or (5) be approved or allowed to continue unless the City Superintendent has determined that the discharge limit is reasonable and appropriate under all of the circumstances,

consistent with the purposes and objectives of this Article, the POTW's written procedures, the POTW's NPDES permit, and other applicable laws and regulations.

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

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

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

62-67.8. Permit Modifications

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

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

- F. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required report or notice.
- G. Revision of, or a grant of a variance from, applicable categorical standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the permit.
- I. To reflect transfer of the facility ownership and/or operation to a new owner or operator.
- J. To add or revise a compliance schedule for the permittee.
- K. To reflect changes or revisions in the POTW's NPDES permit.
- L. To ensure POTW compliance with applicable sludge management requirements promulgated by EPA.
- M. To incorporate any new or revised requirements resulting from reevaluation of the POTW's local limits.
- N. To incorporate a request for modification by the permittee, as determined appropriate by the City Superintendent and provided the request does not create a violation of any applicable requirement, standard, law, rule or regulation.

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

62-67.9. Permit Duration

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

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

62-67.10. Permit Reissuance

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

62-67.11. Continuation of Expired Permits

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

62-67.12. Permit Suspension and Revocation

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

- A. Falsifying self-monitoring reports or any other report, notification, or submission.
- B. Tampering with monitoring equipment.
- C. Failure to allow timely and reasonable access to the permittee's premises and records by representatives of the POTW for purposes authorized by this Article, including, without limitation, inspection, or monitoring.

- D. Failure to meet effluent limitations.
- E. Failure to pay fines or penalties.
- F. Failure to pay sewer charges.
- G. Failure to pay permit fees.
- H. Failure to meet compliance schedules.
- I. Failure to comply with any term or condition of the permit, an order, the requirements of this Article, or any final judicial order entered with respect thereto.
- J. Failure to comply with any reporting or notice requirement.
- K. Failure to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresentation of any relevant fact at any time.
- L. Failure to complete a wastewater survey or the User Permit application.
- M. As determined by the City Superintendent, the discharge permitted by the permit has a reasonable potential to endanger human health or the environment and the threat can be abated only by suspension or revocation of the permit.

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

A person's taking or failure to take any of the actions provided by Section 62-67.12(A) through (M) shall also constitute a violation of this Article and subject the person to enforcement action in addition to and independent of User Permit suspension or revocation.

62-67.13. Limitations on Permit Transfer

- A. A User Permit is issued to a specific user for discharge from a specific facility and operation and shall not be assigned or transferred or sold to a new or different owner, operator, user, discharger, facility, or premises, or to a new or changed facility or operation, without the prior written approval of the City Superintendent. If the transfer of a permit is approved, any succeeding transferee permittee must also comply with the terms and conditions of the existing permit. The City Superintendent may approve (but shall not be required to approve) the transfer of a permit only if all of the following conditions are met:
- (1) The transferor (permittee) shall give at least 60 days advance notice to the City Superintendent of the proposed transfer of the permit (unless a shorter notice period is approved by the City Superintendent in advance). The notice shall include a written certification signed by the proposed transferee that (a) states that the transferee has no present intent to change the facility's operations and processes; (b) identifies the specific date on which the transfer is to occur; (c) acknowledges that the transferee has read and fully understands all terms and conditions of the permit; and (d) acknowledges that the transferee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the existing permit if the transfer is approved.
 - (2) As of the date of the proposed transfer, there are no outstanding violations of the permit, and there are no unpaid charges, fines, penalties, or fees of any kind due to the POTW from the transferor or the transferee related to use of the POTW.
 - (3) Except as to the identity of the new discharger (the transferee), the application materials for the permit to be transferred as originally filed by the transferor, as well as the terms and conditions of the permit itself, are completely accurate with respect to, and fully applicable to, the discharge, facilities, and activities of the transferee.
 - (4) The permit transfer fee as established by the City Superintendent has been paid to the City.
- B. If the transfer of a permit is approved and the permit transfer fee has been paid to the City, the City Superintendent shall make the necessary minor modifications to the permit to show the transferee as the permittee, and a copy of the permit shall be provided to the transferee for signature and certification by the transferee as provided by Section 62-

68.11 of this Article. The transferor (permittee) shall remain liable for any discharges to the POTW from the facility (along with any other persons actually discharging from the facility to the POTW) until a transfer of the permit has been approved as provided by this Section.

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

62-67.14. Duty to Provide Information

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

62-67.15. Permit Appeals

An appeal of any final decision made by the City Superintendent in connection with issuing or implementing a User Permit shall be governed by Division 18 of this Article. An appealing party must specify in its request for review and reconsideration the permit-related action of the City Superintendent being appealed and the grounds for the appeal.

62-67.16. Permits Not Stayed

No action taken or request filed by any permittee shall operate to stay the effect of any permit or of any provision, term, or condition of any permit, including, but not limited to, a request for review and reconsideration as provided by Section 62-67.15, a request for permit modification, reissuance, or transfer, or a notification of planned changes or anticipated noncompliance.

62-67.17. Permit Fees

User Permit fees shall be established, paid, and collected as provided by this Section and Section 62-82.5 of this Article.

DIVISION 8. REPORTING AND NOTICE REQUIREMENTS

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

62-68.1. Reports By Nondomestic Users Regarding Categorical Pretreatment Standards and Requirements

- A. Baseline Monitoring Reports. Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under MAC R 323.2311(2) whichever is later, an existing Nondomestic User subject to the categorical pretreatment standards and that currently discharges or is scheduled to discharge to the POTW shall submit a report to the POTW as required by MAC R 323.2310(2). At least 90 days prior to commencement of discharge, new sources, and sources that become Nondomestic Users subsequent to the promulgation of an applicable categorical pretreatment standard shall submit the reports to the POTW as required by MAC R 323.2310(2). Any changes to the information required to be submitted by a Nondomestic User pursuant to MAC R 323.2310(2)(a) through (e) shall be submitted by the user to the POTW within 60 days of when the user becomes aware of the change.
- B. Reports on Compliance with Categorical Pretreatment Standard Deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standard or, in the case of a new source, following commencement of the discharge to the POTW, any Nondomestic User subject to categorical pretreatment standards and requirements shall submit the reports to the POTW required by MAC R 323.2310(3).
- C. Periodic Reports on Continued Compliance. Any Nondomestic User subject to a categorical pretreatment standard, after the compliance date of the categorical pretreatment standard, or, in the case of a new source, after commencement of the discharge into the public sanitary sewer or POTW, shall submit the periodic reports to the POTW required by MAC R 323.2310(4). These periodic reports shall be submitted at least once every six (6) months (during the months of June and December unless alternate months are approved by the City Superintendent), unless required more frequently by the

applicable pretreatment standard, by the City Superintendent, or by the State. The reports shall include a record of all average and maximum daily flows during the prior six (6) month reporting period, except that the POTW may require more detailed reporting of flows. All flows shall be reported on the basis of actual measurement unless the POTW agrees, due to cost or nonfeasibility, to accept verifiable estimates of the average and maximum flows estimated using techniques approved by the City Superintendent. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the POTW, provided there has been no change to the elements composing the combined wastestream. The results of sampling of the discharge and analysis of pollutants appearing in the report shall be cross-referenced to the related flow and mass to determine compliance with National Categorical Pretreatment Standards. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the user shall submit documentation required by the City Superintendent or the Pretreatment Standard necessary to determine the compliance status of the user.

62-68.2. Reports Required for Nondomestic Users Not Subject to Categorical Pretreatment Standards

- A. All Nondomestic Users not subject to categorical pretreatment standards shall submit to the POTW periodic reports providing information regarding the quality and quantity of wastewater and pollutants discharged into the POTW (including, without limitation, information regarding the nature, concentration (or mass), and flow of the discharge). These reports shall be based on sampling and analysis performed in the period covered by the report in accordance with the sampling, analysis, and monitoring requirements provided by Division 9 of this Article (except that historical sampling data shall not be used for the periodic compliance reports required by this Section 62-68.2).
- B. For Significant Industrial Users, the reports shall be submitted at least once every six (6) months for the preceding six (6) months (during the months of June and December unless alternate months are specified by the City Superintendent), unless required more frequently by the City Superintendent.
- C. If required by the City Superintendent for Nondomestic Users other than Significant Industrial Users, the reports shall be submitted at least once every twelve (12) months for the preceding twelve (12) months (during the month of October unless an alternate month is specified by the City Superintendent), unless required more frequently by the City Superintendent.

- D. The reports for all Nondomestic Users shall be submitted on forms provided by (or in a format required by) the POTW, and shall include, without limitation, the volume of wastewater; the concentration of pollutants; the names of all person(s) responsible for operating and maintaining any pretreatment equipment, pretreatment processes, or responsible for wastewater management at the user's facilities, with a brief description of each person's duties; information regarding materials or substances that may cause interference or pass through; and any other information deemed necessary by the City Superintendent to assess and ensure compliance with applicable discharge requirements or to safeguard the operation of the POTW.

62-68.3. Notice by User of Potential Problems

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

62-68.4. Notice by User of Violation of Pretreatment Standards

If sampling performed by a Nondomestic User indicates a violation, the user shall notify the POTW within twenty-four (24) hours of becoming aware of the violation (and shall comply with other applicable requirements provided by Section 62-69.6 regarding repeat sampling and analysis).

62-68.5. Notice by User of Changed Discharge or Change in User Status

- A. A Nondomestic User shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in its discharge, or of any facility expansion, production increase, or process modifications that could result in a substantial change in the volume or character of pollutants in its discharge.

- B. For purposes of this Section, “promptly” means as soon as reasonably possible, but in no event less than sixty (60) days before the change.
- C. For purposes of this Section, “substantial change” includes, without limitation, any of the following:
- (1) The discharge of any amount of a pollutant not identified in the user’s permit application or in the permit issued.
 - (2) An increase in concentration (or degree) of any pollutant that exceeds 10% of the concentration (or degree) for the pollutant as indicated in any report required under Section 62-68.1 or 62-68.2.
 - (3) An increase in discharge volume that exceeds 20% of the volume as indicated in any report required under Section 62-68.1 or 62-68.2.
 - (4) Any increase in the amount of any hazardous wastes discharged, including, without limitation, the hazardous wastes for which the user has submitted initial notification under Section 62-68.6 of this Article.
 - (5) The discharge of any ground waters purged for a removal or remedial action.
 - (6) The discharge of any pollutants that are present in the discharge due to infiltration.
 - (7) A change in discharge that may convert a Nondomestic User into a Significant Industrial User, or a Nondomestic User into a Categorical User.
 - (8) A change in discharge that would cause a change in the categorical standards that apply to the user.
- D. In determining whether to accept any changed discharge, or, if so, under what conditions, the POTW shall evaluate the changed discharge pursuant to the general and specific discharge prohibitions under Section 62-66.1 and other applicable provisions of this Article. The user may be required to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a User Permit application.

