

**CHARTER TOWNSHIP OF ANN ARBOR  
WASHTENAW COUNTY, MICHIGAN  
PART 81 – SUPPLEMENTAL SEWER USE ORDINANCE  
ORDINANCE NO. 2-2007**

The Board of Trustees of the Charter Township of Ann Arbor ordains:

**TABLE OF CONTENTS**

|  |           |
|--|-----------|
| <b>PART 81. SUPPLEMENTAL SEWER USE ORDINANCE .....</b>                           | <b>1</b>  |
| <b>81.001 Purpose and Scope. ....</b>  | <b>1</b>  |
| <b>81.064 Definitions. ....</b>  | <b>1</b>  |
| <b>81.003 Management of the POTW.....</b>  | <b>10</b> |
| <b>81.004 Waste and Wastewater Disposal.....</b>                                 | <b>10</b> |
| <b>81.004 Sewer Connections. ....</b>  | <b>12</b> |
| <b>81.005 Connection Fees.....</b>   | <b>14</b> |
| <b>81.006 Capacity Required for Connection.....</b>                              | <b>15</b> |
| <b>81.007 Prohibited Discharges.....</b>   | <b>15</b> |
| <b>81.008 Dilution.....</b>  | <b>19</b> |
| <b>81.009 Inspections. ....</b>  | <b>20</b> |
| <b>81.010 Wastewater Sampling and Analyses.....</b>                              | <b>20</b> |
| <b>81.011 Major User Sampling and Analyses. ....</b>                             | <b>21</b> |
| <b>81.012 Sampling and Analyses by Other Users. ....</b>                         | <b>23</b> |
| <b>81.013 Removal of Samples and Data.....</b>                                   | <b>23</b> |
| <b>81.014 Authority to Require Submission of Samples.....</b>                    | <b>23</b> |
| <b>81.015 Failure to Permit Access or Removal of Samples and Other Data.....</b> | <b>23</b> |
| <b>81.016 New Installation of Pretreatment Facilities. ....</b>                  | <b>23</b> |
| <b>81.017 Surveillance Report Required.....</b>                                  | <b>24</b> |
| <b>81.018 Notice of Major User Status. ....</b>                                  | <b>26</b> |
| <b>81.019 Notice of Exceedance Discharges. ....</b>                              | <b>26</b> |
| <b>81.020 Notification Regarding Wastes Which Are Otherwise Hazardous. ....</b>  | <b>26</b> |
| <b>81.021 Reports By The Director Regarding Users Affected By FCPS.....</b>      | <b>27</b> |
| <b>81.022 Reports By Users Regarding FCPS. ....</b>                              | <b>27</b> |
| <b>81.023 Radioactive Materials Notice. ....</b>                                 | <b>28</b> |
| <b>81.024 Maintenance of Records. ....</b>                                       | <b>28</b> |
| <b>81.025 Permit Application. ....</b>   | <b>28</b> |
| <b>81.026 Permit Issuance (Major Users). ....</b>                                | <b>29</b> |
| <b>81.027 Permit Term.....</b>   | <b>30</b> |
| <b>81.028 Permit Modifications.....</b>  | <b>30</b> |
| <b>81.029 Permit Conditions. ....</b>  | <b>30</b> |
| <b>81.030 Permit Fees.....</b>   | <b>31</b> |
| <b>81.031 Permit Revocation.....</b>   | <b>31</b> |
| <b>81.032 Compliance With Permit.....</b>  | <b>32</b> |
| <b>81.033 Limitations of Permit Transfer.....</b>                                | <b>32</b> |
| <b>81.034 Confidential Information.....</b>                                      | <b>32</b> |
| <b>81.035 General Standards for Pretreatment.....</b>                            | <b>33</b> |

3-19-07 As Adopted

|               |  |           |
|---------------|--|-----------|
| <b>81.036</b> | <b>Pretreatment.....</b>   | <b>34</b> |
| <b>81.037</b> | <b>Pretreatment Compliance.....</b>                                  | <b>34</b> |
| <b>81.038</b> | <b>Federal Categorical Pretreatment Standards (“FCPS”).....</b>      | <b>35</b> |
| <b>81.039</b> | <b>Containment Facilities.....</b>                                   | <b>35</b> |
| <b>81.040</b> | <b>Surcharges.....</b>   | <b>35</b> |
| <b>81.041</b> | <b>Upset Liability.....</b>  | <b>36</b> |
| <b>81.042</b> | <b>User Responsibility in Case of Upset.....</b>                     | <b>37</b> |
| <b>81.043</b> | <b>Bypass.....</b>   | <b>37</b> |
| <b>81.044</b> | <b>Powers of the Director.....</b>                                   | <b>38</b> |
| <b>81.045</b> | <b>Notice of Violation.....</b>                                      | <b>39</b> |
| <b>81.046</b> | <b>Orders.....</b>   | <b>39</b> |
| <b>81.047</b> | <b>Types of Orders.....</b>  | <b>39</b> |
| <b>81.048</b> | <b>Disconnection.....</b>  | <b>40</b> |
| <b>81.049</b> | <b>Informal Conference.....</b>                                      | <b>41</b> |
| <b>81.050</b> | <b>Right to Hearing.....</b>   | <b>41</b> |
| <b>81.051</b> | <b>Procedure for Conduct of Hearing.....</b>                         | <b>42</b> |
| <b>81.052</b> | <b>Decision of Hearing Officer.....</b>                              | <b>43</b> |
| <b>81.053</b> | <b>Judicial Review.....</b>  | <b>43</b> |
| <b>81.054</b> | <b>Continuing Offense.....</b>                                       | <b>43</b> |
| <b>81.055</b> | <b>Surcharges.....</b>   | <b>43</b> |
| <b>81.056</b> | <b>Administrative Civil Penalties.....</b>                           | <b>44</b> |
| <b>81.057</b> | <b>Violation Constitutes a Public Nuisance.....</b>                  | <b>44</b> |
| <b>81.058</b> | <b>Civil Judicial Relief.....</b>                                    | <b>44</b> |
| <b>81.059</b> | <b>Judicial Civil Penalties.....</b>                                 | <b>44</b> |
| <b>81.060</b> | <b>Criminal Penalties.....</b>                                       | <b>44</b> |
| <b>81.061</b> | <b>Cumulative Remedies.....</b>                                      | <b>44</b> |
| <b>81.062</b> | <b>Responsible Corporate Directors, Officers, and Employees.....</b> | <b>45</b> |
| <b>81.063</b> | <b>Lien for Charges and Fees.....</b>                                | <b>45</b> |
| <b>81.064</b> | <b>Publication of Significant Violators.....</b>                     | <b>45</b> |
| <b>81.065</b> | <b>Falsifying Information.....</b>                                   | <b>46</b> |
| <b>81.066</b> | <b>Conflict With Existing Ordinances.....</b>                        | <b>46</b> |
| <b>81.067</b> | <b>Savings Provision.....</b>  | <b>46</b> |

**PART 81. SUPPLEMENTAL SEWER USE ORDINANCE**

**81.001 Purpose and Scope.**

**Section 1**

- (1) The purpose of this Ordinance is to establish standards, rules, and regulations with respect to the use of the Public Sewers and the Publicly Owned Treatment Works (“POTW”) as defined in Section 2(44) below and to prevent the pollution of the environment. This Ordinance is intended to be substantially identical to Chapter 28 of the City of Ann Arbor City Code.
- (2) This Ordinance provides for the regulation of discharges into the Public Sewers and the POTW through the issuance of permits to Major Users and through enforcement of the Ordinance requirements through administrative, civil and criminal penalties. This Ordinance authorizes monitoring and enforcement activities and requires discharger reporting.

**81.064 Definitions.**

**Section 2.** For the purposes of this Ordinance, the following words and phrases shall have the meanings described in this Part unless the context in which they are used specifically indicates otherwise:

- (1) “Act” - The term “Act” shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- (2) “B.O.D.” - Biochemical Oxygen Demand shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C., expressed in milligrams per liter.
- (3) “Building” – means either (a) the occupiable portion of any structure isolated from other portions by means of a firewall, or (b) when referring to a multiple dwelling unit structure: a single roofed structure supported through exterior walls, to a single integrated, tied, common foundation, except when separated by a firewall, or (c) when referring to a single dwelling unit: a structure located upon a separate lot where all the habitable interior floor space may be accessed without going outside.
- (4) “Building Code” means the Ann Arbor Charter Township Building Code.
- (5) “Building Sewer” – means a completely isolated sewer extending from the public sewer to the entrance point of a building.
- (6) “Bypass” - shall mean the intentional diversion of waste streams from any portion of a User’s treatment facility.

3-19-07 As Adopted

(7) “Categorical Pretreatment Standards” (also “Federal Categorical Pretreatment Standard” or “FCPS”) - shall mean national pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into a POTW by a specific category of Industrial Users described in those standards. Categorical Pretreatment Standards include the following categorical standards and those which were later promulgated by U.S. EPA, along with amendments to the existing or later promulgated EPA Effluent Guidelines and Standards for:

Dairy Products (40 CFR 405)

Grain Mills (40 CFR 406)

Canned and Preserved Fruits and Vegetables Processing (40 CFR 407)

Canned and Preserved Seafood Processing (40 CFR 408)

Sugar Processing (40 CFR 409)

Textile Mills (40 CFR 410)

Cement Manufacturing (40 CFR 411)

Feedlots (40 CFR 412)

Electroplating (40 CFR 413)

Organic Chemicals Plastics, and Synthetic Fibers (40 CFR 414)

Inorganic Chemicals (40 CFR 415)

Soaps and Detergents (40 CFR 417)

Fertilizer Manufacturing (40 CFR 418)

Petroleum Refining (40 CFR 419)

Iron and Steel Manufacturing (40 CFR 420)

Nonferrous Metals (40 CFR 421)

Phosphate Manufacturing (40 CFR 422)

Steam Electric Power Generating (40 CFR 423)

Ferroalloy Manufacturing (40 CFR 424)

Leather Tanning and Finishing (40 CFR 425)

3-19-07 As Adopted

Glass Manufacturing (40 CFR 426)

Asbestos Manufacturing (40 CFR 427)

Rubber Processing (40 CFR 428)

Timber Products (40 CFR 429)

Pulp, Paper and Paper Board (40 CFR 430)

Builders Paper and Board Mills (40 CFR 431)

Meat Products (40 CFR 432)

Metal Finishing (40 CFR 433)

Coal Mining (40 CFR 434)

Offshore Oil and Gas Extraction (40 CFR 435)

Mineral Mining and Processing (40 CFR 436)

Pharmaceutical Manufacturing (40 CFR 439)

