

CHAPTER 1043

Wastewater Discharge Regulations

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CROSS REFERENCES

- Sewers and sewer systems generally - see Mich. Const. Art. 7, Sec. 24; M.C.L.A. Secs. 46.171 et seq., 67.34, 123.241 et seq., 323.151 et seq., 325.201 et seq.
- Sewers and sewer systems in home rule cities - see M.C.L.A. Secs. 117.4b, 117.4e, 117.4f, 117.35
- Special assessments for sewers - see ADM. 232.04, 232.05
- Sewers in lodging houses and hotels - see B.R. & T. 836.03
- Sewer construction and maintenance - see S.U. & P.S. Ch. 1042
- Ground-water protection and storm-water runoff control - see S.U. & P.S. Ch. 1068
- Sewers in subdivisions - see P. & Z. 1248.05, 1248.08

Sewers for mobile homes - see B. & H. 1480.01

Sewers in rental dwellings - see B. & H. 1482.11(h)

1043.01 PURPOSES.

This chapter is adopted to protect the health, safety and welfare of the people; to provide uniform requirements for all uses of and discharges into the collection system and treatment plant; to provide for the connection of structures in which sanitary sewage originates to an available public sanitary sewer system; to prescribe limitations on the discharge of certain waters and wastes into the public sewer system; to comply with applicable regulations, prevent pollution, guard against injury to persons and property and enhance efficient economical operation of the collection system and treatment plant; to provide for the administration of this chapter; and to establish remedies.

This chapter and the companion ordinances adopted by the City and the townships set forth uniform requirements for all uses of and discharges into the collection system and treatment plant to enable compliance with applicable State and Federal laws and regulations pertaining to wastewater treatment and industrial pretreatment.

(Ord. 337. Passed 9-8-92.)

1043.02 RESPONSIBILITY OF CITY AS CONTROL AUTHORITY.

The City as Control Authority, shall:

- (a) Regulate and control discharges into the collection system and treatment plant in accordance with this chapter and applicable State and Federal laws and regulations, including Federal categorical pretreatment standards;
- (b) Regulate or prohibit discharges which could interfere with the operation of the collection system or the reclamation or disposal of wastewater or sludge, cause the treatment plant to exceed the NPDES permit effluent limits or cause pass-through of pollutants to the receiving stream or atmosphere;
- (c) Control discharges to the collection system and treatment plant by regulation, permit, order and other means;
- (d) Inspect and monitor facilities and discharges to determine the extent of compliance;
- (e) Require compliance by industrial users with applicable pretreatment standards and requirements;
- (f) Require the development of a compliance schedule by each industrial user for the installation of personnel, procedures and facilities necessary or desirable to meet applicable pretreatment standards and requirements and reports from such users necessary to determine adherence to the compliance schedule;
- (g) Seek judicial enforcement of the standards of this chapter and penalties imposed by the Control Authority under this chapter;
- (h) Recover from users all damages to the collection system, treatment plant and the environment caused by such users, including any fines, penalties (and the cost of administrative and judicial proceedings in connection therewith) imposed upon the Control Authority, the City of Traverse City, Grand Traverse County and the townships, attributable to that user's indirect discharge, in whole or in part.
- (i) Halt or prevent any indirect discharge which threatens the health or welfare of persons or property, endangers or may endanger the environment or interferes or threatens to interfere with the operation of the collection system or treatment plant;

(j) Comply with the confidentiality requirements imposed by law; and

(k) Impose fines and penalties as provided by this chapter.

(Ord. 337. Passed 9-8-92.)

1043.03 SCOPE.

This chapter shall apply to all persons discharging or intending to discharge to the collection system and treatment plant, including those who have agreements or permits from the Control Authority.

(Ord. 337. Passed 9-8-92.)

1043.04 ADMINISTRATION.

The Control Authority will administer and enforce the provisions of this chapter, subject to any agreement between the Control Authority and a township or municipal corporation adopting an equivalent ordinance.