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

62-68.6. Notice By User Regarding Wastes That Are Otherwise Hazardous

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

62-68.7. Notice by User Regarding Installation of New Pretreatment Facilities

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

62-68.8. Notice of Intent

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

- (3) A person constructing a new facility that will discharge process wastewater into the POTW.
 - (4) A person commencing or modifying a discharge of hazardous wastes that requires reporting under Section 62-68.6.
- B. The Notice of Intent shall be submitted in writing on a form provided by the City Superintendent and shall be accompanied by a payment of any fees established by the City. It shall include sufficient information to allow the City Superintendent to evaluate the effect of the proposed discharge on the POTW and operations and to ensure compliance with this Article.

62-68.9. Other Reports and Notices Required by this Section or by Other Applicable Laws and Regulations

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

62-68.10. Requirements Applicable to All Required Reports, Notifications, and Applications

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

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

- B. If a user monitors any pollutant (or measures flow) more frequently than required by this Article or a User Permit, using the monitoring, sampling and analytical procedures as required by Section 62-69.1, the results of all such additional monitoring shall be included in any report or notification submitted pursuant to this Article.
- C. The City Superintendent may require that reports, notifications, and other required documents and data be submitted in a standardized format, as specified by the City Superintendent.
- D. If the POTW, instead of a user, collects all of the information, including flow data, required for a report required by Sections 62-68.1 or 62-68.2, the City Superintendent, in the City Superintendent's sole discretion, may waive the requirement that the report be submitted by the user.
- E. The reports, notifications, and other documents and data required to be submitted or maintained by this Article shall be subject to all of the provisions as specified by MAC R 323.2310(13).
- F. Written reports, notifications, and applications will be deemed to have been submitted to the POTW, unless otherwise specified by the City Superintendent, as follows:
 - 1. If mailed, on the date postmarked.
 - 2. The date of receipt of the report shall govern for reports, notifications, or applications which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, including, but not limited to, reports, notifications, or applications that are hand-delivered, faxed, or emailed.
 - 3. Written reports, notifications, and applications may be submitted to the POTW by fax or email (or by any means other than mail or hand-delivery) only with the prior approval of the POTW on a case-by-case basis. The report or notification shall be sent to the fax number or email address specified by the City Superintendent.
- G. All written reports, notifications, and applications submitted by mail or hand-delivery shall be sent or delivered to the address stated in the User Permit, or if there is no User Permit, then to the following address:

St. Clair WWTP
300 Cedar Street
St. Clair, MI 48079
Attn: City Superintendent

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

St. Clair WWTP:	810-329-5275 (Mon - Fri 6:30 a.m. - 3:00 p.m.)
Operator Emergency Number:	810-326-0182 (24 hours/7 days)
St. Clair WWTP Fax:	810-329-5920 (24 hours/7 days)
St. Clair County Safety Dispatch	911 (24 hours/7 days)

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

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

62-68.11. Signature and Certification Requirements

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

- A. Required Signatures. The reports, notifications, and applications shall be signed by an “authorized representative” of the user as defined in Section 1.2 of this Article.
- B. Required Certification. The reports, notifications, and applications shall include the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that

qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

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

DIVISION 9. SAMPLING, ANALYSIS AND MONITORING REQUIREMENTS

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

62-69.1. Sampling and Analytical Techniques and Procedures

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

62-69.2. Sampling Frequency

Users shall sample their discharges to the POTW at a frequency necessary to assess and ensure compliance with the requirements of this Article, any permit or order issued pursuant to this Article, all applicable pretreatment standards and requirements, other applicable state and federal

laws and regulations, or as otherwise determined necessary by the City Superintendent consistent with the purposes and intent of this Article. At a minimum, all Significant Industrial Users shall sample their effluent two (2) times per year (once every six (6) months) or as often as provided by their permits, whichever is more frequent, and report the results to the POTW. Each discharge point to the POTW shall be sampled and reported individually.

62-69.3. Sample Types

Where representative samples are required to be taken for facilities for which historical sampling data does not exist (or if otherwise requested by the City Superintendent), a user shall take a minimum of 4 grab samples for pH, temperature, cyanide, phenols (T), residual chlorine, oil and grease, sulfide, and volatile organics (and any other parameters designated by the City Superintendent), unless a greater number of grab samples is required in advance by the City Superintendent. For facilities for which historical sampling data is available, or under other circumstances determined appropriate by the City Superintendent, the City Superintendent may authorize a lower minimum number of grab samples (except that historical data shall not be used for periodic compliance reports as required by Section 62-68.2). In all cases, users shall take the minimum number of grab samples determined necessary by the City Superintendent to assess and ensure compliance by users with applicable pretreatment standards and requirements. Grab samples may be required to show compliance with instantaneous minimum or instantaneous maximum discharge limits. For all other pollutants and sampling, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the City Superintendent. Where time-proportional composite sampling or grab sampling is authorized by the City Superintendent, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City Superintendent, as appropriate.

62-69.4. Sampling Methods, Equipment and Location

- A. General. A user shall use the sampling methods, sampling equipment, and sampling location specified by the user's User Permit, or, in the absence of a permit, as otherwise provided by this Article or as required by the City Superintendent.

- B. Contaminated groundwater. For discharges to the POTW from remedial actions related to leaking underground storage tanks or other sources of contaminated groundwater, the City Superintendent may require the following analyses or such other analyses as determined appropriate by the City Superintendent:
- (1) Samples shall be analyzed for benzene, ethylbenzene, toluene and xylene using the latest methods approved by U.S. EPA.
 - (2) For total petroleum hydrocarbons, samples shall be analyzed according to the latest methods approved by U.S. EPA.
- C. The City Superintendent may require continuous monitoring for pH or other parameters.

62-69.5. Costs of Monitoring, Sampling and Analyses

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

62-69.6. Self-monitoring

- A. Except as otherwise provided by this Article, self-monitoring shall be conducted by each Nondomestic User to ensure compliance with all applicable requirements of this Article and other applicable laws and regulations.
- B. A user performing its own sampling shall submit the samples for analysis to a laboratory (which may include the user's own laboratory) approved by the City Superintendent.
- C. A user performing its own sampling or monitoring shall record and maintain for all samples and monitoring (including any sampling and monitoring associated with Best Management Practices) the date, exact location (which shall match sampling locations identified in the user's User Permit, as applicable), exact time (including start time and stop time) and type and method of sampling or measurement, and the name(s) of person(s) taking the samples or measurements; sampler programming information; the sample preservation techniques or procedures used; the full chain-of-custody for each sample; the dates the analyses were performed and completed; who performed the analyses; the analytical techniques and methods used; the detection limits and/or

quantification level used per parameter; quality assurance/quality control (QA/QC) procedures used and QA/QC data; and the results of the analyses.

- D. If sampling performed by a user indicates a violation, the user shall notify the City Superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within thirty (30) days after becoming aware of the violation. If the POTW has performed the sampling and analysis in lieu of the user, the POTW must perform the repeat sampling and analysis unless the POTW notifies the user of the violation and requires the user to perform the repeat sampling and analysis. The user shall not be required to resample if (a) the POTW performs sampling at the user at a frequency of at least once per month, or (b) the POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user or the POTW receives the results of the sampling that indicates the violation.
- E. If a user uses its own laboratory for sample analysis, the City Superintendent may require the user to send split samples to an independent laboratory at a frequency specified by the City Superintendent as a quality control check.
- F. Users required to do monthly sampling shall submit sample results to the City Superintendent by the fifteenth (15th) day of the following month, unless specified otherwise in the user's User Permit.

62-69.7. Sampling and Analyses Performed by POTW

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

62-69.8. Split Samples and Sample Results

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

62-69.9. Maintenance, Repair and Calibration of Equipment

- A. A user who performs self-monitoring shall contract with an independent company (unless the requirement to use an independent company is waived in advance by the City Superintendent as determined appropriate by the City Superintendent) to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the user.
- B. The maintenance, repair, and calibration shall be performed as often as necessary to ensure that monitoring data is accurate and representative (but in no event less frequently than twice in a calendar year at reasonable intervals), consistent with the accepted capability of the type of equipment used, and shall be at the sole cost of the user.
- C. A user shall keep a complete and accurate written record of all calibrations, inspections and maintenance done (including, without limitation, the date and time of the activity, a description of what was done and the methods used, the names of persons conducting the activity, and any required or recommended follow-up). The record shall also include a description of all problems discovered regarding the equipment whether in response to a regularly scheduled inspection or otherwise.
- D. The POTW, in any event, may inspect and test a user's sampling and flow measurement equipment and instruments at all times.

- E. In no case shall a user's failure to keep its equipment, instruments and facilities in good working order constitute grounds for the user to claim that sample results are not representative of its discharge.

62-69.10. Required Sampling Structures and Devices

- A. The POTW may require any user to install suitable control structures (such as sampling manholes or sampling vaults) and necessary measuring and sampling devices (including automatic devices) to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW. The POTW may require the user to install control structures and measuring and sampling devices at every discharge point and/or outfall. Further, multiple separate and discrete building sanitary sewers, control structures, and measuring and sampling devices may be required for a single user, premises, building, facility or user, as determined necessary by the City Superintendent. The structures and devices shall be maintained at all times in a safe, clean and proper operating condition at the sole expense of the user.
- B. There shall be ample room in or near the control structure to allow accurate monitoring, measuring, sampling and preparation of samples for analysis, as determined necessary by the City Superintendent. At a minimum, all sewers shall have an inspection and sampling manhole or structure with an opening of no less than 24 inches in diameter and an internal diameter of no less than thirty-six 36 inches containing flow measuring, recording and sampling equipment as required by the City Superintendent to ensure compliance with this Article.
- C. Any temporary or permanent obstruction for safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the verbal or written request of the POTW and shall not be replaced. The costs of clearing such access shall be borne solely by the user.
- D. The location and complexity of the required control structure or devices may vary with sampling requirements determined necessary by the City Superintendent to protect the POTW and to comply with applicable laws and regulations.
- E. The required sampling structures and devices shall be constructed and installed at the user's sole expense in accordance with plans submitted to the POTW, and in compliance with all applicable local construction standards and specifications. Users shall submit to the POTW plans and specifications for construction or modification of monitoring facilities at least thirty (30) days before the proposed commencement of construction or

modification. If a user constructs or modifies monitoring facilities before POTW approval or without an inspection during construction and the POTW determines that the monitoring facilities are not acceptable, then the user shall at its cost reconstruct or modify the monitoring facilities according to the requirements of the POTW. Construction shall be completed within ninety (90) days following written notification by the City Superintendent, or within such other shorter or longer time period specified by the City Superintendent as required by the particular circumstances to meet the requirements of this Article. The structures and devices shall be operated and maintained by the user at the user's sole expense so as to be safe and accessible to POTW personnel at all times and so as to provide accurate and representative monitoring data. If a user fails to install or maintain a required structure or device, the City Superintendent may do so and charge the costs to the user. No person shall use a required control structure for any purpose other than the sampling and monitoring activities specifically approved by the City Superintendent.