Ore Mining and Dressing (40 CFR 440)

Paving and Roofing Materials (40 CFR 443)

Paint Formulating (40 CFR 446)

Ink Formulating (40 CFR 447)

Gum and Wood Chemicals Manufacturing (40 CFR 454)

Pesticide Chemicals Manufacturing (40 CFR 455)

Explosives Manufacturing (40 CFR 457)

Carbon Black Manufacturing (40 CFR 458)

Photographic Processing (40 CFR 459)

Hospitals (40 CFR 460)

Battery Manufacturing Point Source Category (40 CFR 461)

Plastics Molding and Forming (40 CFR 463)

Metal Molding and Casting (40 CFR 464)

3-19-07 As Adopted

Coil Coating (40 CFR 465)

Porcelain Enameling (40 CFR 466)

Aluminum Forming (40 CFR 467)

Copper Forming (40 CFR 468)

Electrical and Electronic Components (40 CFR 469)

Nonferrous Metals Forming and Metal Powders (40 CFR 471)

- (8) “CFR” - shall mean the Code of Federal Regulations.
- (9) “Chlorine Demand” - shall mean the difference between the amount of chlorine added to water or wastewater and the amount of residual chlorine remaining at the end of a specified contact period.
- (10) “City” - shall mean the City of Ann Arbor.
- (11) “C.O.D.” - shall mean Chemical Oxygen Demand or the measure of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater, 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 B.O.D.
- (12) “Code” - shall mean the City of Ann Arbor City Code.
- (13) “Collection System” - shall mean all of the sanitary sewers, lift stations, pumps, and other equipment of the Township and the City which are primarily installed to receive wastewater and pollutants directly from Users for transmission to the POTW Treatment Plant.
- (14) “Combined Sewer” - shall mean any sewer receiving both storm water and wastewater.
- (15) “Connection” - shall mean the act of connecting a service to a tee, wye, saddle, riser or stubbed lead.
- (16) “Construction” - shall mean any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises, if such equipment will in any way actually or potentially affect the quality or quantity of discharges or the measurement or analysis of a discharge.

3-19-07 As Adopted

- (17) “Daily Average” - shall mean the sum of the concentrations of a constituent for the measurement period divided by the number of days on which the discharge was sampled and analyzed in that period. The concentrations which are added are single numbers for single days for all days for which analyses are obtained (whether by the User or the City), but such concentrations 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 approved by the Director.
- (18) “Daily Maximum” - shall mean the concentration which shall not be exceeded on any single calendar day.
- (19) “Director” - shall mean the Director of the Ann Arbor Charter Township Utilities Department or his/her designee or other person designated by the Township Supervisor with approval of the Township Board to exercise control over the Collection System.
- (20) “Discharge” - shall mean the introduction of any substance into the POTW which is either intentional or unintentional. This term also includes introduction of any substance into a Natural Outlet.
- (21) “Domestic User” - shall mean a User that discharges only domestic wastes or wastes from sanitary conveniences.
- (22) “Existing Source” - shall mean any source which is not a New Source as defined in subparagraph (36) of this Section.
- (23) “Flashpoint” - shall mean the minimum temperature at which vapor combustion will spread away from its source of ignition.
- (24) “FCPS” – see Section 2(7) above.
- (25) “Footing Drain” - shall mean a pipe or conduit which is placed around the perimeter of a building foundation and for the purpose of admitting ground water.
- (26) “Garbage” - shall mean solid wastes from domestic and commercial preparation, cooking or dispensing of food, and from the handling, storage, or sale of produce.
- (27) “Groundwater” - shall mean water which is pumped or otherwise captured from the ground and which is not used in a process. Mere treatment of groundwater is not used in a process.
- (28) “Interceptor sewer lines” - shall mean those lines whose basic function is to collect wastewater from two or more separate trunk sewer lines and to transport such wastewater to the POTW Treatment Plant.
- (29) “Interference” - shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, both: (i) inhibits or disrupts the

3-19-07 As Adopted

POTW, its treatment processes or operations, or its sludge processes, use or disposal; and, (ii) therefore is a cause of a violation of any requirement of the 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), 40 CFR 503 (Standards for the Disposal of Sewage Sludge) and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

- (30) “Lateral Sewer” - shall mean a public sewer intended to serve more than one sewer connection.
- (31) “Major User” - shall mean any User of the POTW that (i) has a discharge to the POTW which averages 25,000 gallons or more per day, or (ii) is designated by the Director to potentially have an adverse impact, either singly or in combination with other Users, on the POTW, or to potentially violate any pretreatment standard, limit, or requirement, or (iii) is subject to a FCPS, or (iv) discharges wastewater which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW.
- (32) “MDEQ” - shall mean the Department of Environmental Quality of the State of Michigan or its successor.
- (33) “mg/l” - shall mean milligrams per liter.
- (34) “ug/l” - shall mean micrograms per liter.
- (35) “Natural Outlet” - shall mean any outlet into waters of the State of Michigan such as a pond, ditch, lake, stream, river, or ground water.
- (36) “New Source”
  - (a) shall mean any building, structure, facility, or installation from which there is or may be a discharge, the construction of which began after the publication of proposed pretreatment standards under Section 307(c) of the Act which will apply to the source if the standards are later promulgated provided that:
    - (i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or,

3-19-07 As Adopted

- (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge at an existing source; or
  - (iii) 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.
- (b) shall mean construction on a site at which an existing source is located which results in a modification that rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (ii) or (iii) of this section but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) shall mean construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - (i) Begun, or caused to begin, as part of a continuous on-site construction program:
    - (A) Any placement, assembly, or installation of facilities or equipment; or
    - (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
  - (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- (37) “Non-Domestic User” - shall mean a User other than a Domestic User.
- (38) “NPDES Permit” - shall mean a permit issued pursuant to the National Pollution Discharge Elimination System for the discharge of wastewater into the surface waters of the State.
- (39) “Ordinance” – shall mean the Ann Arbor Charter Township Ordinances governing Public Sewers and Sewer Use.

3-19-07 As Adopted

- (40) “Pass Through” - shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation).
- (41) “Person” - shall mean any individual, firm, municipality, company, association, society, corporation, partnership, or group, including their officers and employees who have responsibility for or actual involvement in the matters regulated by this Ordinance.
- (42) “pH” - shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.
- (43) “Pollutant” - shall mean any material which is discharged to the POTW or is proposed for discharge to the POTW. The term also includes properties of those materials such as pH and heat.
- (44) “POTW” or “Publicly Owned Treatment Works” - shall mean the treatment works, as defined by Section 212 of the Act, which are operated by the City, and the Collection System, portions of which are owned and operated by the City and portions of which are owned and operated by the Township. This term includes any devices, processes, and systems used by or for the City or the Township in the storage, treatment, recycling, or reclamation of wastewater or sludge from the Treatment Works or the Collection System.
- (45) “POTW Treatment Plant” - shall mean the POTW exclusive of the Collection System.
- (46) “Premises” - shall mean each lot or parcel of land, or building, having any connection, direct or indirect, to the POTW.
- (47) “Pretreatment” - shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited by 40 CFR Section 403.6(d) and (e) as amended.
- (48) “Public Sewer” - shall mean a common sewer controlled by the Township or the City.
- (49) “Sanitary Sewer” - shall mean a sewer which carries wastewater and to which storm water and ground water are not intentionally admitted.

3-19-07 As Adopted

- (50) “Severe Property Damage” - shall mean substantial physical damage to property, damage to the treatment facilities of a User which causes them to become all or partially inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (51) “Sewer” - shall mean a pipe or conduit for carrying wastewater, storm water, or groundwater.
- (52) “Sewage System” or “System” is the complete sanitary sewer system of the Township, including pipes, channels, conduits, manholes, pumping stations, sewage or waste treatment works, diversion and regulatory devices, outfall structures and appurtenances used or intended for use in collecting, conveying, transporting, treating or otherwise handling sanitary sewage or other industrial liquid wastes that are capable of adversely affecting the public health. As described in Part 80, the System includes the Township Sanitary Sewer Mains and Sanitary Sewer Connections, but does not include Sanitary Sewer Leads.
- (53) “Slug Discharge” - shall mean a discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.
- (54) “Source” - shall mean any building, structure, facility, vehicle, or installation from which there is or may be a discharge to the POTW.
- (55) “State Director” - shall mean the Director of The Michigan Department of Environmental Quality.
- (56) “Storm Sewer” - shall mean a sewer intended to carry only atmospheric precipitation, surface runoff, or water from footing drains, but not wastewater.
- (57) “Supervisor” - shall mean the Ann Arbor Township Supervisor or his or her designee.
- (58) “Suspended Solids” or “S.S.” - shall mean solids that either float on the surface of, or are in suspension in, wastewater and which can be removed by standard laboratory filtering.
- (59) “Tap” - shall mean the act of providing a point for connection of a service by means of a tee, wye or saddle.
- (60) “TKN” - Total Kjeldahl Nitrogen shall mean the measure of the total ammonia nitrogen present in wastewater after any organic nitrogen present has been converted to ammonia nitrogen under standard digestive procedures and expressed in milligrams per liter.
- (61) “Township” - shall mean the Charter Township of Ann Arbor, Michigan.

3-19-07 As Adopted

- (62) “Upset” - shall mean an exceptional incident in which there is unintentional and temporary non-compliance with Categorical Pretreatment Standards or other limits applicable to the User because of factors beyond the reasonable control of the User. An Upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (63) “U.S. EPA” - shall mean the United States Environmental Protection Agency or its successor.
- (64) “User” - shall mean a person who discharges into the POTW and a municipality whose Collection System discharges into the POTW.
- (65) “Utility Department” or “Department” – shall mean the Ann Arbor Charter Township Utility Department or any person or agency appointed by the Township Board to perform any of the duties of the Department under this Ordinance.
- (66) “WCHD” means Washtenaw County Health Department.
- (67) “Wastewater” - shall mean water discharged to the POTW by a User which may or may not contain other pollutants. This term does not include storm water or ground water.

### **81.003 Management of the POTW.**

#### **Section 3.**

The POTW shall be and remain under the management, supervision and control of the City (as to those portions of the POTW operated by the City) and the Township (as to those portions of the POTW operated by the Township). The City or Township, as the case may be, may employ a manager to administer the facility and may employ others deemed advisable to carry out the management and operating of the POTW. The City and the Township may make rules or orders as each determines advisable and necessary to assure the proper management and operating of the POTW. The standards and rules established in or pursuant to this Ordinance are for the preservation of the public health, safety and welfare, and to fulfill the obligations of the Township with respect to state and federal law and all applicable rules and regulations.