(Ord. 337. Passed 9-8-92.)

1043.05 DEFINITIONS.

Unless otherwise indicated, the following terms and phrases shall have the following meanings:

(1) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Part 1251, et seq.

(2) "Approval Authority" means the Michigan Department of Natural Resources.

(3) "Approved method" or "test procedure" means analyses performed in accordance with the analytical test procedures approved under 40 CFR, Part 136. Analysis for those pollutants not covered therein shall be performed in accordance with procedures approved by the Approval Authority.

(4) "Authorized signatory" means:

(A) A responsible corporate officer, if the industrial user is a corporation. As used in this paragraph, a responsible corporate officer means:

(1) 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

(2) The manager of one or more manufacturing, production or operation facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(B) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or

(C) A duly authorized representative of the individual designated in paragraph (4) A. or B. hereof if:

(1) The authorization is made in writing by the individual described in paragraph (4)A. or B. hereof;

(2) Such authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well or well-field superintendent, a position of equivalent responsibility or a position having overall responsibility for environmental matters for the company; and

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- (3) The written authorization is submitted to the Control Authority.
- (5) "Biochemical oxygen demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Celsius expressed in terms of weight and concentration (milligrams per liter (mg/l)) in accordance with an approved test procedure.
- (6) "Bypass" means an action which bypasses, in whole or in part, approved pretreatment facilities, permitting wastewater to flow into the collection system without the usual treatment.
- (7) "Categorical user" means an industrial user classified according to specific industrial subcategories for which separate regulations have been established under subparts of 40 CFR, Chapter I, Subchapter N. These regulations establish specific quantities or concentrations of pollutants or pollutant properties that may be discharged to a collection system and treatment plant.
- (8) "Collection system" means the sanitary sewer system established by the City and the townships of Acme, East Bay, Elmwood, Garfield and Peninsula, which flows directly and indirectly to the treatment plant, including all attachments and appurtenances to the collection system as modified and extended from time to time.
- (9) "Compatible pollutant" means biochemical oxygen demand, suspended solids, pH, fecal coliform bacteria and such additional pollutants in quantities that the collection system and treatment plant has the designed capacity to treat.
- (10) "Compliance schedule" means a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with water quality standards, an effluent limitation or other limitation, prohibition or standard.
- (11) "Composite sample" means, as defined by 40 CFR, Part 403, Appendix E, a sample comprised of a minimum of twelve aliquots collected over a period of no more than twenty-four hours. The sample may be collected manually or automatically.
- (12) "Control Authority" means the City of Traverse City.
- (13) "Cooling water" means any water used for the purpose of carrying away excess heat, and which may contain biocides used to control biological growth or other additives to protect the system against corrosion, scaling or other deterioration.
- (14) "Discharge" means an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of a pollutant into the waters of the State, onto land or into wells from which it might flow or drain into such waters or into waters or onto lands outside the jurisdiction of the State, which pollutant enters the waters of the State or the United States. The term "discharge" includes the release of any pollutant into a collection system and treatment plant.
- (15) "Domestic wastewater" means the wastewater discharged from the usual and customary residential use of premises.
- (16) "EPA" or "USEPA" means the United States Environmental Protection Agency.
- (17) "Effluent data" means information necessary to determine the identity, amount, frequency, concentration, temperature or other characteristics of any pollutant discharged.
- (18) "Effluent limitation" means any restriction on quantities, quality, rates and concentration of chemical, physical, thermal, biological and other constituents of pollutants.
- (19) "Federal categorical pretreatment standards" means pretreatment standards as codified in 40 CFR 1(N), specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced to a collection system and treatment plant by existing or