- F. The sampling structures and devices must be provided on the user's premises as approved by the City Superintendent, but the City Superintendent may, if it determines that such a location would be impractical or cause undue hardship to the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- G. Samples shall be taken at a control structure approved by the City Superintendent. However, in the absence of a suitable control structure as required by this Section, samples shall be taken immediately downstream from pretreatment facilities if pretreatment facilities exist, or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with a regulated process wastestream prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined wastestream formula under MAC R 323.2311(7) or other methods required by the City Superintendent to evaluate compliance with applicable pretreatment standards and requirements.
- H. No user shall change monitoring points or monitoring methods without first notifying and receiving the approval of the City Superintendent. The City Superintendent shall not approve any change in a user's monitoring point or points that would allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.
- I. A user shall allow the POTW access to all sampling and monitoring facilities as provided by Section 62-77.1 of this Article.

62-69.11. Determination of Flow

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

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

DIVISION 10. ACCIDENTAL DISCHARGES

62-70.1. General

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

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

62-70.2. Designation of Person in Charge of Discharge Operations

Each Nondomestic User shall designate at least one person to be in charge of and responsible for the user's discharges to the POTW, including responsibility for maintaining pretreatment facilities and operations, if any, and prevention of accidental discharges ("person in charge").

The person so designated shall be an individual with knowledge of all toxic wastes or hazardous substances routinely or potentially generated by the user, and of all process alterations that could, in any manner, increase or decrease normal daily flow or waste strength to the POTW. The names of the person (or persons) designated as provided by this Section and a phone number where the person can be reached for 24-hour contact shall be submitted by each user to the POTW.

62-70.3. Description of Chemicals Stored, Used or Manufactured by User; User Discharges; User Premises

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

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

62-70.4. Segregation of Wastewaters Requiring Pretreatment

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

62-70.5. Secondary Containment Requirements

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

62-70.6. Submission of Pollution Incident Prevention Plan

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

62-70.7. Posting of Accidental Discharge Information

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

62-70.8. Notice of Accidental Discharge

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

any fines, civil penalties, or other liability which may be imposed by this Article or other applicable law.

62-70.9. Slug Control Plan

- A. Each Significant Industrial User shall prepare and implement an individualized slug control plan to address notification, slug and/or spill prevention, containment, spill cleanup, and employee training. Existing Significant Industrial Users shall submit a slug control plan to the City Superintendent for approval within 90 days of the effective date of this Article. New sources that are Significant Industrial Users shall submit a slug control plan to the City Superintendent for approval before beginning to discharge. Upon written notice from the City Superintendent, Nondomestic Users that are not Significant Industrial Users may also be required to prepare and implement a slug control plan, and the plan shall be submitted to the City Superintendent for approval as specified in the notice.
- B. Slug control plans must also be submitted for review and approval by the City Superintendent:
 - (1) As part of a User Permit application and before the permit is issued; and an updated plan may be required in connection with any permit modification or reissuance; and
 - (2) The City Superintendent may also require a new or updated plan before constructing any new facilities.
- C. Approval of a slug control plan shall not relieve a user from complying with laws and regulations governing handling of hazardous substances.
- D. All slug control plans shall contain at least the following elements:
 - (1) A description of discharge practices, including non-routine batch discharges;
 - (2) A description of stored chemicals, raw materials, and waste;
 - (3) The procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this Article, and procedures for follow-up written notification within five (5) days of the discharge;

- (4) The procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling, and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.
 - (5) A description of any Best Management Practices required by a pretreatment standard or requirement, a User Permit, or other applicable laws and regulations.
- D. If a user has submitted to the City Superintendent plans or documents pursuant to other requirements of local, state, or federal laws and regulations which meet all applicable requirements of this Section 62-70.9, the City Superintendent, in the City Superintendent's sole discretion, may determine that the user has satisfied the slug control plan submission requirements of this Section.

DIVISION 11. UPSET AND ADDITIONAL AFFIRMATIVE DEFENSES

62-71.1. Upset

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if all of the requirements of Section 62-71.1(A), below, are met. However, in the event of an upset, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Article. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

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

orally, a written submission containing the same information must be provided within five (5) days of becoming aware of the upset):

- (a) A description of the discharge and cause of non-compliance;
- (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
- (c) The steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

B. User Responsibility in Case of Upset. The user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable limits upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

62-71.2. Additional Affirmative Defenses

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions under Section 62-66.1(A) and specific prohibitions under Sections 62-66.1(B)(5), (6), (7) or (8) if the user can demonstrate that all of the conditions necessary to establish the defense under MAC R 323.2303(3)(a) and (b) are met. However, even if the affirmative defense is established, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Article. In any enforcement proceeding, the user seeking to establish the affirmative defenses provided by MAC R 323.2303(3) shall have the burden of proof.

DIVISION 12. BYPASS

62-72.1. Bypass Not Violating Applicable Pretreatment Standards or Requirements

A Nondomestic User may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if the bypass is for essential maintenance to ensure efficient operation. A bypass that meets the requirements of the preceding sentence of this Section is not subject to the provisions in Sections 62-72.2, 62-72.3, and 62-72.4. However, nothing in this Section shall be construed to authorize a discharge that exceeds a discharge

prohibition or limitation under this Article or other applicable laws or regulations; nor to relieve a user for any expense, loss, damage, or liability that may be incurred as a result of the bypass, such as damage to the POTW, fish kills, or any other damage to person or property; nor to relieve the user of any fines, penalties or other liability that may be imposed by applicable laws or regulations as a result of the bypass.

62-72.2. Bypass Prohibited

Except as provided by Section 62-72.1, the bypass of industrial wastes from any portion of a user's facility is prohibited, and shall be subject to enforcement action, unless all of the following apply:

- A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
- B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance.)
- C. The user submitted the notices as required under Section 62-72.3.

62-72.3. Required Notices

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

the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

62-72.4. POTW Approved Bypass

The City Superintendent may approve an anticipated bypass after considering its adverse effects, if the City Superintendent determines that it meets the conditions set forth in Sections 62-72.2(A), 62-72.2(B) and 62-72.2(C). It shall be a violation of this Article for a user to allow an anticipated bypass to occur without the prior approval of the City Superintendent.

DIVISION 13. CONFIDENTIAL INFORMATION

62-73.1. Confidential Information

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

- A. Except as otherwise expressly provided by this Division, all information and data regarding a user's discharges obtained from reports, questionnaires, permit applications, permits, monitoring activities, and from inspections is subject to disclosure to the public and other governmental agencies pursuant to the Michigan Freedom of Information Act (MCL 15.231, et seq.; Act No. 442 of the Public Acts of 1976, as amended).
- B. Information submitted to the City Superintendent in the administration of this Division may be claimed by the user as confidential and not subject to public disclosure, only if all of the following requirements and conditions are met:
 - 1. The information sought to be kept confidential qualifies as a protected trade secret or commercial or financial information as determined by the appropriate public official or is otherwise exempt from public disclosure under Act No. 442 of the Public Acts of 1976, as amended, (MCL 15.231 et seq. (the Michigan Freedom of Information Act)).
 - 2. The user specifically requests at the time that the information is submitted that the release of the information would divulge information, processes, or methods of production entitled to protection as trade secrets or commercial or financial information of the user.

3. The information submitted by a user for which confidentiality is requested shall be clearly marked using the words the words “confidential business information” on each page as to the portion or portions considered by the user to be entitled to protection as trade secrets or commercial or financial information of the user; and shall be accompanied by a written explanation of why the user considers the information to be confidential or why the release of the information would divulge information entitled to protection as trade secrets or commercial or financial information.
- C. If information is determined to be protected as a confidential and not subject to public disclosure as provided by this Division, the information shall be treated as provided by this Division and applicable state and federal laws and regulations governing confidentiality of information submitted by users to the POTW; provided, however, that all such information shall nevertheless be made available upon written request to governmental agencies for uses related to matters regulated by this Division and shall be made available for use by the State, any State agency, or the POTW in judicial review or enforcement proceedings that involve the user that submitted the information.
- D. Claims of confidentiality for the following information shall be denied and shall be subject to public disclosure as provided by this Division: Information furnished to the POTW on the volume or characteristics of wastewater or pollutants discharged or proposed to be discharged by a user into the POTW. This shall include, but shall not be limited to, all information submitted on User Permit applications; information associated with user monitoring or sampling results; information in required user reports and notifications; and information regarding flow measurements and other production data used to determine compliance with mass-based limits or to calculate or apply a combined waste stream formula.
- E. Observations made by POTW inspectors shall be subject to the confidentiality provisions of this Section as if they were in writing if the user specifies to the City Superintendent in writing for which particular observations made by the inspector the user seeks confidentiality and demonstrates to the City Superintendent’s satisfaction that the information associated with the observations meets the requirements and conditions to be exempt from public disclosure as provided by Section 62-73.1(B).
- F. All confidential information and/or data with respect to a particular user that is on file with the POTW shall be made available upon written request by that user or its authorized representative during regular business hours.

- G. If information initially determined to be confidential as provided by this Division is subsequently determined by the City Superintendent or any other governmental agency to be non-confidential, such information shall thereafter be subject to public disclosure consistent with applicable law and regulations.

DIVISION 14. RECORDS RETENTION

62-74.1. Maintenance of Records

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

- A. Discharge Records. A Nondomestic User shall retain, preserve, and make available to the POTW for inspection and copying, for the period specified in Section 62-74.1(C) all records related to matters regulated by this Article, including, without limitation, all documents, memoranda, correspondence and similar materials; copies of all required reports, notifications, and applications; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of results of all sampling, monitoring, measurements and analyses; all documentation associated with Best Management Practices; and records of all data used to complete the application for a permit. Any Nondomestic User subject to the sampling, monitoring, analysis, or reporting requirements of this Article shall maintain copies of all records and information pertaining to those requirements or resulting from any monitoring activities (whether or not such monitoring activities are required by this Article). For all samples, the records shall include, at a minimum, the information required to be recorded by Section 62-69.6 of this Article.
- B. Hazardous or Solid Waste. A Nondomestic User shall retain and preserve all records regarding its generation, treatment, storage, or disposal of hazardous waste or solid waste for the period specified in Section 62-74.1(C), and shall make them available to the POTW for inspection and copying, subject to the provisions in this Article regarding confidential information. (As used in this Section, the terms “hazardous waste” and “solid waste” shall have the same definition as provided in the state hazardous waste management act, Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended, and the rules promulgated under that act.)

- C. Retention Period. Users subject to the reporting requirements of this Article (or of any permit or order issued pursuant to this Article) shall retain the records specified in Sections 62-74.1(A) and 62-74.1(B) for a period of at least three (3) years from (a) the date the record was created or (b) the date the record was first used or relied upon by the user, whichever is later. The three (3) year retention period shall be extended during any administrative or judicial action, enforcement proceeding or litigation regarding matters regulated by this Article (or regarding discharges of the POTW under its NPDES permit), until all such actions, proceedings, or activities have concluded and all periods of limitation with respect to any and all appeals have expired. The three (3) year retention period may also be extended at any time at the request of the POTW, EGLE, or the U.S. EPA. The POTW shall retain all records, notices and other information regarding discharges to the POTW submitted to it by Nondomestic Users of the POTW for a period of not less than three (3) years.