### **81.004 Waste and Wastewater Disposal.**

#### **Section 4**

- (1) Waste Deposits and Water Pollution. It shall be unlawful for any person to place, deposit, or permit to be deposited in any manner that creates a hazard or threat to human health or the environment upon public or private property within the Township, or in any area under the jurisdiction of the Township, any wastes, wastewater, garbage or material prohibited by this Ordinance for discharge to a sanitary sewer, storm sewer, natural drain or the POTW.

3-19-07 As Adopted

- (2) Discharges to Natural Outlets. No person shall discharge without either an NPDES permit or an exemption from NPDES requirements under applicable law to any natural outlet within the Township, or in any area under its jurisdiction, either directly or through a Township storm sewer.
- (3) Wastewater Disposal. Except as provided in this ordinance, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (4) Private System Required. All houses, buildings, or properties which are required by this Ordinance or by other authority to have sanitary or industrial wastewater facilities and are located where the POTW is not available or required as specified by the provisions of Subsection (7) of this Section, shall be equipped at the owner's expense, with suitable wastewater facilities connected to a private or public wastewater disposal system which complies with the provisions of this Section, and all applicable laws and ordinances, including the requirements of the MDEQ, the WCHD, the Michigan Public Service Commission, and other applicable Township Ordinances, including the Township Ordinance regulating Private Community Wastewater Systems. This Section shall not apply to any private system which discharges to the POTW or which discharges directly to a natural outlet by authority of a separate NPDES permit and in compliance with applicable local ordinances and state and federal laws.
- (5) Sanitary Operation Required. The owner shall operate and maintain private wastewater disposal facilities in a sanitary manner at all times in accordance with applicable laws and regulations and at no expense to the Township. The facilities shall be subject to inspection by the Township at reasonable times.
- (6) Further Requirements. No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by health officials or other applicable authorities.
- (7) Connection to Sewer Required.
  - (a) The owner of any house, building, or property which is used for human occupancy, employment, recreation, or other purposes, and abutting on any street, alley, or right-of-way in which the public sewer or the POTW is available, is required, at the owner's expense, to install and maintain suitable wastewater disposal facilities therein (as required by the Building Code) and to connect the facilities directly to the POTW (except under conditions described in (b) below) in accordance with the provisions of this Ordinance within ninety (90) days after date of official notice to do so, provided that the POTW is within two hundred (200) feet (61 meters) of the property line, or if required by the WCHD. All wastewater from these houses, buildings, or properties shall be discharged to the public sewer or the POTW. Any septic tanks, cesspools, or similar wastewater disposal

facilities shall, upon connection to the public sewer or the POTW either be emptied of wastes and refilled with suitable material to prevent collapse or removed. This subsection shall not apply to any persons served by a privately constructed, owned, operated, and maintained wastewater sewer and wastewater treatment facility which discharges directly to a natural outlet in accordance with the provisions of applicable Township Ordinances and applicable state and federal laws.

- (b) An owner of any house, building, or property in the City which is used for human occupancy, employment, recreation, or other purposes, and abutting on any street, alley, or right-of-way may indirectly connect to the POW provided either of the following conditions have been met:
  - (i) A joint use agreement exists between the City of Ann Arbor and the sewer owner that allows City of Ann Arbor residents to transport discharge to the POTW for treatment and/or disposal.
  - (ii) The owner of the house, building, or property has irrevocable permission, running with the property to be served, that allows the owner to transport discharge to the POTW for treatment and/or disposal and the Township and the City have an agreement with the sewer owner to comply with all the provisions of Chapter 28 of the City of Ann Arbor City Code and all tap fees and improvement charges have been paid.
- (8) Disconnection from Sewer. Whenever a building is abandoned or demolished, the building's sewer(s) shall be disconnected from the public sewer at the owner's expense, in a manner approved by the Township, to adequately protect the public sewer or the POTW. If the owner fails to comply, the Director in consultation with the Township Supervisor and in compliance with Part 80, may order the disconnection. Alternatively, if the owner fails to comply with the order, the Director in consultation with the Township Supervisor may have the work performed and the costs shall be assessed to the property under this Ordinance.

#### **81.004 Sewer Connections.**

**Section 5.** Except for Township Utilities Department personnel, only Township registered plumbers, licensed sewer installers, and bona fide homeowners, after first obtaining a plumbing permit, street cut permit, and sewer connection permit, or other permits if appropriate, are authorized to uncover any public sewer so that existing tees or deep sewer risers installed during public sewer construction may be utilized. The sewer connection shall be made only under the supervision of the Township Utilities Department and only after payment of the required sewer connection fee which shall be fixed by the Township in accordance with its Ordinance.

3-19-07 As Adopted

The owner(s) or the owner's agent(s) shall make application for a sewer connection on forms furnished by the Township. The permit application shall be supplemented by any plans, specifications, or other information necessary for installation of a proper connection.

- (1) All costs and expenses incidental to the installation and connection and maintenance of the building sewer and sewer connection shall be borne by the owner(s).
- (2) The Utilities Department will authorize the installation of sewer connections of the size and at the location as the applicant requests in writing, provided:
  - (a) The requests are reasonable;
  - (b) An adequate public sewer fronts the premises;
  - (c) An adequate tee or deep sewer riser does not exist for required usage;
  - (d) A good and safe excavation is provided for the Utilities Department tapping personnel by the owner(s) or the owner's agent(s);
  - (e) The minimum size connection shall be 4 inches. Any larger sized tap is considered special and may require special fittings;
  - (f) The maximum size connection shall be one standard size smaller than the public sewer (unless a variance in pipe size is approved by the Director).
  - (g) Connections into existing manholes shall be prohibited except when permitted by the Township Standard Specifications; and
  - (h) Existing tees and deep risers shall be utilized along with building sewers (stubbed) constructed to the property line at the time the public sewer was constructed.
- (3) Building sewers to serve individual properties shall be installed to the property or right-of-way line in all existing and proposed Township streets and rights-of-way, preferably during public sewer construction, but in all cases before street pavement is placed. Materials, joint, workmanship, inspection, and testing shall be equal to those of the public sewer. Records for each service constructed shall be furnished within 30 days to the Utilities Department following testing and acceptance of the work by the Director. The record shall show size measurement to the nearest downstream manhole and measurement from the public sewer to the sealed end and wooden marker of the building sewer (branch connection). These building sewers shall comply with Township Standard Specifications.
- (4) A separate and independent building sewer shall be provided for every building.

3-19-07 As Adopted

- (5) Old building sewers may be used in connection with new buildings only when they are found on examination and testing by the Director to meet all the requirements of this Ordinance.
- (6) The size, slope, alignment and materials used in the construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code and other applicable rules and regulations of the Township.
- (7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by the building drain shall be lifted by an approved means and discharged to the building sewer.
- (8) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer or the POTW.
- (9) The applicant for the sewer connection shall notify the Utilities Department when a good and safe excavation is available so that the connection can be made.
- (10) The applicant for the building sewer permit shall notify the Building Department when the building sewer is ready for inspection. The testing shall be made under the supervision of the Township.
- (11) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Director and Township Engineer or their designee.
- (12) Any development within the Township that is subject to plat or site plan approval shall be designed and developed with an adequate storm sewer system. The design of the storm sewer system shall be subject to review and approval by the Director and the Township Engineer. The above provisions shall not apply to existing structures that have footing drains presently connected to the sanitary sewers pursuant to a Township building permit issued prior to 1973. No person shall construct or continue a down spout (roof leader) or areaway drain that discharges storm water into a sanitary sewer.

**81.005 Connection Fees.**

**Section 5.** Connection fees for sewer connections shall be as set forth in Part 80 of the Township Ordinance.

3-19-07 As Adopted

### **81.006 Capacity Required for Connection.**

**Section 6.** No connection to a public sewer or the POTW shall be allowed unless there is sufficient available hydraulic and treatment capacity in the POTW for the additional wastewater from the proposed connection.

### **81.007 Prohibited Discharges.**

#### **Section 7**

- (1) General and Local Limits. No User shall discharge, cause to be discharged, or allow to be discharged into a public sewer or the POTW any of the following:
  - (a) Pollutants which create a fire or explosion hazard in a public sewer or the POTW, including, but not limited to, pollutants with a closed cup flashpoint of less than 140° Fahrenheit (60° Centigrade), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ATSM standard D-93-79 or D-93-80k (incorporated by reference, see 40 CFR § 260.11) or a Setaflash Closed Cup Tester, using the test method specified in ATSM Standard D-3278-78 (incorporated by reference, see 40 CFR § 260.11) and pollutants which cause an exceedance of 10% of the lower explosive limit (LEL) at any point within a public sewer or the POTW.
  - (b) Pollutants which result in the presence of toxic gases, vapors, or fumes within a public sewer or the POTW in a quantity that may cause acute or chronic health and safety problems for workers.
  - (c) Pollutants which cause or may cause corrosive structural damage to a public sewer or the POTW or having a pH less than 5.0 Standard Units or more than 10.0 Standard Units.
  - (d) Solid or viscous pollutants in amounts which could cause or do cause either obstruction to flow or Interference in a public sewer or the POTW.
  - (e) Any pollutant, including oxygen-demanding pollutants, released in a discharge at a flow rate and/or pollutant concentration which will cause or may cause interference in a public sewer or the POTW.
  - (f) Pollutants which may cause or do cause:
    - (i) Impairment of the strength or durability of structures in a public sewer or the POTW.
    - (ii) Restriction of hydraulic capacity of structures in a public sewer or the POTW.

3-19-07 As Adopted

- (iii) Unsafe conditions to personnel in the inspection or maintenance of structures of a public sewer or the POTW.
- (iv) Unsafe conditions to the general public, with respect to the Collection System or a public sewer.
- (g) Heat in amounts which will inhibit biological activity in a public sewer or the POTW resulting in Interference, but in no case heat in such quantities that the temperature of the flow at the POTW Treatment Plant headworks exceeds 40° Centigrade (1040 Fahrenheit) unless the State Director, upon request of the POTW, approves alternate temperature limits.
- (h) Pollutants which cause or may cause Pass Through or Interference.
- (i) Any pollutants which exceed the limitations set forth in a FCPS.
- (j) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction are capable of creating a public nuisance or a hazard to life.
- (k) Any pollutant introducing colors not removed in the POTW treatment process, such as but not limited to, dye wastes and vegetable tanning solutions.
- (l) Any discharge from any environmental cleanup that is regulated under the Michigan Environmental Response Act (1982 Public Act 307, as amended) unless approved by City council.
- (m) Any non-contact cooling water, storm water, groundwater (contaminated and uncontaminated), or surface water, unless separate POTW facilities are available and identified for the discharges or unless the Director gives written permission to the User for a temporary discharge of the waters based on hydraulic capacity and treatment impacts. Whether or not permission is given for a temporary discharge and its scope and duration shall be at the sole discretion of the Director.
- (n) Any radioactive wastes in quantities defined by applicable State and Federal regulations as harmful.
- (o) Any grease or other pollutants that will become solid or viscous at a temperature of 600 Centigrade or below after being discharged into a public sewer or the POTW.
- (p) An insoluble substance retained by a standard No. 8 sieve or having any dimension greater than 1/2 inch (1.27 centimeters).
- (q) Insoluble substances having a specific gravity greater than 2.65.