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- new industrial users in specific industrial subcategories.
- (20) "Flow-proportioned" means a composite sample that is collected continuously or discretely. Discrete sampling may be flow-proportioned by varying either the time interval between each aliquot or the volume of each aliquot. All composites must be flow-proportional to each stream flow at the time of collection of the aliquot or to the total flow since the previous aliquot.
 - (21) "Garbage" means solid wastes from the domestic and commercial preparation, cooking, dispensing, handling, storage and/or sale of food, fruits, vegetables, poultry, fish or other aquatic organisms or meat.
 - (22) "Grab sample" means an individual sample collected over a period of time not to exceed fifteen minutes. It is a single sample taken at neither a specific time nor flow and is representative of conditions or characteristics of the indirect discharge at the time that it is collected.
 - (23) "Highest ranking official" means the industrial user's official having day-to-day managerial and operational responsibilities for the discharging facility.
 - (24) "Holding tank waste" means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.
 - (25) "Incompatible pollutant" means any pollutant which is not a "compatible pollutant" as defined in this section.
 - (26) "Indirect discharge" means the discharge of wastewater into the collection system and treatment plant.
 - (27) "Industrial Pretreatment Coordinator" or "IPC" means the authorized representative of the Control Authority that implements and coordinates the pretreatment program.
 - (28) "Industrial user" means a user who is a source of indirect discharges of non-domestic wastewater.
 - (29) "Industrial waste survey questionnaire" means a request for information by the Control Authority of users of the collection system and treatment plant on indirect discharge characteristics, operating procedures and schedules, water consumption and waste disposal methods and amounts.
 - (30) "Interference" means an indirect discharge which, alone or in conjunction with indirect discharges from other sources:
 - (A) Inhibits or disrupts the collection system or treatment plant, its treatment processes or operations or its sludge processes, use or disposal; or
 - (B) Causes a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal in accordance with applicable permits, laws and regulations.
 - (31) "Liquid waste hauler" means any person who transports waste by way of truck or rail.
 - (32) "Maximum allowable headworks loading" (MAHL) means the maximum mass of any pollutant that can enter the wastewater treatment plant per day without causing interference or pass-through.
 - (33) "National pollutant discharge elimination system" or "NPDES" means the Federal system for issuing, modifying, suspending, revoking, reissuing, terminating, monitoring and enforcing discharge permits pursuant to the Act.
 - (34) "Nondomestic wastewater" means any wastewater that is not "domestic wastewater" as defined in this section.
 - (35) "Pass-through" means an indirect discharge which exits the treatment plant into waters of

the United States in quantities or concentrations which, alone or in conjunction with indirect discharges from other sources, is a cause of a violation of any requirement of the Control Authority's NPDES permit (including an increase in the magnitude or duration of a violation).

- (36) "Permit" means the discharge control mechanism issued by the Control Authority to a user.
- (37) "Permit holder" means any person who legally has a permit.
- (38) "Person" means any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, any political subdivision of this State and any state or interstate agency. "Person" shall also mean any responsible corporate official for the purpose of enforcement action under this chapter.
- (39) "pH" means the logarithm (base ten) of the reciprocal of the concentration of hydrogen ions in moles per liter of solution. Solutions with a pH greater than seven are said to be basic. Solutions with a pH less than seven are said to be acidic. A pH equal to seven is considered neutral. Analysis shall be performed in accordance with an approved test procedure.
- (40) "Pollutant" means any dredged soil, solid waste, holding tank waste, incinerator residue, sewage, garbage, refuse, oil, grease, sewage sludge, septage, munitions, chemical wastes, biological materials, radioactive substances, thermal wastes, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal or agricultural waste or other residue directly or indirectly discharged into the waters of the State. The term "pollutant" includes both hazardous and nonhazardous pollutants.
- (41) "Pretreatment" means the alteration, reduction or elimination of pollutants in the wastewater before discharge to the collection system or treatment plant.
- (42) "Program" means the industrial pretreatment program of the Control Authority.
- (43) "Significant industrial user" means:
 - (A) All industrial users subject to Federal categorical pretreatment standards under 40 CFR 403.6, and 40 CFR, Chapter I, Subchapter N; and
 - (B) Any other industrial user that:
 - (1) Discharges an average of 25,000 gallons per day or more of process wastewater to the collection system;
 - (2) Discharges process wastewater which makes up five percent or more of the hydraulic or organic capacity of the treatment plant; or
 - (3) Is designated by the Control Authority as having a reasonable potential for adversely affecting the operation of the collection system and treatment plant or for violating any pretreatment standard or requirement.
- (44) "Significant noncompliance" means a violation by an industrial user which meets one or more of the following criteria:
 - (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent 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;
 - (B) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for any pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