DIVISION 15. MANAGEMENT, SUPERVISION, AND CONTROL
OF CITY SANITARY SEWER SYSTEM

62-75.1. Management, Supervision, and Control of City Sanitary Sewer System

The operation, maintenance, alteration, repair, and management of the City Sanitary Sewer System shall be under the control and supervision of the City Superintendent and administered as a regular department of the City government. The City Superintendent may employ, designate, or authorize such persons in such capacities as the Superintendent deems advisable to carry on the efficient management and operation of the public sanitary sewer and to comply with the City WWTP's NPDES permit. The City Council may make such rules, orders, and regulations as it deems advisable and necessary to ensure the efficient management and operation of the public sanitary sewer.

62-75.2. Powers of City Superintendent

The City Superintendent shall have the authority (either directly, through, or in conjunction with other authorized representatives of the City) to take the following actions:

- A. Supervise the implementation duties and activities designated by this Article to be undertaken by the City Superintendent.
- B. Review plans submitted by users for pretreatment equipment.

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

DIVISION 16. USER POLLUTION CONTROLS

62-76.1. Provision by Users of Necessary Pretreatment Facilities

Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation, as required to comply with the requirements of a User Permit or order issued pursuant to this Article, or as otherwise determined necessary by the City Superintendent to meet the purposes and intent of this Article. All facilities required to pretreat discharges shall be provided, operated, and maintained at the user's sole expense. Detailed, professionally signed and sealed plans showing the pretreatment facilities, specifications, and operating procedures shall be submitted to the POTW for review and approval prior to construction. The POTW may approve, approve with conditions, or disapprove the plans, specifications and operating procedures. A user shall not begin discharging from the treatment facilities until facilities have been approved and all conditions and requirements of the approval have been met as determined by the City Superintendent. The review and approval by the City Superintendent of such plans and operating procedures does not in any way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the POTW under the provisions of this Article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the City Superintendent prior to the user's initiation of the changes. (Users shall notify the POTW regarding the installation of new pretreatment facilities or modification of existing facilities as provided by Section 62-68.7 of this Article.)

62-76.2. Proper Operation and Maintenance

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

62-76.3. Removed Substances

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

62-76.4. Duty to Halt or Reduce Activity

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

62-76.5. Duty to Mitigate

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

62-76.6. Duty to Pretreat Prior to Discharge to POTW

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

62-76.7 Implementation of Best Management Practices or Best Management Practices Plan

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

8. Inventory of raw materials and a list of waste sources, including a list of all chemicals used or stored at the facility.
 9. A description of employee training programs, policies and procedures; continuing education programs; and participation.
 10. A description of documentation, including record keeping and forms.
 11. A description of monitoring activities.
 12. Information log of facility personnel, organization chart, emergency phone numbers, contact persons and maintenance or service representatives.
 13. Certification by a qualified professional that the plan is adequate to prevent spills, leaks, slug loads, or non-customary discharges of regulated substances, directly or indirectly, to the POTW.
 14. Such other information, documents or diagrams as required by the City Superintendent, including, but not limited to, any of the information required under Section 62-67.4 of this Article.
- C. The BMPs or BMPP required of a user or approved for a user shall be incorporated in a User Permit issued to the user. If the user already has a User Permit, the existing permit may be modified to incorporate the BMP requirements. If the user does not currently have a User Permit, a permit shall be issued for that purpose.
- D. The City Superintendent may require revisions to users BMPP if the City Superintendent determines that the plan contains elements that are inadequate, or as otherwise determined necessary by the City Superintendent to ensure compliance with applicable requirements of this Article. Review of a BMPP by the City Superintendent shall not relieve the user from the responsibility to modify its facility as necessary to comply with local, state, and federal laws and regulations.

62-76.8. FOG Interceptors; Alternate FOG Pretreatment Technology; Sand Interceptors; Oil Interceptors; and Other Interceptors/Traps.

A. General Requirements Applicable To All FOG Interceptors; Alternate FOG Pretreatment Technology; Sand Interceptors; Oil Separators; and other Interceptors/Traps.

1. Any User required to install a FOG interceptor, an Alternate FOG Pretreatment Technology ("AFPT"), a sand interceptor, or oil separator or other similar device to prevent the discharge of fats, oils, grease, sand, or other materials to the POTW shall comply with the minimum requirements as provided by this Section or the Plumbing Code, whichever requirements are most restrictive, or as otherwise specified by the City Superintendent.
2. Interceptors, AFPTs, and other devices that are required by this Section shall be provided, cleaned, maintained in proper operating condition, and kept in continuously efficient operation at all times, at the sole expense of the User required to install the interceptor, AFPT, or other device, as necessary to ensure that the facility or device effectively intercepts and retains greases from grease-laden wastewaters consistent with its intended purpose and minimum design capability..
3. All interceptors, AFPTs, and traps shall be of a design, type, construction, and capacity approved in advance by the City Superintendent. At a minimum, all interceptors, AFPTs, and traps shall meet the design, type, construction, and capacity requirements of this Section 62-76.8 and the state plumbing code; provided that if there is a conflict as determined by the City Superintendent between this Section and the plumbing code, the requirements of this Section shall control. All required interceptors, AFPTs, and other devices shall be performance rated and the User shall provide the City Superintendent the performance rating test reports.
4. The installation of all interceptors, AFPTs, and other devices shall be subject to the City Superintendent's review and approval.
5. All interceptors, AFPTs, and other devices shall be located so as to be readily and easily accessible for maintenance, cleaning, and inspection.
6. All Users required to install and maintain an interceptor, AFPT, or other device shall develop and carry out a system of maintenance and cleaning for the

interceptor, AFPT, or other device, and shall keep accurate, detailed written records of the following:

- (a) The maintenance and cleaning schedule;
 - (b) The names of the persons who maintained and cleaned the interceptor, AFPT, or other device, and the dates that the interceptor, AFPT, or other device was maintained and cleaned;
 - (c) The amount of the waste removed; and
 - (d) The method of cleaning/pumping and disposal location for removed materials for each maintenance and/or cleaning.
- 7. At a minimum, all interceptors, AFPTs, and other devices shall be inspected, cleaned, and maintained according to the manufacturer's specifications or as otherwise provided by this Section or by the Plumbing Code, whichever requirements are more stringent, at the sole expense of the User required to install the interceptor, AFPT, or other device.
 - 8. All written records and documentation required to be kept by this Section with regard to interceptors, AFPTs, and other devices shall be kept by the User on the premises for at least 3 years and shall be available for review by the City Superintendent during all operating hours. The User shall provide copies of required records to the City Superintendent upon the City Superintendent's request at the User's sole cost.
 - 9. Any problems with or damage to an interceptor, AFPT, or other device shall be reported immediately by the User required to install the interceptor, AFPT, or other device to the City Superintendent.
 - 10. Any problems with or damage to an interceptor, AFPT, or other device shall be rectified and/or repaired immediately by the User required to install the interceptor, AFPT, or other device at the User's sole expense.
 - 11. Clean-out material from an interceptor, AFPT, or other device, including, but not limited to, accumulated fats, oils, grease, and sand, shall not be discharged into the POTW and shall be disposed of only in compliance with all local, state, and federal laws and regulations.

12. Bacteriological, chemical, or enzymatic products shall not be used to maintain or clean interceptors, AFPTs, or other devices, unless approved in advance by the City Superintendent. Further, any additive that emulsifies FOG be used unless approved in advance by the City Superintendent.
13. Sanitary sewer flows from toilets, urinals, lavatories, etc., shall not be discharged into interceptors or AFPTs without the City Superintendent's specific prior written approval. These flows shall instead be conveyed separately to the sanitary sewer service lateral. Only floor drains that discharge (or have the potential to discharge) FOG shall be connected to an interceptor or AFPT.
14. The City Superintendent may require sampling and testing of the effluent from an interceptor, AFPT, or other device to verify that the effluent complies with applicable pretreatment standards and requirements. The sampling and testing shall be conducted using the protocols and at the frequency as specified by the City Superintendent.
15. The City Superintendent may require any User or premises with an interceptor, AFTP, separator, or other similar device to comply with BMPs regarding maintenance, cleaning, or other conditions or requirements as determined appropriate by the City Superintendent. The User or premises shall make available all written documentation of compliance with applicable BMPs and other conditions or requirements for review by the City Superintendent upon request.

B. Requirements For FOG Interceptors and AFPTs.

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

1. Outdoor FOG Interceptors.

- a. Outdoor FOG Interceptors Required. All FSEs shall install, operate, and maintain an outdoor FOG interceptor of a type, design, construction, and size approved in advance by the City Superintendent; provided that if the City Superintendent determines that installation of an outdoor FOG

interceptor would not be economically and/or technically feasible due to existing circumstances unique to the premises in question, the City Superintendent may instead allow the installation of AFPT as provided by Section 62-76.8 (B)(2). In all cases, the User shall bear the burden of demonstrating to the City Superintendent, at the User's sole cost, that the installation of an outdoor FOG interceptor is not feasible and that an AFPT should instead be allowed. In all cases, the user shall bear the burden of demonstrating to the City Superintendent, at the user's sole cost, that the installation of an outdoor FOG interceptor is physically infeasible and that an alternate FOG pretreatment technology should instead be allowed. For purposes of this determination, the term "physically infeasible" shall include, but shall not be limited to, the following conditions: the lack of available space on the premises; unavoidable interference from underground utilities or structures; and topographical conditions such as the slope that unavoidably prevents the installation of an outdoor FOG interceptor. If an FSE/user believes the installation of an outdoor FOG interceptor is physically infeasible the request for approval of an Alternate FOG Pretreatment Technology device shall contain the following information: The location of sewer main and easement in relation to available exterior space outside building; the existing plumbing at or in a site that uses common plumbing for all services at that site; and such other information required by the City Superintendent. Notwithstanding anything in this subsection 62-76.8(B)(1)(a), nothing in this Section shall be construed to require the City Superintendent to allow an Alternate FOG Pretreatment Technology device instead of an outdoor FOG interceptor.

b. Compliance Schedule.

All FSEs (and any other existing user determined by the City Superintendent to have a reasonable potential to adversely affect the POTW due to discharges of FOG) are subject to the interceptor requirements provided by this Section 62-76.8, whether the FSE/user is an existing or new FSE/user.

Existing FSEs/Users: Any FSE discharging into the POTW as of the effective date of this Chapter (and any other existing User determined by the City Superintendent to have the potential to adversely affect the POTW due to discharges of FOG) shall, upon notification from the City

Superintendent, submit plans for an outdoor FOG interceptor for approval by the City Superintendent, and shall install and begin operation of the interceptor, in compliance with the schedule specified by the City Superintendent.