3-19-07 As Adopted

- (r) Improperly shredded garbage.
- (s) Sludge, screenings or other residues which result from a treatment process unless the Director has determined that it is amenable to treatment by the POTW without application of unusual means or expense.
- (t) Any petroleum oil or grease, non-biodegradable cutting oil, mineral oil, whether or not the oils or grease are used oils or grease.
- (u) A 7-day average flow which exceeds 2 percent of the average daily influent to the entire POTW for the previous calendar year.
- (v) Wastewater causing, alone or in combination with Wastewater from other Users, the POTW's Treatment Plant effluent to fail a toxicity test.
- (w) Discharges with concentrations greater than the following specific pollutants are prohibited:

Daily Maximum  
(24-Hour Composite)

|                        |          |
|------------------------|----------|
| BOD                    | 250 mg/l |
| Total Suspended Solids | 250 mg/l |
| Total Phosphorus       | 13 mg/l  |
| COD                    | 600 mg/l |

|  | <u>Daily<br/>Maximum</u> | <u>Instantaneous<br/>Maximum (grab)</u> |
|--|--------------------------|---|
| Total Beryllium, mg/l                                    | 0.01                     | —                                       |
| Total Cadmium, mg/l                                      | 1.0                      | —                                       |
| Chlorine demand after 30 minutes<br>detention time, mg/l | 15.0                     | —                                       |
| Total Chromium, mg/l                                     | 4.0                      | —                                       |
| Total Copper, mg/l                                       | 4.0                      | —                                       |
| Total Cyanide, mg/l                                      | 1.0*                     | —                                       |
| Total Lead, mg/l   | 0.5                      | —                                       |
| Total Mercury, mg/l                                      | 0.0002                   | —                                       |
| Total Nickel, mg/l                                       | 3.0                      | —                                       |
| Total Phenols, mg/l                                      | 0.5*                     | —                                       |
| Total Zinc, mg/l   | 3.0                      | —                                       |
| Fat, oil, and grease**                                   | —                        | 50 mg/l*                                |

\* Based on daily mean calculated from a minimum of four (4) appropriately spaced grab samples in lieu of 24-hour composite.

\*\* solvent extractable

- (2) Trucked Wastes. No wastes or wastewater shall be discharged by any User or person into a public sewer or the POTW from a vehicle which transported the waste or wastewater to the point of discharge, unless the discharge is approved in writing prior to the discharge by the Director. No wastes or wastewater shall be discharged by any User if the waste or wastewater was at any time transported by a vehicle (such as a tank truck) from its point of generation prior to discharge to a public sewer or the POTW, unless the discharge is approved in writing prior to the discharge by the Director. The Director shall specify which location must be used and any other terms and conditions for the discharges, including a requirement for a Use Permit.
- (3) Categorical Pretreatment Standards. A User shall comply with all Categorical Pretreatment Standards and any other pretreatment requirements established under 307(b), 307(c), or 402(b)(8) of the Act that are applicable to that User. If a Categorical Pretreatment Standard and another limit contained in this Ordinance or in an applicable State of Michigan pretreatment requirement regulate the same pollutant, then the more restrictive of them shall apply.
- (4) Future Conditions. Future conditions imposed on the Township by government agencies with proper jurisdiction may require subsequent amendment of this Ordinance by the Township. Where federal or state law or regulations require limits on parameters not covered in this Ordinance or an effective Use Permit or limits more stringent than those specified in this Ordinance or an effective Use Permit, the state or federal limits shall have precedence and take effect with respect to the applicable User on the later of: (i) the effective date of the federal or state limit, or (ii) the date specified for compliance with the limit.
- (5) Slug Discharge. The Director may, by written notice to a User, require that the user prepare and implement a slug control plan. The plan shall be submitted to the Director for approval as specified in the written notice. The plan shall contain at least the following:
  - (a) a description of discharge practices including non-routine batch discharges;
  - (b) a description of stored materials;
  - (c) procedures for immediately notifying the Director of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five (5) days;
  - (d) procedures to prevent adverse impacts 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,

3-19-07 As Adopted

worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

- (6) Special Agreements. Nothing in this section shall be construed as preventing a special agreement between the Township, the City and any User, which may be in the form of a Use Permit, whereby wastewater otherwise prohibited by this section is accepted into a public sewer or the POTW and other special arrangements are made between the Township, the City and any User. The special arrangements may include, but are not limited to, pollutant concentration discharge limitations different than those provided in this Section. The Township and the City shall consider the treatment capacity and treatment capabilities of the POTW in developing discharge limitations for a special agreement. Pollutant concentration discharge limits shall not violate limits specified in Federal Categorical Pretreatment Standards. Neither the Township nor the City shall be obligated to enter into a special agreement but may do so in their joint discretion. A special agreement shall not create any vested rights or property rights for the User. A special agreement shall not create rights to discharge to the POTW which the User would not have in the absence of a special agreement. The special agreement may be terminated or modified at will by the Township and the City. Provisions relating to termination or modification of a special agreement may be more fully set forth in the special agreement. As a condition to the issuance of or entry into a special agreement, the Township and the City shall require the User to sign an acknowledgement and acceptance of the provisions of this subsection. The agreement or arrangement may contain provisions for the User to pay a surcharge to the Township and the City. A violation of the terms of any special agreement shall be a violation of this Ordinance.
- (7) Reserved Right of Revision. The Township reserves the right to establish by ordinance more stringent limitations or requirements on discharges to a public sewer or the POTW.

### **81.008 Dilution.**

**Section 8.** No Discharger shall increase the use of water in any way, where one of the purposes of the increase is for diluting the discharge as a partial or complete substitute for adequate treatment before discharge to a public sewer or the POTW to achieve compliance with the requirements set forth in this Ordinance, except upon prior written approval from the Director which approval shall be in the sole discretion of the Director and must be consistent with federal and state law.

**Section 9**

- (1) Authority of Inspectors. Authorized representatives of the Township or the City exhibiting proper credentials and identification shall be permitted at all reasonable times to enter all User's properties for the purposes of inspection, observation, measurement, sampling, and testing in connection with the administration of and in accordance with the provisions of this Ordinance.
- (2) Safety Rules of User. While on the property of the User, the authorized representatives of the Township or the City shall observe all reasonable safety rules applicable to the premises established by the User.
- (3) Other Inspection. Inspection by state or federal representatives pursuant to law shall not relieve a User from inspection by Township or City representatives, and inspection by the Township or City representatives shall not relieve any User from compliance with lawful inspection by state and federal representatives.

**81.010 Wastewater Sampling and Analyses.**

**Section 10**

- (1) The prohibitions and restrictions in 81.007, or as set forth in a Special Agreement (which may be a Use Permit), shall apply at the point where wastewater and pollutants are discharged or caused to be discharged into a public sewer or the POTW and required pretreatment shall be effected before that point is reached.
- (2) All measurements, tests, and analyses of the characteristics of the discharge shall be determined in accordance with the current edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, most current American Society for Testing Material (ASTM), and E.P.A.-approved procedures contained in 40 CFR, Part 136, or any validated methods from recognized authority in cases where the above referenced procedures are not available or do not apply to the characteristic involved, or another method accepted by the Director.
- (3) Sampling for Daily Average shall be 24-hour flow proportioned composite samples except that a minimum of four (4) grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for a single day for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of four (4) grab samples may be used in lieu of the flow proportioned composite sample if the User demonstrates to the Director that representative samples will be obtained.

3-19-07 As Adopted

- (4) Sampling for Daily Maximum shall be a 24-hour flow proportioned composite sample except that a minimum of four (4) grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of four (4) grab samples may be used in lieu of the flow proportioned composite sample if the User demonstrates to the Director that a representative sample will be obtained.
- (5) If sampling performed by an Industrial User indicates a violation, the User shall notify the Township and the POTW within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Township and the POTW within 30 days of becoming aware of the violation, except the Industrial User is not required to resample if:
  - (a) the Township or the POTW performs sampling at the Industrial User at a frequency of at least once per month, or
  - (b) the Township or the POTW perform sampling at the User between the time when the User performs its initial sampling and the time when the User receives the results of this sampling.

#### **81.011 Major User Sampling and Analyses.**

**Section 11.** Unless otherwise modified by a Use Permit, the following shall apply:

- (1) Subject to events beyond the control of the Major User, Major Users shall sample or cause to be sampled their discharge by composite flow proportioned sampling. Dilution is prohibited (81.008). The Major User shall submit a written description of the specific sampling method, sampling equipment, sampling frequency and sampling location to the Director and obtain the approval of the Director. For Users with a new source, this approval shall be obtained prior to commencement of the discharge. Major Users discharging as of the effective date of this Section shall obtain the approval within ninety (90) days of that effective date.
- (2) Major Users may request to not perform self-monitoring, and upon approval by the Township and the City, the Township or City will obtain samples using composite flow proportioned sampling or will contract with an independent firm for the sampling. Dilution is prohibited (81.008). The Major User shall pay a sampling fee to the Township and the City to fully reimburse the Township and the City for the sampling, including administrative and overhead costs. If the Township or City contracts with an independent firm for the sampling, the Major User shall pay the Township or City for amounts paid or to be paid by the Township or the City to the independent firm plus any related administrative and overhead costs.