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- (C) Any other violation of an effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other indirect discharges, interference or pass-through (including endangering the health of collection system and treatment plant personnel or the general public);
 - (D) Any discharge of a pollutant that has caused imminent danger to human health or welfare or to the environment or has resulted in the Control Authority's exercise of its emergency authority to halt or prevent such an indirect discharge;
 - (E) Failure to meet, within ninety days after the schedule date, a compliance schedule milestone or enforcement order for starting construction, completing construction or attaining final compliance;
 - (F) Failure to provide, within thirty days after the due date, required reports, such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
 - (G) Failure to accurately report noncompliance;
 - (H) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the program.
- (45) "State" means the State of Michigan.
- (46) "Slug" means any indirect discharge with an instantaneous flow rate or concentration, or both, which exceeds five times any applicable limit.
- (47) "Storm water" means any flow occurring during or immediately following any form of natural precipitation and resulting therefrom. CFR, Part 136.
- (48) "Total suspended solids" means the total nonfilterable residue as defined in Standard Methods for the Examination of Water and Wastewater and analyzed in accordance with 40
- (49) "Treatment plant" means the publicly owned treatment works (POTW), known as the Traverse City Regional Wastewater Treatment Plant, located in Traverse City, Michigan.
- (50) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with an effluent limitation because of an event beyond the reasonable control of the permittee, including fire, riot, sabotage, flood, storm event, natural cause, other act of God or other similar circumstances, which is the cause of the violation.
- (51) "User" means a person who is the source of indirect discharges of wastewater.
- (52) "Violation" means noncompliance with Federal, State or local pretreatment standards or requirements, any provisions of or adopted pursuant to this chapter or any requirements or conditions of an industrial discharge permit.
- (53) "Wastewater" means the liquid and water-carried wastes from dwellings, commercial buildings, industrial facilities and institutions.

Terms not otherwise defined herein shall be as adopted in Standard Methods for the Examination of Water and Wastewater, Seventeenth Edition, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federations; the Clean Water Act, 33 U.S.C. Part 1251 et seq., and 40 CFR, Title 40, Part 403.
(Ord. 432. Passed 12-4-95. Ord. 337. Passed 9-8-92.)

1043.06 ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

- ASPP - Accidental Spill Prevention Plan or Accidental Spill Prevention Program.
- BMR - Baseline monitoring report.
- BOD - Biochemical oxygen demand.

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CFR	-	Code of Federal Regulations.
IWSQ	-	Industrial waste survey questionnaire.
mg/l	-	Milligrams per liter (i.e., parts per million).
NPDES	-	National Pollutant Discharge Elimination System.
SIU	-	Significant industrial user.
TSS	-	Total suspended solids.
USC	-	United States Code.
USEPA	-	United States Environmental Protection Agency.

(Ord. 337. Passed 9-8-92.)