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

- c. Minimum Design and Installation Requirements For Outdoor FOG Interceptors. Outdoor FOG interceptors shall comply with all of the following minimum design and installation requirements:
- (i) The interceptor shall provide a minimum capacity adequate to handle current flows at the FSE and be designed to allow for future expansion if flows increase or noncompliant FOG discharges occur, as determined by the City Superintendent.
 - (ii) The interceptor shall have at least the minimum number of compartments as determined necessary by the City Superintendent, with fittings designed for FOG retention.
 - (iii) The interceptor shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.
 - (iv) The interceptor shall be installed at a location, subject to the prior approval of the City Superintendent, where it can be easily

accessible for inspection, cleaning, and removal of intercepted FOG, but shall not be located in any part of a building where food is handled.

- (v) Access manholes, with a minimum diameter of 24 inches, and designed as otherwise required and approved by the City Superintendent, shall be provided over each outdoor FOG interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, FOG removal, and sampling which, when bolted into place, shall be gastight and watertight. The maximum height and number of risers shall be as specified and approved by the City Superintendent as determined necessary to allow for adequate maintenance, cleaning, and inspection.

d. Minimum Inspection, Maintenance, and Cleaning Requirements for Outdoor FOG Interceptors. Outdoor FOG interceptors shall comply with all of the following minimum maintenance, cleaning, and inspection requirements:

- (i) At a minimum, an outdoor FOG interceptor shall be inspected monthly by the property owner, or more often if dictated by site-specific conditions or if required more frequently by the City Superintendent.
- (ii) Pump-out of all accumulated FOG, water, and sludge shall occur every 90 days at a minimum, or more often if the combined height of floatables and settled solids (including both the top and bottom layers of solids) exceed 25% of any interceptor compartment operating depth; if there is a visible discharge of FOG; or if required more frequently by the City Superintendent. The operating depth of an interceptor shall be determined by measuring the internal depth from the outlet water elevation to the bottom of the interceptor.
- (iii) Each pump-out of the interceptor shall be complete and remove all contents, including removal of the entire grease mat, liquids,

sludges, and solids from screens, baffles, air-relief chambers, and wash down of interior walls. The interceptor shall be refilled with clear water before being returned to service.

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

2. Alternate FOG Pretreatment Technology.

If the City Superintendent determines that installation of an outdoor FOG interceptor is not required as provided by Section 62-76.8(B)(1)(a), then the City Superintendent may instead authorize the installation of an Alternate FOG Pretreatment Technology ("AFPT") approved by the City Superintendent as provided by this Section.

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

- a. Indoor FOG Interceptors. If the AFPT approved by the City Superintendent is an indoor FOG interceptor, the following requirements shall apply:
- (i) Indoor FOG interceptors shall be installed in all waste lines from sinks, drains, and other fixtures or equipment where grease may be discharged to the POTW; provided that no food waste disposal unit, dishwasher, wastewater, or other liquid in excess of 140 degrees Fahrenheit (60 degrees Centigrade) shall be discharged into an indoor FOG interceptor. Further, no acidic or caustic cleaners shall be discharged into an indoor FOG interceptor.
 - (ii) Indoor FOG interceptors shall never be operated without the flow restrictor supplied by the unit's manufacturer.
 - (iii) Sizing and installation of the indoor FOG interceptors shall be subject to the City Superintendent's prior review and approval.
 - (iv) Indoor FOG interceptors shall be inspected and cleaned at least once per week, or more often if dictated by site-specific conditions, as needed to be maintained in fully functional and efficient operation, or as otherwise specifically required by the City Superintendent.
 - (v) FSEs with indoor FOG interceptors shall employ kitchen Best Management Practices (BMPs) for pre-cleaning of plates, pots, pans, and similar methods to minimize grease loadings to the drainage system. Kitchen BMPs for FSEs shall include, without limitation, dry wiping of pots and pans prior to washing, use of absorbents on grease spills prior to mopping, posting of "No Grease" signage on all sinks and drains not connected to an interceptor, training of personnel on BMPs, and other practices as determined appropriate by the City Superintendent.
- b. Other AFPT. If the proposed AFPT is a technology other than indoor FOG interceptors, the FSE shall submit design plans, installation details, and operation and maintenance procedures to the City Superintendent for prior review and approval.

C. Sand Interceptors and FOG Interceptors; Oil Separators.

Other types of interceptors and traps may be required by the City Superintendent subject to such terms, conditions and requirements as specified by the City Superintendent in any case and for any premises where the City Superintendent has determined that there is a reasonable potential for sand, fats, oils, grease, flammable wastes, or other substances in a user's discharges to cause plugs or backups or to otherwise adversely affect the POTW. If a plug or backup does occur that is caused by any such substance, the City Superintendent shall require the premises to install an interceptor, trap, or separator of a type and design as determined appropriate by the City Superintendent.

1. Sand interceptors, FOG interceptors, and/or oil separators may be required by the City Superintendent in any premises where the City Superintendent has determined that there is the potential for sand, fats, oil, grease, flammable wastes, or other harmful ingredients to enter the premise's discharges.
2. Sand interceptors and similar interceptors for removal of heavy solids by Nondomestic Users, as determined by the City Superintendent, shall be designed and installed, according to the design specifications required by the City Superintendent. They shall be located as to be readily accessible for cleaning and shall have a water seal of not less than 6 inches. Sand interceptors and similar interceptors shall be cleaned and maintained in accordance with BMPs as required by the City Superintendent. Proof of maintenance and cleaning shall be available to the City Superintendent for review upon request.
3. Oil/Water separators are required at repair garages, gasoline stations with grease racks, grease pits or work racks and at factories, or other facilities, where oily and flammable liquid wastes are produced. Separators shall be installed into which all oil-bearing, grease-bearing or flammable wastes shall be discharged before disposal. Oil/Water separators shall be connected to and discharge to an onsite storm system containment/detention system. Unless approved in advance by the City Superintendent, Oil/Water separators shall not be connected to or discharge to the POTW. Oil/Water separators shall have a depth of not less than 2 feet below the invert of the discharge drain. The outlet opening of the separator shall not have less than an 18-inch water seal. An alternative design may be approved by the City Superintendent. Oil/Water separators shall be cleaned and maintained in accordance with BMPs. Proof of maintenance and cleaning shall be available for review upon request.

4. Interceptors and/or separators as determined appropriate by the City Superintendent shall be required for all premises engaged in the washing of motor vehicles.

D. Failure to comply.

1. The City shall have the right to enter and inspect any premises where an interceptor, AFPT, separator, or other similar device is required to be installed for purposes of determining compliance with the requirements of this Section and as otherwise provided by Section 2.77.01 of this Chapter.
2. If a User fails to provide or maintain a required interceptor/AFPT, the City may do so (or cause the same to be done) and charge all of the costs to the User.
3. The failure of any premises where an interceptor/AFPT is required to comply with this Section may subject the premises to enforcement action and the remedies that are available by law and the terms of this Chapter, including, but not limited to, termination of the discharges from the premises to the POTW.

E. Permits.

The City Superintendent may issue and/or require User discharge permits for any User discharging FOG, sand, or other substances susceptible to treatment by an interceptor, AFPT, trap, or separator; provided that the provisions of this Section 62-76.8 shall apply whether or not a User discharge permit is issued. The User discharge permits may include requirements that are more stringent than, or in addition to, the requirements specified by this Section, as determined appropriate by the City Superintendent.

F. Review and Approval of Interceptors or AFPTs.

The review and approval by the City Superintendent of a proposed or existing interceptor or AFPT device or facility shall not in any way be construed to represent or guarantee that the equipment will function in the manner described by its constructor or manufacturer; nor shall such review or approval in any case relieve a person or premises of the responsibility to replace, enlarge, or otherwise modify such equipment to accomplish the intended purpose, or entitle a user to relief from enforcement actions for failure to fully and timely comply with the requirements of this Section 62-76.8. Further, approval by the City Superintendent to install and operate an AFPT device shall not be construed to mean that the City Superintendent may not subsequently require the person

or premises to upgrade the AFPT device or install an outdoor FOG interceptor as provided herein.

G. Exclusions and Exemptions.

- (1) Exclusions. The following shall not be subject to the interceptor/APT requirements under this Section 62-76.8 except as otherwise determined necessary by the City Superintendent to prevent adverse impacts on the POTW or to otherwise meet the purposes and objectives of this Article:
 - (a) A private residential dwelling unit where the food is prepared and served or consumed solely by the occupants of the dwelling unit, including such dwelling units located in single-family and multi-family residential structures and apartment buildings;
 - (b) A premises where the only food prepared and served or consumed is dispensed from automatic vending machines;
 - (c) A “Temporary Food Service Establishment” meaning an FSE operating at a fixed location for not more than fourteen (14) consecutive days in conjunction with a single event or celebration (such as a concession stand at a festival, carnival, or fair); and
 - (d) Mobile Food Service Units operating at fixed or variable locations; provided that FOG and food debris generated by a Temporary Food Service Establishment or Mobile Food Service Unit shall not be discharged to the POTW at any location except at a premises that does comply with the interceptor/AFPT requirements under this Section 62-76.8, and in no case shall any such FOG be discharged to a catch basin, manhole, storm sewer, natural outlet, surface water, ground water, or be disposed of on the ground.
- (2) Exemptions. The City Superintendent, in the City Superintendent’s sole discretion, may grant a written exemption from the interceptor/APT requirements under this Section 62-76.8 to users or facilities for which the City Superintendent determines do not have a reasonable potential to adversely affect the POTW due to discharges of FOG (for example, because they do not cook or prepare food). The City Superintendent’s written exemption must be preceded by an inspection of the subject premises and submission of adequate supporting written

documentation as deemed necessary by the City Superintendent. The City Superintendent may revoke a facility's exemption if that facility's operation changes to include cooking or food preparation, or if it becomes apparent the FOG is being discharged and accumulating in the facility's lateral or the City's sewer main, or if the City Superintendent otherwise determines that the facility does have a reasonable potential to adversely affect the POTW due to discharges of FOG. As a condition of a written exemption issued by the City Superintendent as provided by this paragraph, the exempted facility shall be obligated to immediately notify the City Superintendent in writing of any proposed or actual change in the facility's operations or discharges to the POTW that would result in any increase in the amount of FOG discharged to the POTW over and above the amount discharged at the time the exemption was originally issued or that would otherwise be inconsistent with the terms of the exemption as issued.

62-76.9. Dental Amalgam; Amalgam Separators

A. Definitions.

For purposes of this Section 62-76.9 only, the following definitions shall apply.

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

"Code" means the Michigan Public Health Code, 1978 PA 368, MCL 333.1101 to 333.25211. Terms defined in the Code have the same meanings when used in this Section 62-76.9.

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

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

“Dentist” means an individual licensed under Section 16611 of the Code who uses or removes dental amalgam or who owns or operates a dental office that generates dental amalgam waste.

“Department” means the Michigan Department of Licensing and Regulatory Affairs.

“Discharge” means the release of any dental amalgam waste into the environment. This includes any releases to land, ground or surface waters, septic systems, or wastewater treatment systems.