3-19-07 As Adopted

- (3) Samples shall be analyzed at the sole cost of the Major User. If a Major User does its own sampling or causes its samples to be taken, then the User shall submit the samples to a laboratory (which may be the Major User's own laboratory) approved by the Township and the City for analysis. If the Major User uses its own laboratory, that Major User shall send a split sample to an independent laboratory at least quarterly as a quality control check. If a Major User does its own sampling and/or analysis, the Township and the City may also take and have analyzed up to four (4) daily composites or up to four (4) grabs per day for up to four (4) days at the sole cost of the Major User in any calendar month. If the Township or the City takes the samples, the Township or City, in its sole discretion, may analyze the samples in its own laboratory or contract with an independent laboratory for the analysis.
- (4) The date when a sample is taken, start time, stop time, sample location, sampler programming information, and persons involved in the sampling shall be recorded by the Major User if the Major User is self-monitoring.
- (5) Flow measurements shall be taken to determine the daily discharge volume in a manner and with equipment approved by the Director.
- (6) All analytical results shall be submitted to the Township and City by the fifteenth (15th) day following the completion of the reporting frequency if the Major User does self-monitoring. Upon request of the Major User, the Township and City shall provide copies of analytical results to the Major User if the Township or City performs the monitoring.
- (7) The Township or City shall be provided with splits of any sample taken by a Major User if the Township or City requests a split sample. A Major User shall be provided with splits of any sample taken by the Township or City if the Major User requests a split sample prior to the time the sample is taken. Split samples shall be provided at the time the sample is taken, if possible.
- (8) A Major User (who is performing self monitoring) or the Director (if the Major User is not performing self monitoring) shall contract with an independent company to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor that Major User. The maintenance, repair, and calibration shall be performed as necessary so that monitoring data is accurate and representative, but in no event less frequently than twice in a calendar year at reasonable intervals. The Director, in any event, may inspect and test a Major User's flow meters at reasonable times. The Township and City may exempt a Major User from some or all of the requirements of this paragraph if the Major User demonstrates that accurate and representative monitoring data is being collected.

3-19-07 As Adopted

**81.012 Sampling and Analyses by Other Users.**

**Section 12.** The Director may require any other User to install a suitable control structure and necessary measuring and sampling devices to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW. The structure and devices shall be constructed and installed at the User's expense in accordance with plans submitted to the Director, and shall be maintained by the User to (a) be safe and accessible during all reasonable time; and (b) provide accurate and representative monitoring data. If the User fails to install the required structures or devices, or maintain them, the Township or City may do so at the expense of the User.

**81.013 Removal of Samples and Data.**

**Section 13.** The Township and City shall have the right to take and remove samples of wastewater and pollutants discharged into a public sewer or the POTW and make copies of other data and materials concerning the same inspected during an entry upon the User's property. If the Township or City requests that the User make photocopies of documents, the Township shall give the User at least twenty-four (24) hours notice to make copies for the Township, but this notice requirement does not affect the rights of the Township or City to immediately copy data or other materials.

**81.014 Authority to Require Submission of Samples.**

**Section 14.** The Director may require any User to submit one or more representative samples of the wastewater discharged or which it proposes to discharge into a public sewer or the POTW.

**81.015 Failure to Permit Access or Removal of Samples and Other Data.**

**Section 15.** In the event a User refuses to permit access to an authorized Township or City representative or permit the representative to obtain, take, and remove samples and make copies of other data pursuant to this Section, the Township or the City may take any or all of the following actions:

- (1) Order the termination of the discharge of wastewater to a public sewer or the POTW.
- (2) Order the User to permit access within a time certain.
- (3) Issue a citation or notice or order for a violation of this regulation.

**81.016 New Installation of Pretreatment Facilities.**

**Section 16**

- (1) Notices. The User or its authorized agent shall notify the Director in writing within five (5) days after the completion of a new installation of pretreatment facilities of the time it intends to initiate operation of them. The User shall notify

3-19-07 As Adopted

the Director of when start-up of new facilities will occur, the time, and the person who will conduct any tests to be performed. The pretreatment facilities shall not be placed in regular operation until the tests have been conducted to establish that the discharges will be in compliance with this Ordinance.

- (2) Tests By Users. A representative of the Township and the City shall be permitted to witness the tests. The cost of the tests shall be paid by the User of the facilities.

### **81.017 Surveillance Report Required.**

**Section 17.** The Director, by written order, may require any Non-Domestic User to submit periodic reports in a format specified by the Township which shall include information on the quality and quantity of wastewater and pollutants discharged into a public sewer or the POTW. The report shall include the volume of wastewater and concentration of pollutants, and be related to pretreatment standards as shall be required by the Director. The names of all person(s) responsible for operating and maintaining any pretreatment equipment or pretreatment processes, or responsible for wastewater management at the User's facilities shall be listed in the report with a brief description of each person's duties. The Director may also require additional information from Users as to materials or substances which may be discharged to the POTW.

- (1) Mandatory Report. The Director shall notify each Major User that it is required to file Surveillance Reports.
- (2) Initial Report. Each Non-Domestic User which has been notified of its obligation to file Surveillance Reports shall file an initial report within sixty (60) days from the date the notice is served upon the User.
- (3) Monthly Reports. Each Non-Domestic User so notified by the Director may be required to file monthly Surveillance Reports by the fifteenth (15th) day of the following month for the preceding month.
- (4) Quarterly Reports. Each Non-Domestic User required to submit quarterly Surveillance Reports shall submit the same before January 31, April 30, July 31, and October 31 of each year for the quarter ending on the last day of the preceding month.
- (5) Semi-Annual Reports. Each Non-Domestic User required to submit semi-annual Surveillance Reports shall submit the same in June and December each year, for the preceding six (6) calendar months.
- (6) Special Reports. A Non-Domestic User may be required to submit special reports with conditions as defined by the Director.
- (7) Report on Changed Discharge. Each Non-Domestic User shall promptly notify the Director in advance of any substantial change in the volume or character of pollutants in its discharge, including the hazardous wastes for which the Non-Domestic User has submitted an initial notification under Section 81.019.

3-19-07 As Adopted

(8) Signature on Reports. The Surveillance Reports referred to in this Section shall be signed as follows:

- (a) By a responsible corporate officer, if the User submitting the reports is a corporation. A 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 operation facilities employing more than 250 persons, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) By a general partner or proprietor if the User submitting the reports is a partnership or sole proprietorship respectively.
- (c) By an authorized representative of the individual designated in paragraph (a) or (b) if:
  - (i) The authorization is made in writing by the individual described in (a) or (b);
  - (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
  - (iii) The written authorization is submitted to the Director.
- (d) If an authorization under (c) 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, a new authorization satisfying the requirements of (c) must be submitted to the Director prior to or together with any reports to be signed by an authorized representative.

(9) Any person signing a report or an application submitted due to this Ordinance shall make the following certification:

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

3-19-07 As Adopted

significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

### **81.018 Notice of Major User Status.**

**Section 18.** All Non-Domestic Users shall promptly notify the Township, in advance if possible, of a discharge which may convert the User into a Major User. Where a change in discharge may convert the User into a Major User, the User shall promptly submit an application for a Permit to the Township.

### **81.019 Notice of Exceedance Discharges.**

**Section 19.** All Non-Domestic Users shall orally report to the Director as soon as possible any discharges, whether intentional, accidental, or otherwise, which are known or reasonably suspected to exceed the limits established by this Ordinance, in a Use Permit, in any other special agreement, in a FCPS, or in any other applicable law or regulation.

- (1) Notice. Notice shall be given in advance whenever possible and contain available information regarding the discharge, volume, duration, constituents, cause, loading and concentrations, actions taken or to be taken to prevent future exceedances, and other available information as may be necessary to determine what impact the discharge may have on the POTW. The User shall provide a follow-up notice in writing within five (5) days of the oral notice which contains the information provided orally and other relevant information as noted in the preceding sentence.
- (2) Posting of Permit and Notice of Exceedance Information. All Non-Domestic Users shall post a clearly legible set of instructions in the area where the User manages wastewater so that the report and notice requirements of this Section are made known and are available to the User's employees. A User shall also post the User's Permit along with these instructions if the User holds a Permit. A User shall instruct its employees who have wastewater responsibilities on the reporting and notice requirements of this Section so that they are familiar with them.

### **81.020 Notification Regarding Wastes Which Are Otherwise Hazardous.**

**Section 20.** Any Non-Domestic User that discharges to a public sewer or the POTW any substance which, if disposed of other than by discharge to a public sewer or the POTW, would be a hazardous waste under 40 CFR 261 or under the rules promulgated under the Michigan Hazardous Waste Management Act ("Michigan Rules") shall notify the Director, the U.S. EPA Region V Waste Management Division Director, and the Chief of the Waste Management Division of the Michigan Department of Natural Resources of the discharge. The notice shall be given within 180 days after the discharge first occurs. The notice shall be in writing and shall include the name of the hazardous waste set forth in 40 CFR 261 or the Michigan rules and the type of discharge (continuous, batch, or other). If the Non-Domestic User discharges more than 100 kilograms of hazardous waste per calendar month to a public sewer or the POTW, the notice

3-19-07 As Adopted

shall also contain the following information to the extent the information is known and readily available to the Non-Domestic User:

- (1) An identification of the hazardous constituents contained in the wastes.
- (2) An estimation of the mass and concentration of the hazardous constituents in the discharge during that calendar month.
- (3) An estimation of the mass of constituents expected to be discharged during the following twelve months.

Notification under this subsection must be submitted once for each hazardous waste discharged. Notification under this subsection is not required for pollutants already reported under self-monitoring by Non-Domestic Users under FCPS reporting requirements. A Non-Domestic User is exempt from notification under this subsection during a calendar month in which the Non-Domestic User discharges no more than fifteen kilograms of hazardous wastes unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). In the case of a new regulation which first regulates a substance as a hazardous waste after August 23, 1990, notification under this subsection shall be made within 90 days of the effective date of the regulation. In any notice submitted under this subsection, the Non-Domestic User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree the User has determined to be economically practical.

#### **81.021 Reports By The Director Regarding Users Affected By FCPS.**

**Section 21.** The Director shall notify all Non-Domestic Users that might be subject to FCPS of that fact and of any applicable requirements under 204(b) and 405 of the Act and Subtitles C and D of the federal Resource Conservation and Recovery Act.

#### **81.022 Reports By Users Regarding FCPS.**

**Section 22.** Within one hundred eighty (180) days after the effective date of a FCPS, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing Non-Domestic Users subject to a FCPS which currently discharge or are scheduled to discharge into the POTW shall submit reports to the Director required by 40 CFR 403.12(b), as amended. At least ninety (90) days prior to commencement of discharge, new sources and non-domestic users that become subject to a FCPS subsequent to the promulgation of an applicable FCPS shall submit the reports to the Director requested by 40 CFR 403.12(b), as amended. Within ninety (90) days following the date for final compliance with applicable FCPS or, in the case of a New Source, following commencement of the discharge into the POTW, any Non-Domestic User subject to FCPS shall submit the reports to the Director required by 40 CFR 403.12(d), as amended. In addition, any Non-Domestic User subject to a FCPS, after the compliance date of the FCPS, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit the periodic reports to the Director required by 40 CFR 403.12(e), as amended.