1043.07 PROHIBITED WASTEWATER DISCHARGES.

- (a) General Prohibitions. No user may discharge any pollutants into the collection system or treatment plant which cause pass-through or interference.
- (b) Specific Prohibitions. In addition to the provisions of subsection (a) hereof, no user shall discharge the following into the collection system or treatment plant:
 - (1) Pollutants in such concentrations that, either alone or by interaction with other substances, create a fire or explosion hazard in the collection system or treatment plant including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides;
 - (A) Pollutants shall not cause the atmosphere in a monitoring manhole or any part of the Collection System to exceed ten percent (10%) of the Lower Explosive Limit (LEL) for any single reading five percent (5%) of the LEL for more than 9 minutes per day.
 - (2) Any indirect discharges which have a pH lower than 6.0 Standard Units or higher than 11.0 Standard Units, which will react with water to form products which have a pH value lower than 6.0 Standard Units or greater than 9.0 Standard Units or which have any other corrosive property capable of causing damage or hazard to structure, equipment and personnel of the collection system or treatment plant. Prohibited wastes include, but are not limited to, concentrated acids, alkalies, chlorides, sulfides, fluoride compounds and any iron pickling wastes or concentrated plating solutions, whether neutralized or not.
 - (3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the collection system or treatment plant or other interference with the proper operation of the collection system or treatment plant; any garbage, except domestic wastewater discharged from garbage disposal units in private dwellings, that has not been ground or comminuted to such a degree that all particles float or are carried freely in suspension under flow conditions normally prevalent in the collection system and which contains particles of a size not greater than one-half of one inch in any dimension; or other wastes, including, but not limited to, bones, hair, hides or fleshing, whole blood, recognizable portions of the human anatomy, tissue fluids, entrails, ashes, cinders, mud, straw, sand, wood, grass clippings, spent lime, stone or marble dust, shavings, metal, glass, rags, feathers, tar, asphalt residues, glass grinding or polishing wastes, plastics, spent grains, spent hops, waste paper, styrofoam and residues from the refining or processing of fuel or lubricating oil.
 - (4) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in an

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- indirect discharge at a flow rate and/or pollutant concentration which will cause interference with the collection system or treatment plant.
- (5) Heat in amounts which will inhibit biological activity in the treatment plant resulting in interference, but in no case heat of a temperature in excess of 150 degrees Fahrenheit or sixty-five Celsius at the sewer connection or of a quantity that causes the temperature at the treatment plant to exceed 104 degrees Fahrenheit or forty degrees Celsius.
 - (6) Pollutants which result in the presence of toxic gases, vapors or fumes within the collection system or treatment plant in a quantity, either singly or by interaction with other pollutants, that may cause acute worker health and safety problems, pass-through or interfere with the collection system and treatment plant, or that exceed standards promulgated by either the USEPA pursuant to Section 307(a) of the Act or the State pursuant to any applicable statutory provisions.
 - (7) Any trucked or hauled pollutants or sludge from septic tanks, cesspools, chemical toilets, privies, grease traps or grit traps, unless received by the Grand Traverse County Septage Treatment Facility in accordance with the rules and regulations of the Grand Traverse County Septage Treatment Facility. Discharge of such material into a township collection system shall require the consent of that township.
 - (8) Any substance which, either singly or by interaction with other substances, is noxious or malodorous or is capable of creating a public nuisance or hazard to life or health, or whose concentrations prevent entry into the collection system and treatment plant for maintenance, repair or other reasons.
 - (9) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by Federal or State regulations;
 - (10) Storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters, either discharged by gravity or from sump pumps.
 - (11) Any waste producing excessive discoloration that may cause the water of the treatment plant to exceed appropriate color criteria;
 - (12) Any waters or wastes containing suspended solids or dissolved matter of such character and quantity that unusual attention or expense is required to handle such materials in the collection system and treatment plant.
 - (13) Any water or wastes containing algicides, fungicides, antibiotics, insecticides, strong oxidizing agents or strong reducing agents.
 - (14) Any wastes requiring an excessive quantity of chlorine or other chemical compound used for disinfection purposes or excessive treatment in order to meet the NPDES discharge limitations of the treatment plant.
 - (15) Any slug discharge.
 - (16) Any water or waste containing substances which are not amenable to treatment or which causes the treatment plant effluent to fail to meet the discharge requirements established by the NPDES permit.
 - (17) Any substance which may cause sludge to be unsuitable for reclamation and reuse, or which may interfere with the reclamation process of the treatment plant, or which may preclude the treatment plant from selecting the most cost-effective alternative for sludge disposal or which may cause the treatment plant to be in noncompliance with sludge use or disposal criteria established by State or federal regulation.