“Holding tank” means a closed, watertight, sealed structure designed and used to receive and store wastewater. Holding tanks are designed and constructed for ultimate disposal of collected wastewater at another site.

B. Amalgam Separator; Installation and Operation; Requirements.

1. On or before December 31, 2013, a dentist shall install, or shall have installed, an amalgam separator on each wastewater drain in his or her dental office that is used to discharge dental amalgam waste. In addition to meeting the requirements of the Code and this Section 62-76.9, a dentist who is required to install an amalgam separator shall comply with all of the following:
 - a. Install an amalgam separator that meets the requirements of Section 62-76.9(C).
 - b. Install, operate, and maintain the amalgam separator according to the manufacturer’s instructions.
 - c. Ensure the installed amalgam separator is properly sized to accommodate maximum dental amalgam wastewater flow rates at the dental office. The maximum allowable flow rate through an amalgam separator at a dental office shall not exceed the maximum flow rate capacity at which the amalgam separator was tested under Section 62-76.9(C)(1)(a).
 - d. Ensure that all wastewater from the dental office containing dental amalgam waste passes through an installed and properly functioning and maintained amalgam separator before being discharged.
2. Section 62-76.9(B)(1) shall not apply to any of the following: oral and maxillofacial surgeons; oral and maxillofacial radiologists; oral pathologists; orthodontists; periodontists; dentists while providing services in a dental school, in a hospital, or

through a local health department; and dentists who install and use a holding tank and do not discharge amalgam waste.

C. Amalgam separator; Requirements.

1. An amalgam separator that is installed in a dental office under Section 62-76.9(B) shall meet all of the following requirements:
 - a. Be certified as passing the International Organization for Standardization (ISO) 11143:2008 standard for evaluating amalgam separators.
 - b. Have a removal efficiency of not less than 95% as determined by the testing required under Section 62-76.9(C)(1)(a), based on the overall average of the 3 empty and the 3 simulated full test results.
 - c. Be tested and certified by any of the following: (i) SP technical research institute of Sweden; (ii) Tuv nord, Germany; (iii) NSF international; or (iv) both of the following: a testing laboratory accredited by an accreditation body that is a signatory to the international laboratory accreditation cooperation's mutual recognition arrangement and has a scope of accreditation that includes ISO 11143; and a certification body accredited by an accreditation body that is a signatory to the international accreditation forum's multilateral recognition arrangement and has a scope of accreditation that includes ISO 11143.
2. Any amalgam separator that meets the requirements of Section 62-76.9(C)(1) shall qualify as an amalgam separator approved by the Michigan Board of Dentistry.

D. Collection, disposal, and recycling of dental amalgam waste; requirements.

1. A dentist shall comply with all of the following:
 - a. Use amalgam only in a precapsulated form.
 - b. Salvage, store, and recycle non-contact and contact dental amalgam materials, including empty amalgam capsules. As used in this Section 62-76.9(D) and Section 62-76.9(E), "recycle" or "recycling" means sending mercury or dental amalgam waste to either the contracted separator company or a facility in the United States that will reclaim or distill the mercury for reuse. "Recycle" or "recycling" shall not include any of the following: (i) the on-site processing of

mercury or dental amalgam waste; (ii) the sale, donation, or exchange of mercury or dental amalgam waste through internet lists; or (iii) the sale or donation of mercury or dental amalgam waste to any individual or company for any other reuse purpose.

- c. Collect and recycle extracted teeth or portions of teeth that contain dental amalgam materials.
 - d. Store all dental amalgam waste in enclosed and structurally sound containers until a sufficient amount has been collected for shipment to a reclamation facility or recycler or at a minimum, recycled annually.
 - e. Label all containers holding dental amalgam waste. The label shall include, at a minimum, the title “dental amalgam waste for recycling” and the date the waste was initially placed in the container.
 - f. Use chair-side traps to retain amalgam and recycle the content.
 - g. Recycle all amalgam materials collected in amalgam separators, vacuum pump filters, chair-side traps or other wastewater processing devices.
 - h. Ensure that the separators operate properly and do not become full and bypass. This may include inspecting the separators annually, halfway through the operating life, or as required by the manufacturer.
 - i. Follow the steps for the cleanup of mercury spills at schools and businesses as recommended by the Department at www.michigan.gov/mercury (or at such other location that such information may hereafter be provided by the Department).
2. A dentist shall not do any of the following:
- a. Store bulk elemental mercury that is not in capsule form.
 - b. Put dental amalgam waste down a toilet or drain.
 - c. Put dental amalgam waste or empty amalgam capsules into trash containers, or biohazard or infectious waste bags.

- d. Disinfect teeth or any item containing dental amalgam by autoclaving or using heat.
 - e. Use cleaners containing bleach or chlorine to flush drains or wastewater lines.
- 3. A dentist shall train and have written procedures for training dental office staff who manage or dispose of dental amalgam waste to ensure compliance with this rule.
- 4. This Section 62-76.9(D) shall not apply to a dentist listed in 62-76.9(B)(2). A dentist who installs and uses a holding tank and does not discharge amalgam waste shall comply with the requirements of Sections 62-76.9(D)(1), (2), and (3), as applicable.
- E. Record keeping.
 - 1. A dentist who is subject to the provisions of Section 62-76.9(B)(1) shall maintain records at his or her dental office that include all of the following:
 - a. Type of amalgam separator installed, including the manufacturer and model.
 - b. Date the amalgam separator became operational.
 - c. Documentation verifying that the amalgam separator meets the requirements of Section 62-76.9(C).
 - d. Documentation of the manufacturer's instructions for the operation and maintenance of the amalgam separator.
 - e. Service records for each amalgam separator in use at the dental office that includes all of the following: (i) dates of maintenance; (ii) dates separator contents were recycled; and (iii) name of the staff or contractor performing the service.
 - f. Documentation verifying that the dentist disposed of and recycled any dental amalgam waste that was generated from the individual's dental office consistent with the requirements of Section 62-76.9(D). The documentation shall include all of the following: (i) name and address of the collection service or recycler; (ii) amount by weight of dental amalgam waste that was collected and the date it was collected or shipped from the dental office for recycling; (iii) name and address of the facility where the dental amalgam waste will be recycled; and (iv) shipping or manifest papers documenting transfer of the dental amalgam waste to the recycler.

2. The records required under Section 62-76.9(E)(1) shall be provided upon request to an authorized state official, local public health department staff, or representative of the City, including, but not limited to, the City Superintendent.
3. All records required under Section 62-76.9(E)(1) shall be retained for a minimum of three (3) years.

F. Verification.

Upon the request of the City Superintendent, a dentist who is subject to the provisions of 62-76.9(B)(1) shall verify in writing that he or she is in compliance with this Section 62-76.9 and shall provide the amalgam separator make and year that each separator was installed.

G. Compliance and enforcement.

Failure to comply with the requirements of this Section 62-76.9 is a violation of this Article and may result in sanctions as provided by this Article, or as otherwise provided for by applicable local, state, and federal laws and regulations.

H. Permits.

The City Superintendent may issue and/or require a User Permit for any dentist who uses or removes dental amalgam or who owns or operates a dental office that generates dental amalgam waste; provided that the provisions of this Section 62-76.9 shall apply whether or not a User Permit is issued. User Permits may include any conditions and requirements that are consistent with the provisions of this Section 62-76.9 and as provided by applicable state or federal laws and regulations, as determined appropriate by the City Superintendent.

62-76.10. Additional Pretreatment Measures

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

- A. Whenever deemed necessary, the City Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be

necessary to protect the POTW and determine the user's compliance with the requirements of this Article.

- B. The City Superintendent may require any person discharging into the POTW to install and continually maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow, subject to approval by the City Superintendent.
- C. Users with the reasonable potential to discharge explosive or flammable substances may be required to install and maintain an approved explosion hazard meter, combustible gas detection meter, or similar device, as determined appropriate by the City Superintendent.

DIVISION 17. ENFORCEMENT

62-77.1. Inspection, Surveillance and Monitoring Authority; Right of Entry

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

- (7) To evaluate the need for revised local limits.
 - (8) To maintain current data on each user.
 - (9) To assess the adequacy of each user's self-monitoring program and User Permit.
 - (10) To provide a basis for establishing sampling and monitoring requirements for users.
 - (11) To evaluate the adequacy of each user's operation and maintenance activities on its pretreatment system.
 - (12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.
 - (13) To gather information for User Permit development.
 - (14) To evaluate compliance with existing enforcement actions.
 - (15) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.
 - (16) To determine compliance with requirements regarding implementation of best management practices; accidental discharge controls and protections; spill prevention or containment measures; and pollution prevention, minimization or reduction measures.
- B. Right of entry. The City Superintendent and other authorized representatives of the City bearing proper credentials and identification are authorized to enter a user's premises (and any other person's premises, as determined necessary by the City Superintendent) to conduct inspection, surveillance, and monitoring activities as necessary to determine compliance with this Article, and in that regard shall have, without limitation, the following minimum authority:
- (1) To enter into any premises of any person in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this Article, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater

for analysis, and inspecting and making copies of required records. This shall include the right to take photographs and take video and audio recordings, subject to the confidentiality provisions of Division 14, with the exception of areas that require intrinsically safe electronic equipment.

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

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

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

clearance before entry into the premises by the City Superintendent, the person shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the City (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Upon arrival at a person's premises, City representatives shall inform the person or the person's employees that inspections, sampling, compliance monitoring, metering or other POTW procedures are to be performed and that the person has the right to accompany the City employee/representative during the performance of the person's duties. No person shall require City representatives to sign confidentiality agreements, contractor forms, or similar documents as a condition to entry.

- D. Refusal to allow entry. If a person refuses to permit access (or unreasonably delays access) to an authorized City representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this Article, the City Superintendent may order the termination of the discharge of wastewater to the POTW; order the person to permit access within a time certain; issue the person a notice of violation of this Section; or take other appropriate action as provided by this Article and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this Section shall constitute a violation of this Article.
- E. Emergency inspections. In an emergency which creates an immediate and substantial danger to the health, safety, and welfare of individuals or property, the premises of a user may be inspected immediately, at any time, and without permission or a warrant.
- F. Any person that discharges to the POTW (or has applied to discharge) is deemed to have consented to the City's inspection, surveillance, monitoring, and right of entry activities and authority as provided by this Article. If a violation of this Article is identified, the property owner shall be ultimately responsible for all costs of inspection and remediation, if necessary, and shall reimburse the City for all such costs as otherwise provided by this Chapter.

62-77.2. Notice of Violation

- A. Any person found to be violating a provision of this Article may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated

in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by Section 62-77.4 of this Article.

- B. Unless otherwise specified by the NOV, the following provisions shall apply: Within at least thirty (30) days of the date of the NOV, the person shall submit to the POTW a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the person of liability for any violations occurring before or after receipt of the Notice of Violation.
- C. Nothing in this Section shall limit the authority of the City or the POTW to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation, or otherwise require the City or the POTW to first issue a Notice of Violation before initiating a civil or criminal action against a person for violating this Article. Further, receipt, or non-receipt, of a Notice of Violation shall in no way relieve the affected user of any and all liability associated with any violation.
- D. Failure to comply with any requirement of a Notice of Violation shall constitute a separate violation of this Article.