3-19-07 As Adopted

### **81.023 Radioactive Materials Notice.**

**Section 23.** Users whose discharge contains or could contain radioactive materials shall notify the Director of that fact and all known information concerning the discharge as soon as possible after becoming aware of it.

### **81.024 Maintenance of Records.**

**Section 24.** Any Non-Domestic User subject to the sampling, analysis, or reporting requirements in this Ordinance, including reports under 40 CFR 403.12, as amended, shall maintain copies of the reports and records pertaining to those reports. Reports and records shall be retained by the User, and by the City if the reports and records have been submitted to the City, for at least three (3) years. This period shall be extended during the course of any unresolved litigation regarding the discharges of the User or the POTW pretreatment program or when requested by the Director, the State Director, or U.S. EPA. All Non-Domestic Users who have records regarding their generation, treatment, storage, or disposal of hazardous waste or solid waste shall maintain those records for that period and make them available to the City for inspection and copying, subject to the provisions contained in Section 81.034, Confidential Information. The terms “hazardous waste” and “solid waste” shall have the same definition as provided in the Michigan Hazardous Waste Management Act and rules promulgated thereunder.

### **81.025 Permit Application.**

**Section 25.** A Major User must have a Use Permit to discharge to a public sewer or the POTW. Every Non-Domestic and Major User shall apply for the Permit within thirty (30) days after receipt of a blank application from the Township. To establish whether a Non-Domestic User should be classified as a Major User, Non-Domestic Users shall file a permit application with the Township which will consist of the following information, to the extent required in the Permit Application.

- (1) Name, address, and location of the User.
- (2) Whether the User is a corporation, partnership, proprietorship, or some other entity (if so, what type of entity), and the name of the person(s) responsible for discharges by the User.
- (3) Standard Industrial Classification (SIC) number according to the Standard Industrial Manual, Bureau of the Budget, 1972, as amended.
- (4) Discharge constituents and characteristics including, but not limited to, toxic pollutants as determined by appropriate chemical and biological analyses. Sampling and analyses shall be performed in accordance with procedures established by the U.S. Environmental Protection Agency and contained in 40 CFR, Part 136, as amended.
- (5) Time and duration of discharges.

3-19-07 As Adopted

- (6) Average daily and instantaneous peak discharge flow rates in gallons per day, including daily, monthly, and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the Director.
- (7) The plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers, and other relevant equipment by size, location, and elevation.
- (8) Description of activities, facilities, and plant processes on the premises including all materials which are or may be discharged to a public sewer or the POTW intentionally or by accident.
- (9) Nature and concentration of any pollutants in the discharge limited by this Ordinance, together with a statement regarding whether or not compliance is being achieved with this Ordinance on a consistent basis and, if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the User to comply with this Ordinance.
- (10) Each product produced by type, amount, process or processes, and rate of production.
- (11) Type and amount of raw materials used (average and maximum per day or other relevant time period), including copies of material safety data sheets.
- (12) A list and copy of all environmental permits held by the User applicable to the site to which the Use Permit applies.
- (13) Any other information as may be deemed necessary by the Director to evaluate the permit application.

All permit applications shall be signed by the person described in 81.017(9). In the case of New Sources, the applicant shall supply estimated expected information to the extent actual data is not available. New Sources who will be Major Users shall submit a complete permit application at least ninety (90) days prior to the commencement of its discharge to a public sewer or the POTW.

**81.026 Permit Issuance (Major Users).**

**Section 26.** The Director shall evaluate the application and data furnished by the User and may require additional information from the User to complete the application. Within one hundred twenty (120) days after the submission of a complete application, the Director shall make a determination as to whether the applicant is a Major User. The Director shall notify the applicant if the Director determines the applicant is not a Major User. For a Major User, the Director shall issue or deny a Permit subject to terms and conditions of this Ordinance.

3-19-07 As Adopted

**81.027 Permit Term.**

**Section 27.** A Major User Permit shall be issued for a term not to exceed five (5) years. The Director may issue the permit for a shorter period. A permittee shall apply for re-issuance of a permit by submitting a complete application at least 180 days prior to the expiration of the existing permit. If a permittee complies with the preceding sentence, the existing permit shall continue until final action is taken by the Director on the application for renewal.

**81.028 Permit Modifications.**

**Section 28.** The Director shall have the right to amend any Permit issued by the Director in order to (1) assure compliance by the Township and the POTW with applicable laws, regulations, and the POTW NPDES Permit, (2) account for significant changes in discharges by the User, (3) account for new information concerning the pollutants discharged by the User, (4) reflect changes in federal or state laws and regulations or in Township or City ordinances, (5) in the event there are operational changes at the POTW that, as determined by the Director, require revision of the Permit, or (6) modify or terminate any special agreement provision contained in a Permit. The User shall be informed of any changes in the permit at least thirty (30) days prior to the effective date of the change, unless a shorter time is necessary to meet applicable law or to protect human health or the environment.

**81.029 Permit Conditions.**

**Section 29.** User Permit will specify the following;

- (1) Statement of duration (no more than five years).
- (2) Statement regarding transfer ability.
- (3) Statement of applicable civil and criminal penalties for violation of discharge limitations, pre-treatment requirements, and compliance schedules.
- (4) Effluent limits.
- (5) Self-monitoring, sampling, reporting, modification and record keeping requirements, including an identification of pollutants to be monitored, sampling location, sampling frequency and sample type.

User Permits may specify any or all of the following if determined to be applicable by the Township or City:

- (6) Schedule of fees and charges.
- (7) Limits on the average and maximum wastewater constituents and characteristics.
- (8) Limits on average and maximum rate and time of discharge and/or requirements for flow regulation and equalization.

3-19-07 As Adopted

- (9) Requirements for installation and maintenance of inspection and sampling facilities.
- (10) Requirements for installation and operation of discharge flow monitors.
- (11) Special conditions as the Director may require under particular circumstances for a given discharge, including sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedules.
- (12) Compliance schedules.
- (13) Requirements for submission of special technical reports or discharge reports where different from those prescribed by this Ordinance.
- (14) Requirement for notification to the Township of a discharge which exceeds a limit in the Permit, of changes in the discharge which result in the discharge of a pollutant not described in the Permit application, or in amounts in excess of the maximum described in the Permit application.
- (15) Other conditions, as determined by the Director, necessary to assure compliance with this Ordinance and other applicable laws.

**81.030 Permit Fees.**

**Section 30.** Major Users shall pay Use Permit Fees to the Township in amounts sufficient to reimburse the Township for its costs of processing the application, in administering the Permit once it is issued, and in processing renewal applications. These fees shall be set by resolution of Township Board.

**81.031 Permit Revocation.**

**Section 31.** The Director may revoke a permit during its term or deny a permit renewal if:

- (1) The permittee has failed to comply with any condition of the permit.
- (2) The permittee fails, in the permit application or during the permit issuance process, to disclose fully all relevant facts, or the permittee misrepresents any relevant fact at any time.
- (3) The Director determines that the permitted discharge endangers human health or the environment and the threat can only be abated by revocation or denial of the permit.
- (4) A change in any condition that requires either a temporary or permanent reduction or elimination of the discharge.

3-19-07 As Adopted

- (5) The permittee is in default, after having received written notice of the default, in the payment of fees or other amounts owed to the Township related to wastewater matters.
- (6) Non-compliance by the permittee with any provision of this Ordinance.

Upon revocation or denial of its permit, a User shall immediately terminate its discharge to a public sewer or the POTW.

#### **81.032 Compliance With Permit.**

**Section 32.** A User shall comply with all of the provisions of its permit. A violation of any provision of a permit is a violation of this Ordinance, subject to the penalty, damage, surcharge, and other enforcement provisions of this Ordinance.

#### **81.033 Limitations of Permit Transfer.**

**Section 33.** Major User Permits are issued to a specific User for a specific operation at a specific location and are not assignable to another User or transferable to any other location without prior written approval of the Director. The Director shall approve a Use Permit transfer and make the necessary minor modifications to the Use Permit to show the transferee as the permittee, if the following conditions exist:

- (1) Neither the transferor nor transferee have violated any provision on the Use Permit or of this Ordinance during the six (6) month period preceding the date of the transfer.
- (2) As of the date of the transfer, there are no unpaid charges or fees due to the Township from the transferor or transferee related to use of a public sewer or the POTW.
- (3) The application for the Use Permit filed by the transferor remains the same with respect to the discharge, facilities, and activities of the transferee, except as to the identity of the discharger.
- (4) The transferor provides written evidence to the Director that a copy of the Use Permit has been provided to the transferee.

#### **81.034 Confidential Information.**

**Section 34.** The following confidentiality provisions shall apply:

- (1) All information and data submitted to the Township relating to matters regulated in this Ordinance are presumed not to be confidential. Information submitted by a User shall be clearly marked on each page as to the portion or portions considered by the User to be confidential and accompanied by a written explanation of why the User considers the information confidential. Mere marking of a page as

3-19-07 As Adopted

“Confidential” does not necessarily mean that the information on that page must be kept confidential.

- (2) Information furnished to the Township on the volume or characteristics of wastewater or pollutants discharged or proposed to be discharged into a public sewer or the POTW shall be available to the public or other governmental agency without restriction. When requested by a User furnishing information, the portions of the information submitted which may disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, and/or the Pretreatment Programs; provided, however, all of that information shall be available for use by the State, any state agency or the City in judicial review or enforcement proceedings involving the User furnishing the information. The Township shall notify a User, who has requested and is entitled to confidentiality for information furnished by the User to the Township, that the Township has sent the confidential information to another governmental agency that has made a written request for it.
- (3) Where a User has mass-based limits as allowed by certain Categorical Pretreatment Standards on a production basis, the production data necessary to determine compliance must also be provided by the User to the Township and be available to the public. Where application of the combined waste stream formula is necessary to apply categorical pretreatment standards to a User, the flow measurements and other data used in the calculation must be provided by the User to the Township and be available to the public.
- (4) Observations made by Township inspectors are subject to the confidentiality provisions of this Section as if they were in writing if the User specifies in writing to the Township the observations made by the Township inspector for which the User seeks confidentiality.

### **81.035 General Standards for Pretreatment.**

**Section 35.** In the event a User discharges or proposes to discharge wastewater or pollutants to a public sewer or the POTW which are prohibited by this Ordinance, the Director may take any or all of the following steps:

- (1) Issue an Order pursuant to this Ordinance.
- (2) Impose surcharges as specified in Section 81.040. The obligations of a User under 81.036 and 81.037 and any Order concerning same, shall be subject to the terms of 81.038.