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- (18) Any material discharged into a manhole through its top.
- (19) Detectable concentrations of mercury or polychlorinated biphenols (PCBs).
- (20) Ethylene glycol-based antifreeze.
- (21) Any other pollutant which the Control Authority determines to be, or have the potential to be, detrimental to the collection system, treatment plant or receiving waters.

(Ord. 432. Passed 12-4-95. Ord. 914. Passed 5-16-11.)

1043.08 LIMITATIONS ON WASTEWATER DISCHARGES.

- (a) No user shall discharge wastes to the collection system and treatment plant having pollutant concentrations in excess of those in the following lists without an industrial waste discharge permit issued by the Control Authority. Permits may be issued by the Control Authority that specifically permit discharge of greater concentrations, up to maximums established by the Control Authority, and incorporated into the industrial waste discharge permit.

Maximum Daily Average Pollutant	Concentration (mg/L)
Arsenic	0.01
Barium	8.7
Cadmium	0.008
Chloride	750
Chromium	0.43
Copper	0.11
Cyanide	0.01
Lead	0.05
Mercury**	0.0002
Molybdenum	1.0
Nickel	0.08
Selenium	0.02
Silver	0.01
Thallium	0.005
Zinc	0.18
Phenol	4.0
	Maximum Instantaneous Concentration (mg/L)
Pollutant	
Oil and grease	200.0
Total BTEX	0.13

- (b) No user shall discharge wastes to the Collection System and treatment plant having daily pollutant concentrations in excess of the following without an industrial waste discharge permit issued by the Control Authority and payment of the appropriate surcharge established pursuant to this Code.

Pollutant	Maximum Daily Average Concentration (mg/L)
BOD	285
TSS	285
TKN	60
Phosphorus	13.0

The Control Authority reserves the right to establish by ordinance or permit more stringent limitations or requirements on Indirect Discharges to the Collection System and treatment plant if deemed necessary to comply with objectives presented in Section 1043.01 of this Code. (Ord. 432. Passed 12-4-95. Ord. 914. Passed 5-16-11.)

1043.09 CONFLICTS WITH FEDERAL OR STATE PRETREATMENT STANDARDS; ALTERNATIVE METHODS OF COMPUTING POLLUTANT LIMITS.

- (a) If the Federal standard for a particular industry, pursuant to a Federal categorical pretreatment standard, and/or State standard, is more stringent than a standard imposed under this chapter, then the Federal and/or State standard shall apply. Affected industrial users shall comply with the appropriate standard within the compliance deadlines provided in 40 CFR 403.6(b). The Control Authority will notify affected industrial users of the applicable reporting requirements under 40 CFR 403.12, but failure of the Control Authority to notify does not relieve such users of the obligation to comply with such reporting requirements.
- (b) The Control Authority may change the way in which categorical users are regulated through the implementation of equivalent mass/concentration limits defined in 40 CFR 403.6(c)(2)-(7), through the combined waste stream formula defined in 40 CFR 403.6(e), or through the net/gross calculation defined in 40 CFR 403.15. The Control Authority will consider requests from any categorical user to examine the use of any of these alternative methods of computing pollutant limits.
- (c) Federal or State requirements and limitations on indirect discharges shall apply in any case where they are more stringent than limitations contained in this chapter.

(Ord. 337. Passed 9-8-92.)

1043.10 CONFLICTS WITH INDUSTRIAL DISCHARGE PERMITS.

Industrial discharge permit requirements shall apply in any case where they are more stringent than limitations contained in this chapter.

(Ord. 337. Passed 9-8-92.)

1043.11 DILUTION.

No industrial user shall in any way dilute an indirect discharge to achieve compliance with Federal categorical pretreatment standards, State limitations or any other pollutant-specific limitation contained in this chapter or a permit.

(Ord. 337. Passed 9-8-92.)