62-77.3. Orders and Supplemental Enforcement Tools

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

- A. Service. An order shall be served upon a person and shall contain the information as provided by Section 62-77.4 of this Article. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment, or the POTW, may be oral and may be served by telephone, to be followed within five (5) days by written confirmation of the oral order by the City Superintendent.
- B. Types of Orders. The City Superintendent may issue the following types of orders:
 - (1) Order to Immediately Cease and Desist Discharge. The City Superintendent may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Article. The order shall have immediate

effect if the City Superintendent determines that the actual or threatened discharge to the POTW presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment; or causes, or may cause, interference or pass through; or may cause the POTW to violate any term or condition of its NPDES permit. The City Superintendent shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The person shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Article.

- (2) Order to Cease Discharge Within a Time Certain. The City Superintendent may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Article by a certain time and date. The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the City Superintendent, an order may be issued under this Section for the failure to pay applicable permit fees or to comply with any term of a User Permit.
- (3) Order to Effect Pretreatment. The City Superintendent may issue an order to a user requiring the user to pretreat its discharge in accordance with this Article. Any user subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the discharge complies with the requirements of the order and this Article. The plan shall be submitted to the City Superintendent within a reasonable period as specified in the order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the City Superintendent. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the City Superintendent:
 - (a) Retain a qualified engineer and/or consultant.
 - (b) Obtain any engineering or scientific investigation or surveys deemed necessary.

- (c) Prepare and submit a preliminary plan to achieve pretreatment.
 - (d) Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.
 - (e) Establish a time to let any contract necessary for any construction.
 - (f) Establish completion times for any construction necessary.
 - (g) Establish a time limit to complete full pretreatment pursuant to the final order.
 - (h) If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phases or unit.
- (4) Order to Affirmatively Respond. The City Superintendent may issue an order requiring a person to perform any action required under this Article, including, without limitation, requiring a person to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.
- (5) Order to Terminate Sewer Services. The City Superintendent may issue an order to terminate the sewer services of a user, including, but not limited to, immediate physical blockage of the user's sewer connection, for reasons including, without limitation, the following:
- (a) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.
 - (b) Failure of a user to notify the POTW of any discharge as described in Section 62-77.3(B)(5)(a) of which the user was aware or reasonably should have been aware.

- (c) Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the City Superintendent.
- (d) A knowing, willful violation of any term, condition or requirement of an order or User Permit, or any provision of this Article.
- (e) A negligent violation of any major term, condition or requirement of an order or User Permit. For purposes of this Section, a “major” term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment, the POTW, or cause the POTW to violate its NPDES permit.

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

- (6) Order to Show Cause. The City Superintendent may issue an order requiring a person to appear and explain any noncompliance with the requirements of this Article or any permit, order, decision, or determination promulgated, issued or made under this Article, and to show cause why more severe enforcement actions against the person should not go forward. A show cause hearing shall be held within ten (10) days after the order to show cause is issued, as follows:
 - (a) The City Superintendent shall conduct the hearing and take evidence. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.
 - (b) Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.

- (c) After reviewing the evidence taken at the hearing, the City Superintendent shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, without limitation, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this Article.
- C. Immediate Response To Order By User May Be Required. Any user issued an order as provided by this Section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this Article, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the user that the noncomplying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the City Superintendent within fifteen (15) days of the occurrence.
- D. Noncompliance Due to Factors Beyond User's Control. If noncompliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a user, and the user can demonstrate the conditions necessary for demonstration of an upset as provided by Section 62-71.1(A), the City Superintendent may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- E. Amendment, Suspension and Revocation of Orders. An order shall be subject to amendment, suspension or revocation as determined appropriate by the City Superintendent. Notice of the amendment, suspension or revocation shall be served upon the person in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Article.

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

62-77.4. Service of Notices of Violations, Orders and Notices of Assessments

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

- A. Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable, at the person's last known address as shown by POTW's records. The person served shall sign and date the order or notice and shall return the signed original copy to the POTW; provided, that the failure to do so shall not affect in any way the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not actually be received by the person, but this shall not nullify in any way any enforcement action subsequently taken by the City Superintendent against the person under authority of this Article. Receipt, or non-receipt, of a notice or order shall not in any way relieve the affected person of any liability associated with the violation. Further, the issuance of a notice or order will not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected person.

- B. Contents. All orders and notices shall contain at least the following information, to the extent known by the City Superintendent and as determined by the City Superintendent to be applicable to the situation:
- (1) The name and address of the violator;
 - (2) The location and time that the violation occurred or was observed, and the duration of the violation;
 - (3) The nature of the violation, including the provisions of this Article or of any permit, order, decision, determination or agreement violated;
 - (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
 - (5) The amount of the fine, penalty, cost, or charge assessed or due, if any;
 - (6) The manner in which, and time and date by which, any fine, penalty, cost, or charge must be paid, including any penalty or charge for late payment;
 - (7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.
 - (8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.
 - (9) The date and time the order or notice was issued.
- C. Request for Additional Information. A person served may request additional information from the City Superintendent regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

62-77.5. Publication of Users in Significant Noncompliance

The City shall publish once per year in the largest newspaper circulated in the City, a list of Categorical Industrial Users that, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards or requirements. For the

purposes of this Section, a Categorical Industrial User shall be considered to be in significant noncompliance if its violations meet one or more of the following criteria:

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

62-77.6. Municipal Civil Infractions

- A. Violation; Municipal Civil Infraction. Except as provided by Section 62-77.7, and notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this Article (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the City under this Article) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.
- B. Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this Section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Article (i) committed by a person within any 90 day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Article shall be as follows:
- (1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.
 - (2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.
- C. Amount of Fines. Subject to the minimum fine amounts specified in Sections 62-77.6(A) and 62-77.6(B), the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Article: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- D. Authorized Local Official. Notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, the following persons are designated as the

authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this Article (or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): the City Superintendent, any sworn law enforcement officer, and any other persons so designated by the City.

- E. Other Requirements and Procedures. Except as otherwise provided by this Section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Chapter 36 (“Municipal Civil Infractions”) of the City’s Code of Ordinances and Act No. 236 of the Public Acts of 1961, as amended.

62-77.7. Criminal Penalties; Imprisonment

Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this Article, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the City under this Article; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Article, or in any other correspondence or communication, written or oral, with the POTW regarding matters regulated by this Article; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Article; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

62-77.8. Continuing Violation

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

62-77.9. Number of Violations

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

- A. Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a user may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.
- B. Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each day on which the violation occurs or continues.
- C. Each violation of an instantaneous minimum or instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each such occurrence, and there may be multiple violations for each day on which such a violation occurs or continues.
- D. Each violation of a monthly average limit (or of some other average limit period) for a single pollutant or sampling parameter shall constitute a separate violation for each day of the month (or other stated period) during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with thirty-one (31) days, a violation of the monthly average limit for that month constitutes thirty-one (31) violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)
- E. Except with regard to violations of average limits as provided by Section 62-77.8(D), a violation will be deemed to have continued to occur each day beginning with the first day the violation occurred to the day the user is able to demonstrate through appropriate sampling results that the violation is no longer occurring.
- F. If for any period a user has violated both a daily maximum limit and an average limit for a particular pollutant parameter, then the total number of violations is the sum of the days on which the daily maximum limit was violated plus the number of days in the averaging period.
- G. If a User Permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this Section.

- H. If a user is discharging a wastestream that is required to be monitored and analyzed under continuous monitoring procedures then all of the following shall apply:
- (1) If at any time during a daily 24-hour period the continuous monitoring shows that the monitored parameter exceeded the instantaneous minimum, instantaneous maximum, or daily maximum limit for that parameter, then a violation has occurred.
 - (2) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum or instantaneous maximum, during that period, then each such exceedance shall be considered a separate violation.
 - (3) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum, instantaneous maximum, or daily limit into the next daily 24-hour period (i.e., the exceedance occurs both before and after midnight), then the exceedance will be considered a separate violation on both days.
- I. One (1) violation occurs on: each day that a report is late; and each day after an action required to be completed is not completed.

62-77.10. Nuisance

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

62-77.11. Reimbursement

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

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

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

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

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

- (1) The volume of the discharge.
- (2) The length of time the discharge occurred.

- (3) The composition of the discharge.
 - (4) The nature, extent, and degree of success the City may achieve in minimizing or mitigating the effect of the discharge.
 - (5) The toxicity, degradability, treatability, and dispersal characteristics of the discharges.
 - (6) The direct and indirect costs incurred by the City, or imposed upon the City to treat the discharges, including sludge handling and disposal costs.
 - (7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the City Superintendent, including the City's costs of defense of actions, or suits brought or threatened against the City by governmental agencies or third parties.
 - (8) Such other factors, including the amount of any attorney's fees; engineering, consultant, and expert fees; expenses, costs, sampling and analytical fees; repairs; that the City deems appropriate under the circumstances.
- C. Costs to be reimbursed to the City as provided by this Section may be assessed to the user as provided by Section 62-77.4 of this Article, or as otherwise determined appropriate by the City in conjunction with an enforcement action.
- D. The failure by any person to pay any amounts required to be reimbursed to the City as provided by this Section shall constitute an additional violation of this Article.

62-77.12. Review or Approval by City

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

62-77.13. Severance or Suspension of Sewer and/or Water Service

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

62-77.14. Judicial Relief

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

62-77.15. Cumulative Remedies

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

DIVISION 18. ADMINISTRATIVE REVIEW AND APPEALS**62-78.1. Procedure Available**

Any person aggrieved by a Notice of Violation, Order, final decision, final determination, or other final action taken by the City Superintendent under this Article may request an informal review and reconsideration of the action by the City Superintendent as provided by this Section.

If a request for informal review and reconsideration by the City Superintendent is not properly and timely requested, including submission of all required supporting documents and information as provided by this Section, the right to request a review and reconsideration shall be deemed waived and the action of the City Superintendent shall be deemed final.

62-78.2. Informal Review and Reconsideration by the City Superintendent

A request for an informal review and reconsideration by the City Superintendent of an action taken by the City Superintendent shall be made in writing within 10 days from the date of the City Superintendent's action in question. The request shall state the reasons for the review and shall include all supporting documents and dates. A hearing on the request shall be scheduled at the earliest practicable date as determined by the City Superintendent, as applicable. The hearing shall be conducted by the City Superintendent on an informal basis at the St. Clair WWTP or at another location designated by the City Superintendent. Following the informal hearing, the City Superintendent may affirm or reverse, in whole or in part, the action appealed from, or may make any order, requirement, determination, or decision (these actions by the City Superintendent are hereinafter collectively referred to as the City Superintendent's "final decision") that in the City Superintendent's opinion ought to be made in the case under consideration. The aggrieved person shall be notified of the City Superintendent's final decision within 30 days of the hearing. The City Superintendent may request additional information and extend the time for the final decision by up to an additional 30 days following the submission of all of the additional requested information. All documentation and information supporting a request for informal review and reconsideration shall be provided by the person requesting the review and reconsideration, at the person's sole cost.