**81.036 Pretreatment.**

**Section 36.** Any User subject to an Order to pretreat shall prepare a plan to effect and achieve the pretreatment of its discharge so that the discharge shall comply with the final Order. The plan shall be submitted to the Director within the period specified in the Order. The plan shall be prepared in accordance with good engineering practices and shall state whether construction is necessary as well as identify the measures which may be implemented without construction. The plan shall propose a schedule of compliance for the completion of each of the various phases necessary to implement full pretreatment.

**81.037 Pretreatment Compliance.**

**Section 37**

- (1) Schedule of Compliance. 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 a pretreatment standard, or other limitation, prohibition, or standard.
- (2) Steps or Phases. The following steps or phases shall be included in the schedule of compliance, where applicable and appropriate:
  - (a) Retention of qualified professional services.
  - (b) Completion of any necessary engineering or scientific investigations or surveys.
  - (c) Preparation and submission of a preliminary plan to achieve pretreatment.
  - (d) Preparation of plans and specifications, working drawings, or other engineering or architectural documents which may be necessary to implement pretreatment.
  - (e) Establishment of a date to let any contract for any necessary construction.
  - (f) Establishment of completion dates for any necessary construction.
  - (g) Establishment of a date to accomplish full pretreatment required by the final Order.
  - (h) Establishment of separate timetables for a phase or unit when a phase or unit of construction or implementation may be accomplished independently of another phase or unit.
- (3) Amendment. The Order shall be subject to amendment, change, or revocation, provided notice of the action shall be served upon the User in the same manner as in the original Order and subject to the same procedure for review and appeal.

3-19-07 As Adopted

**81.038 Federal Categorical Pretreatment Standards (“FCPS”).**

**Section 38.**

- (1) Compliance Date. A User to which a promulgated FCPS applies must comply with the standard within the time period provided for in 40 CUR 403.6(b), as amended.
- (2) Net/Gross and FCPS. A User may apply to the Director for an adjustment in a FCPS to reflect the presence of pollutants in the User’s intake water in accordance with 40 CFR 403.15, as amended. In the event an adjustment is made, the adjusted FCPS shall apply, provided the adjustment will not result in Interference or Pass Through.

**81.039 Containment Facilities.**

**Section 39.** Each Non-Domestic User that uses or stores liquid material on its facilities which if discharged would be prohibited by this Ordinance shall, at its expense,

- (1) provide a storage or use area on its facilities which is capable of containing the liquid material so that, in the event of an accident, liquid material cannot escape by gravity through private sewers or otherwise into a public sewer or the POTW in an amount which would result in a prohibited discharge, and
- (2) establish and follow procedures for preventing, managing, and remediating accidental spills, leaks, or escapes of liquids.

The Director may order the Non-Domestic User to take interim measures for emergency containment if circumstances so require. Each Non-Domestic User shall submit to the Director a written description of its containment facilities and procedures within thirty (30) days after being requested to do so by the Director.

**81.040 Surcharges.**

**Section 40**

- (1) Users exceeding either:
  - (a) The limitations established by Section 81.007 where no order or permit has been issued to that User, or
  - (b) The limits contained in a pretreatment order or Use Permit applicable to that User or both, shall be subject to the imposition of one or more surcharges as provided by this Section.
- (2) A User subject to a surcharge shall reimburse the Township for any costs or expenses (direct or indirect) which the Township or City may incur in handling or

3-19-07 As Adopted

treating the discharge (or which may be imposed upon the Township or City) where the exceedance of limits causes or contributes to the costs or expenses.

- (3) The amount of the surcharge may be based upon one or more of the following:
  - (a) The volume of the discharge.
  - (b) The length of time the discharge occurred.
  - (c) The composition of the discharge.
  - (d) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of the discharge.
  - (e) The toxicity, degradability, treatability, and dispersal characteristics of the discharges.
  - (f) Costs incurred by the Township or City to treat the discharges, including operation and maintenance, capital costs, replacement costs, and sludge handling and disposal costs.
  - (g) Fines and penalties imposed on the Township or City. The surcharge may also include the costs of defense (including actual attorneys' fees, consultant fees, and sampling and analytical fees) or the Township and City of actions brought or threatened against the Township or City by the State or Federal government or third parties.
  - (h) Any damages to a public sewer or the POTW or damages imposed upon the Township by the State or Federal government or third parties.
  - (i) Any other factors as the Director deems appropriate under the circumstances.
- (4) The Director shall calculate the amount of the surcharge to be assessed against the User. The Director may waive a de minimus surcharge.

#### **81.041 Upset Liability.**

**Section 41.** In the event of an Upset, the User shall not be liable for the fines, imprisonment, or civil penalties provided for in this Ordinance, but the User is still liable to the Township and City for surcharges and damages. In any enforcement proceeding, the User seeking to establish the occurrence of an Upset shall have the burden of proof by clear and convincing evidence. A User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An Upset occurred and the User can identify the cause(s) of the Upset;

3-19-07 As Adopted

- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with appropriate and applicable operation and maintenance procedures;
- (3) The User has submitted the following information to the Township and the POTW within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five (5) days):
  - (a) A description of the discharge and cause of non-compliance;
  - (b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue;
  - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.

#### **81.042 User Responsibility in Case of Upset.**

**Section 42.** 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 includes the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

#### **81.043 Bypass.**

- (1) Notice of Bypass. If a User knows in advance of the need for a bypass, it shall submit prior notice to the Township and the POTW if possible, at least ten (10) days before the date of the bypass.
- (2) Submission Required. A User shall submit oral notice of an unanticipated bypass that exceeds applicable Categorical Pretreatment Standards and other applicable limits to the Township and the POTW within 24 hours from the time the User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Township and the POTW may waive the written report on a case-by-case basis only if the oral report has been received within 24 hours.
- (3) Prohibition of Bypass. Bypass is prohibited, and the Director may take enforcement action against a User for a bypass, unless:
  - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and,

3-19-07 As Adopted

- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. If the bypass occurred during normal periods of equipment downtime or preventative maintenance this condition is not satisfied. If adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment; and
  - (c) The User submitted notices as required under paragraph (1) or (2) of this section.
  - (d) The user must repeat the sampling and analysis and submit the results of the repeat analysis to the Township and the City within 30 days after becoming aware of the violation.
- (4) POTW Approved Bypass. The Township and the POTW may approve an anticipated bypass, after considering its adverse effects, if the Township and the POTW determine that it will meet the three conditions listed in paragraph (3) of this Section.

**81.044 Powers of the Director.**

**Section 44.** The Director, in consultation with the Township Supervisor and Township Engineer, is hereby empowered to, either directly or through others:

- (1) Supervise the implementation of this Ordinance.
- (2) Institute actions against all Users violating this Ordinance and, with the Township Attorney, institute necessary legal proceedings to prosecute violations of this Ordinance and compel the prevention and abatement of violations of this Ordinance or nuisances arising therefrom.
- (3) Review the plans for pretreatment equipment, submitted by Users.
- (4) Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered pretreatment equipment to determine compliance with the provisions of this Ordinance.
- (5) Investigate complaints of violations of this Ordinance and make inspections and observations of discharges. Record the investigations, complaints, inspections, and observations.
- (6) Issue Orders requiring compliance with this Ordinance.
- (7) Determine and assess administrative civil penalties for violations of this Ordinance.

3-19-07 As Adopted

- (8) Determine surcharges to be levied pursuant to this Ordinance.
- (9) Perform other actions necessary or advisable for the management and operation of a public sewer or the POTW and the enforcement of this Ordinance and other applicable laws and regulations.

#### **81.045 Notice of Violation.**

**Section 45.** The Director may issue a Notice of Violation with or without an Order against any User believed to be in violation of this Ordinance and determine the civil administrative penalty, if any, to be imposed.

- (1) **Service.** The Notice of Violation shall be served upon the User either by personal delivery or by first class mail addressed to the User at their billing address, except that an Immediate Cease and Desist Order may be written or oral, and may also be served by telephone.
- (2) **Content of Notice of Violation.** The Notice of Violation shall specify the following:
  - (a) Date and time of issuance.
  - (b) Date(s), time(s), and place(s) of violation and the nature of the violation.
  - (c) Possible penalties under the Ordinance.
  - (d) The right of the alleged violator to present to the Director written explanations, information, or other materials in answer to the notice, including any defenses.

#### **81.046 Orders.**

**Section 46.** Whenever the Director has determined that any User has violated this Ordinance or other applicable laws or regulations which the Township is authorized to enforce, the Director, in consultation with the Township Supervisor, may issue an Order, with or without a Notice of Violation and whether or not a Notice of Violation was previously issued, to take actions deemed appropriate by the Director under the circumstances.

#### **81.047 Types of Orders.**

**Section 47.** The following Orders may be issued by the Director in consultation with the Township Supervisor:

- (1) Immediate Cease and Desist. An Order to immediately cease and desist from discharging any wastewater or pollutant which presents or may present imminent or substantial endangerment to the health or welfare of persons or the environment, or could cause Interference with the operation of a public sewer or

3-19-07 As Adopted

the POTW. The Order shall be final and in effect until a hearing, if requested, is concluded and a final decision is made by the Director pursuant to this Ordinance. If a hearing is requested, it shall be held as soon as reasonably possible, but not to exceed five (5) calendar days after the date the request for a hearing is received by the Director. The hearing will be held only if requested by the User.

- (2) Order to Show Cause. The Director, in consultation with the Township Supervisor, may issue an Order to Show Cause why an Order to cease discharge by a certain time and date or perform other actions should not be issued. Non-payment of Use Permit fees and non-compliance with any term of a Use Permit shall constitute sufficient cause for an order to cease discharge within a time certain. The Order may contain conditions or requirements as deemed appropriate by the Director, including, but not limited to, a requirement to do the following:
  - (a) Submit samples.
  - (b) Install sampling or monitoring equipment.
  - (c) Submit reports.
  - (d) Permit access for inspection, sampling, tests, monitoring, and investigations.
  - (e) Install and operate pre-treatment equipment.
  - (f) Reduce or eliminate a discharge or pollutants in a discharge.
  - (g) Payment of Use Permit fees.
- (3) Content of Orders. Any Order issued by the Director shall contain the facts and reasons and grounds for its issuance, and the remedial action ordered as well as the time within which the action shall be taken. No Order is insufficient for inconsequential errors and omissions in the facts or reasons and grounds for the Order. If any User believes the content of the Order to contain insufficient information, it may ask the Director for additional information. Multiple Orders may be issued simultaneously or in combination as a single Order by the Director with respect to a single User.

#### **81.048 Disconnection.**

**Section 48.** The Director, in consultation with the Township Supervisor, may disconnect a User from a public sewer or the Collection System if the User violates any provision of a final Order or an issued Immediate Cease and Desist Order (whether final or not).