62-78.3. Payment of Charges, Penalties, Fines, and Other Costs or Fees

All service charges, penalties, fines, fees, surcharges, costs or expenses outstanding during any review and reconsideration process shall be due and payable to the City, as applicable. Further, if the decision of the City Superintendent that was reviewed is affirmed, the person that requested the review and/or appeal shall pay all of the costs incurred by the City in conducting the review, including, but not limited to, any applicable sampling and analytical costs, legal and engineering consultant costs, and costs of transcription and recording. If the decision of the City Superintendent is only partially affirmed or reversed, upon resolution of the review, any amounts due and payable to the City shall be equitably adjusted accordingly, provided that any refunds of any amounts already paid to the City by the appellant shall be retroactive to the previous 4 monthly billings only. The City may terminate wastewater treatment services if a corrective course of action is not taken or if service charges, penalties, fines, fees, surcharges, costs, or expenses are not paid by a user.

62-78.4. Finality of Action

If a written request for review is not made as provided by this Article within the periods specified by this Article, the action of the City Superintendent shall be deemed final. If a review or appeal is properly demanded, the action in question shall be suspended until a final determination has been made by the City Superintendent, except for orders to immediately cease and desist discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; and as otherwise expressly provided by this Article (such as for permit appeals, Section 62-67.15).

62-78.5. Appeals from City Superintendent' Determination

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

DIVISION 19. PROTECTION FROM DAMAGE

62-79.1. Protection from Damage

It is a misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment that is part of the POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to ninety (90) days, or both in the discretion of the court; and shall be subject to other sanctions and remedies as provided by this Article, including, but not limited to, reimbursement of the POTW as provided by Section 62-77.11 of this Article.

DIVISION 20. MUNICIPAL LIABILITY

62-80.1. Municipal Liability

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

DIVISION 21. USE OF PUBLIC SANITARY SEWERS CONDITIONAL

62-81.1. Use of Public Sanitary Sewers Conditional

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

DIVISION 22. INDUSTRIAL PRETREATMENT PROGRAM FEES

62-82.1. Purpose

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

62-82.2. IPP Fees

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

- A. Fees to reimburse the POTW for the costs of development and operation of an Industrial Pretreatment Program, and fees to reimburse the POTW for monitoring, inspections and surveillance procedures, including expenses incurred for analysis of samples.
- B. Fees for reviewing discharge reports, and for related enforcement procedures.
- C. Fees associated with permit applications, permit renewals, and permit transfers.
- D. Fees for reviewing accidental discharge procedures and construction.

- E. Such other charges or fees that the City deems necessary or required to fully perform the provisions of applicable state and federal laws or regulations, this Article, and other City laws or regulations.

62-82.3. IPP Fee Amounts

- A. Standard IPP fees applicable to all nondomestic users shall be paid by such users to the POTW in amounts determined necessary by the City Superintendent from time to time to reimburse the City for all costs and expenses incurred by the City Superintendent in administering the IPP. To the extent practical, the standard fees shall be set in an amount to include at least the POTW's average total costs for that purpose. With regard to IPP activities undertaken by the City Superintendent specifically with regard to particular users, the fees shall be charged to the users on a time and materials basis, including, but not limited to, the full value of any City staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, testing fees, and actual attorney fees and defense costs, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken for each user.
- B. If the City Superintendent determines that it is necessary to evaluate the ability or capacity of the POTW to accept any current or proposed discharge by means, including, but not limited to, a headworks analysis or treatability study, all such evaluation and analysis or other required work shall be at the sole cost of the user. Such costs shall be paid in full by the user according to the timetable and subject to any terms or conditions established by the City Superintendent, and shall be paid whether or not the discharge (or any part thereof) is ultimately approved. The City Superintendent may require the user to post a deposit or other form of surety, as determined sufficient and appropriate by the City Superintendent, to ensure payment by the user of all such costs.

62-82.4. Surcharges

- A. Surcharges are intended to reimburse the City for all costs incurred by the POTW in handling or treating a discharge that contains pollutants in excess of specified surcharge concentrations, loadings or other applicable limits. These costs may include, but are not limited to, the actual cost of treatment including chemical, equipment, and personnel costs.
- B. Any user exceeding applicable surcharge limitations or other applicable limits shall be subject to the imposition of one or more surcharges as provided by this Section to reimburse the POTW for any costs or expenses, direct or indirect, the POTW may incur

in handling or treating the discharge, or which may be imposed upon the City, where the exceedence of applicable limits causes or contributes to those costs or expenses.

- C. The City may establish surcharge thresholds and rates for BOD, TSS, phosphorous, ammonia nitrogen and any other pollutant parameter for which a surcharge determined appropriate by the City Superintendent. These thresholds and rates shall be established, reviewed, calculated, and/or determined from time to time, as determined appropriate by the City.
- D. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements shall constitute a violation of this Article, subject to applicable fines, penalties and other enforcement actions provided by this Article. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Article.

62-82.5. Billing and Collection of IPP Fees

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

DIVISION 23. SEWER SERVICE CHARGES, RATES, AND FEES

62-83.1. Purpose and Establishment of User Rates and Charges For Sewer Service

Rates and charges for the installation of, connection to, and use of the POTW are hereby established for the purpose of recovering the cost of construction, reconstruction, maintenance, repair, operation, depreciation, and replacement of the POTW; providing for such other expenditures and funds for the system as this Article may require; and providing a reasonable rate of return of the City's investment in the POTW. Such rates and charges along with other miscellaneous rates and charges shall be reviewed and established annually through the Rate Study by resolution of the City Council in accordance with the current Rate Setting Methodology, as necessary to produce these amounts.

62-83.2. User Rates and Charges

- A. Rates and charges for sewage disposal service furnished by the POTW established as provided in Section 62-83.01 shall be designed to produce revenues that are proportionate to the cost of providing service to each User within the City limits.
- B. The City Council may establish different types of charges or rate components as it determines necessary and appropriate to meet the purposes of this Division and consistent with Good Utility Practices, including, but not limited to, commodity charges, readiness-to-serve charges, lateral benefit charges, preinspection and inspection charges, connection charges, and may also establish miscellaneous rates or charges for special services other than for operation, maintenance, and replacement costs or local capital costs.
- C. For premises located within the corporate limits of the City, charges shall be based on the Rate Setting Methodology as set by the City in the annual Rate Study. Charges for wastewater treatment furnished by the City to premises outside the corporate limits of the City shall be fixed by agreement between the City and the governmental unit receiving the service.
- D. Rates and charges for sewage disposal service shall be charged to all persons or entities within or without the City limits using the POTW. Free service is prohibited. No free service shall be provided to anyone for any purpose under any circumstances.
- E. The rates and charges provided for by this Division shall be in addition to the IPP Fees established by Division 22 of this Article.

62-83.3. Determination of User Charges; Meters

- A. For Users located within the corporate limits of the City, user charges shall be based on water consumption at the User's premises as determined by a water meter located at such premises. Unless otherwise provided by the Rate Setting Methodology then currently in place, such charges shall be comprised of a readiness-to-serve charge based on meter size and a commodity charge, and such other charge components established by resolution of the City Council from time-to-time. Charges for wastewater treatment furnished by the City to premises outside the corporate limits of the City shall be determined based on the methodology agreed to between the City and the governmental unit receiving the service.

62-83.4. Annual Review of Rates and Charges

- A. The Rate Study is conducted annually as part of the annual budget process. Upon completion of the review, a report shall be prepared and presented to the City Council summarizing the review and recommending rates and charges which ensure that all the costs of the POTW will be recovered proportionately to the cost of providing service.
- B. The proposed changes in the rates and charges and related fees, penalties, and other miscellaneous charges along with explanatory materials from the annual Rate Study shall be filed with the City Clerk at least 20 days prior to the City Council's consideration of an approval resolution for public review and comment. Notice of such filing and opportunity for review and comment shall be published in a newspaper of general circulation in the City and posted on the City's website at least 20 days prior to consideration of the resolution by the City Council.

62-83.5. Payment of Bills; Delinquent Payments; Lien

- A. *Full and timely payment of bills.* The City shall bill each property owner quarterly and the property owner shall have 30 days to pay the bill in full without interest or penalty. (Bills to non-city users shall be rendered monthly and shall be payable in full without interest or penalty in 30 days.) If the bill is not fully and timely paid, the City shall add a 10% penalty to the original amount of the bill and send a revised bill with the 10% penalty along with a notice of penalty to the property owner. If sent to a city user, the notice of penalty shall be accompanied by a 30-day water service shutoff notice. If the bill has still not been paid after 60 days from the date the original bill was received by the property owner, the City may shut off and discontinue the supply of water to the premises for nonpayment. Water services so discontinued shall not be restored until such time as all charges and penalties are fully paid, along with payment by the property owner of a turn-on charge to be established from time-to-time by the City Council. Such charges and penalties may be recovered by the City from the property owner by court action in addition to any other remedy provided in this Section.
- B. *Collection as lien.* The charges and rates for sewer services provided in this Article which are under the provisions of Section 21 of Public Act No. 94 of 1933 (MCL 141.121) made a lien on all premises served thereby (unless notice is given that a tenant is responsible), are hereby recognized to constitute such a lien, and whenever any such charge against any piece of property shall be delinquent for six calendar months, the City official in charge of the collection thereof shall certify annually, on August 1 of each year, to the tax assessing officer of the City the fact of such delinquency, whereupon such

charge shall be entered upon the next tax roll as a charge against the premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. If the City is provided with notice in writing, including a copy of the lease of the affected premises, that a tenant is responsible for the sewer charges, the City may require as a condition to rendering sewer services to such premises a cash deposit equal to service charges for three calendar months as security for the payment of service charges. When the security deposit is used for payment of delinquent charges, no further service will be provided until the deposit has been repaid. The tenant and the property owners shall be notified in writing 10 days in advance of application of the deposit against the delinquent charges.

3. **Severability.** Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

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

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

6. **Publication.** This Ordinance shall be published by publishing a summary of the Ordinance in a newspaper of general circulation in the City of St. Clair, including the designation in the publication of the location in the City where a true copy of the Ordinance can be inspected or obtained, as authorized by State law.

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

Adopted this 20th day of September, 2021, by the City Council, City of St. Clair, Michigan.

On roll call, the vote was:

Yeas: Kindsvater, Kuffa, LaPorte, Paul, Volz, Cedar

Nays: Klieman

By: William E. Cedar, Jr.
Mayor, City of St. Clair

Certification

I, Annette Sturdy, Clerk of the City of St. Clair, Michigan, do hereby certify that the foregoing is a true copy of the ordinance adopted by the City of St. Clair City Council at a regular meeting held on September 20, 2021, at 7:00pm, and that it was published in the Port Huron Times Herald on September 23, 2021.

Clerk, City of St. Clair