3-19-07 As Adopted

**81.049 Informal Conference.**

**Section 49.** An informal conference with the Director and the Township Supervisor or their designees may be requested in writing, in a format and with information substantially conforming to requirements designated by the Township, by any User believing itself aggrieved by any notice of violation, order, surcharge, penalty, or action on a Permit by the Director within five (5) calendar days after the notice of violation, order, notice of a surcharge, penalty, or action on a Permit has been served upon the User. The request for an informal conference shall be submitted to the Township. The purposes of the informal conference are to discuss the matter by which the User believes itself aggrieved and to attempt to reach a settlement of the matter agreeable to the User and the Township. The Township is not required to reach any conclusion or provide a decision as a result of an informal conference. If a request is received, the Township shall hold the informal conference within ten (10) calendar days of receipt of the request. A User is not required to request or participate in an informal conference as a precondition to requesting and participating in a hearing under Section 80.050, nor is a User required to request or participate in a hearing under Section 80.050 as a pre-condition to requesting and participating in an informal conference. If a hearing is held under Section 80.050, the hearing is not an appeal from an informal conference.

**81.050 Right to Hearing.**

**Section 50.** A hearing before a hearing officer may be requested in writing, in a format and with information substantially conforming to requirements established by the Township, by any User believing itself aggrieved by any notice of violation, order, surcharge, penalty, or action on a Permit by the Director within thirty (30) calendar days after the notice of violation, order, notice of a surcharge, penalty, or action on a Permit has been served upon the User. If an informal conference has not been requested by the User, the request shall be made within fifteen (15) calendar days of service. The request for a hearing shall be submitted to the Director.

A hearing fee of \$600.00 must accompany any request for a hearing filed under this Section.

If a hearing is not demanded within the time period provided herein, the action taken by the Director shall be deemed final. In the event a hearing is demanded, the action shall be suspended until the hearing is completed; provided, however, that Immediate Cease and Desist Orders issued pursuant to this Ordinance shall not be suspended.

- (1) Hearing Officer. The Township Supervisor shall be the hearing officer. The hearing officer may retain one or more persons (“Expert(s)”) who are not employees of the Township to advise the hearing officer in matters related to the hearing. The Expert(s) may or may not participate in the presentation of evidence and arguments. If the Expert(s) prepares a written report or opinion, the parties to the hearing shall be given an opportunity to review it and submit written comments on it.

3-19-07 As Adopted

- (2) Time. The hearing shall be promptly scheduled to commence at the earliest practicable date, but not later than thirty (30) days after receipt of the request unless extended by mutual written agreement.
- (3) Content of Request for Hearing. Any written request for a hearing shall be signed by the User requesting the hearing or by a duly authorized officer, agent, or attorney, shall be directed to the Township Supervisor, and shall contain the following:
  - (a) The name and address of the User requesting the hearing.
  - (b) A copy of the notice of violation, order, or the notice of any surcharge, penalty, or action on a Permit.
  - (c) A statement of the defenses and issues to be raised at the hearing.

### **81.051 Procedure for Conduct of Hearing.**

**Section 51.** Hearings on any notice of violation, order, notice of surcharge, penalty, or action on a Permit issued by the Director shall be conducted under the procedure set forth in this Section.

- (1) Rules of Evidence. Hearings shall be informal and need not be conducted according to the strict technical rules relating to evidence and witnesses.
- (2) Oral Evidence. Oral evidence shall be taken only on oath or affirmation.
- (3) Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence.
- (4) Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs.
- (5) Exclusion of Evidence. Irrelevant and unduly repetitious evidence may be excluded by the Hearing Officer.
- (6) Rights of Parties. At the hearing, each party shall have the following rights:
  - (a) To call and examine witnesses on any matter relevant to the issues of the hearing.
  - (b) To introduce documentary and physical evidence.
  - (c) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.
  - (d) To impeach any witness regardless of which party first called the witness to testify.

3-19-07 As Adopted

- (e) To rebut adverse evidence.
- (f) To representation of his or her choice.
- (7) What May Be Noticed. In reaching a decision, official notice may be taken either before or after submission of the case for decision of any fact, law, or regulation which may be judicially noticed by the courts of this state.
- (8) Inspection of the Premises. The hearing officer may inspect any building or premises involved in the hearing.
- (9) Record. An audio record of the proceedings shall be made. A transcript of the proceedings shall be made available to all parties upon request and upon payment by the requesting party of the costs of transcription.

#### **81.052 Decision of Hearing Officer.**

**Section 52.** The hearing officer shall review the evidence and within fifteen (15) days after the close of the hearing, issue a written decision.

- (1) Form of Decision. The decision shall contain findings of fact, a decision on each of the points raised by the User, and an explanation of the reasons for the decision. A copy of the decision shall be delivered personally or sent by first class mail to the User.
- (2) Effective Date of Decision. The effective date of the decision shall be as stated in the written decision.

#### **81.053 Judicial Review.**

**Section 53.** Appeals from the decision of the Hearing Officer shall be made to a court of competent jurisdiction as provided by law.

#### **81.054 Continuing Offense.**

**Section 54.** Each and every day, or portion thereof, of any violation of this Ordinance or a Use Permit or a final Order issued under this Ordinance by any User shall constitute a separate and new violation by the User and shall subject the User to the penalties and enforcement provision of this Ordinance, including criminal penalties for intentional violations of this Ordinance or knowingly providing false information to the Township.

#### **81.055 Surcharges.**

**Section 55.** In addition to imposition of penalties for violations, a User violating this Ordinance, a Use Permit, or a final Order shall be subject to one or more surcharges under this Ordinance.

3-19-07 As Adopted

**81.056 Administrative Civil Penalties.**

**Section 56.** Any User violating this Ordinance, a Use Permit, or a final Order is subject to an administrative civil penalty to be determined and assessed by the Director not to exceed Five Hundred Dollars (\$500.00) per day per violation. The Director, in calculating the amount of the penalty, shall consider the frequency of violations by the User, the impact of the violation on a public sewer or the POTW and human health and the environment, the magnitude of the violation, and other factors believed appropriate by the Director.

**81.057 Violation Constitutes a Public Nuisance.**

**Section 57.** Violations of this Ordinance, a Use Permit, or a Final Order are hereby declared to constitute a public nuisance.

**81.058 Civil Judicial Relief.**

**Section 58.** The Director is hereby empowered, with the Township Attorney, to institute legal proceedings in a court of competent jurisdiction for the abatement of any nuisance, and to seek relief for violations of this Ordinance, a Use Permit, or a final Order. The Director may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief as a Court may order. The Director may also seek collection of surcharges and penalties which the User has not paid. The Director, with the Township Attorney, may seek other relief, including non-judicial relief

**81.059 Judicial Civil Penalties.**

**Section 59.** In any action brought by the City against a User for violation of this chapter, a use permit, or a final order, a court of competent jurisdiction may impose a civil penalty of up to \$500.00 per day per violation. The \$500.00 shall be adjusted upwards as of the effective date of State of Michigan legislation which authorizes a home rule city to impose penalties higher than \$500.00. The adjustment shall be to the maximum amount then authorized by the laws of the State of Michigan.

**81.060 Criminal Penalties.**

**Section 60.** Any user who violates any provision of this chapter or a use permit or a final order issued under this chapter or who fails to pay a civil administrative penalty, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500.00 and the costs of prosecution or by imprisonment for not more than 90 days, or by both. Each act or violation and every day upon which any violation shall occur shall constitute a separate offense.

**81.061 Cumulative Remedies.**

**Section 61.** The imposition of a single penalty, fine, order, damage, or surcharge upon a User for a violation of this Ordinance, a Use Permit, or a final Order shall not preclude the imposition by the Township or a court of competent jurisdiction of a combination of any or all of the sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent

3-19-07 As Adopted

with applicable statutory limitations on penalty amounts. A criminal citation and prosecution of a criminal action against a User shall not be dependent upon or held in abeyance during any civil, judicial, or township administrative proceeding, conference, or hearing regarding the User.

#### **81.062 Responsible Corporate Directors, Officers, and Employees.**

**Section 62.** An individual who is an employee, officer, or director of a User which is an entity other than an individual shall be individually subject to the civil administrative, civil judicial, and criminal penalties and sanctions under this Ordinance if the individual personally participated in the acts or omissions which constituted the violation or if the individual has responsibility for wastewater matters of the User or responsibility for the overall operation of the User or for the User's facility at which the violation occurred.

#### **81.063 Lien for Charges and Fees.**

**Section 63.** If a charge, fee, expense incurred due to the inaction of a User or other amounts due from a User under this ordinance or due under other ordinances or resolutions of the Township Board for or in connection with use of a public sewer or the POTW, including Use Permit fees, is not paid when due, the amount due may be certified to the tax assessor and assessed against the lot or parcel of land upon which is situated the premises served and collected or returned in the same manner as municipal taxes against real estate are certified, assessed, collected, and returned, and shall be a lien upon the lot or parcel of land coordinate with the lien of the municipal taxes from the time of certification to the tax assessor.

#### **81.064 Publication of Significant Violators.**

**Section 64.** The Township and the POTW shall publish, once per year in the largest daily circulation of a newspaper in the Township, a public notice of Users which, at any time during the previous twelve months, were in significant violation of federal, state, or Township pretreatment standards or requirements. For the purposes of this Section, a User is in significant violation if its violation(s) meet one or more of the following criteria:

- (1) Chronic violation of discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 % or more of all of the measurements taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the POTW believes has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of Township or POTW personnel or the general public);

3-19-07 As Adopted

- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, and has resulted in the Township or POTW's exercise of its emergency authority to halt or prevent the discharge;
- (5) Violation, by ninety (90) days or more after the schedule date, of a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty (30) days of the due date;
- (7) Failure to accurately report non-compliance; or
- (8) Any other violation or group of violations which the POTW considers to be significant.

#### **81.065 Falsifying Information.**

**Section 65.** It is unlawful for any person to knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Ordinance, a Use Permit (or any other special agreement), or a final Order, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this Ordinance. A violation of this Section is a misdemeanor punishable as provided in Section 80.061 of the Ordinance.

#### **81.066 Conflict With Existing Ordinances.**

**Section 66.** The provisions of this Ordinance shall apply and be paramount over any existing ordinance or parts of ordinances that are in conflict with this Ordinance.

#### **81.067 Savings Provision.**

**Section 67.** The invalidity of any section, clause, or provision in this Ordinance shall not affect the validity of any other part of this Ordinance which may be given effect without reliance upon any invalid part or parts.

Adopted: March 19, 2007  
Effective: March 27, 2007  
Ordinance No.: **2-2007**