1043.12 NOXIOUS OR OFFENSIVE CONDITIONS.

No person shall suffer or permit any premises belonging to or occupied by him or her or under his or her control, or any cellar, vault, privy, cesspool, holding tank, pretreatment facility, protective facility, sewer or private drain thereon or therein, to become nauseous, foul, offensive or prejudicial to the public health or public comfort.

(Ord. 337. Passed 9-8-92.)

1043.13 UNAUTHORIZED ENTRY INTO, DESTRUCTION OR OPERATION OF COLLECTION SYSTEM AND TREATMENT PLANT FACILITIES.

- (a) No unauthorized person shall enter any sewer, manhole, pumping station, collection system, treatment plant or appurtenant facility in the jurisdiction covered by this chapter. No person shall maliciously, willfully or negligently break, damage, destroy, deface or tamper with any structure, appurtenance or equipment which is part of the collection system and treatment plant.
- (b) No unauthorized person shall operate or change the operation of any sewer, pumping station, treatment plant, outfall structure or appurtenant facility.

(Ord. 337. Passed 9-8-92.)

1043.14 RESPONSE OF CONTROL AUTHORITY TO DISCHARGES OF PROHIBITED SUBSTANCES.

If wastewaters containing any prohibited substance exceeding prescribed limits or violating restrictions imposed by Section 1043.07 through 1043.13 are discharged or proposed to be discharged into the collection system and treatment plant, the Control Authority may take any one or more of the following actions necessary to protect the collection system and treatment plant:

- (a) Prohibit the discharge of such wastewater;
- (b) Require the user to demonstrate that in-plant modifications will bring such indirect discharge into conformance with this chapter;
- (c) Require pretreatment by physical, chemical or biological processes, manufacturing process changes or by other means (except as prohibited by 40 CFR 403.6(d)), including, but not limited to, storage facilities or flow equalization necessary to ensure compliance with this chapter;
- (d) Require the user, within twenty-four hours of the prohibited discharge or violation, or both, to provide the Control Authority with additional information regarding the discharge as may be required by the Control Authority, including, but not limited, to requested laboratory analysis results;
- (e) Require the user creating the prohibited discharge to pay all additional costs or damage attributable to such discharge, including, but not limited to:
 - (1) Incidental and consequential damages;
 - (2) Fines or penalties assessed against the Control Authority; and
 - (3) Actual attorney fees incurred by the Control Authority in connection with the discharge, including actions relating to paragraphs (e)(1) and (2) hereof.
- (f) Assess civil penalties, seek injunctive relief and petition for criminal prosecution pursuant to applicable statutory provisions; and
- (g) Take such other remedial action, including, but not limited to, suspension or termination of service as may be deemed to be necessary to achieve the purposes of this chapter. If the Control Authority takes a regulatory action, it will not foreclose taking a different regulatory action for the same discharge or a continuation of that discharge.

(Ord. 337. Passed 9-8-92.)

1043.15 ACCIDENTAL DISCHARGES.

- (a) Protective Facilities. Each user shall provide protection against accidental discharge of prohibited materials or other wastes regulated by this chapter. Users shall provide and maintain, at their expense, protective facilities, such as, but not limited to, retention basins, dikes, storage tanks or other devices designated to eliminate, neutralize, offset or otherwise negate the effects of prohibited materials or indirect discharges in violation of this chapter. Prior to construction, or as otherwise required by the Control Authority, the user shall submit to the Control Authority for approval detailed plans of the protective facilities or equipment and operating procedures.
- (b) Accidental Spill Prevention Plans. All significant industrial users and other users as required by the Control Authority shall submit an accidental spill prevention plan. At a minimum, this plan shall include the following elements:
 - (1) A description of discharge practices, including nonroutine batch discharges;
 - (2) A description of stored chemicals;
 - (3) Procedures for immediately notifying the treatment plant and Control Authority of slug discharges, including any indirect discharge that would violate a prohibition provided in Sections 1043.07 through 1043.13, with procedures for follow-up written notification within five days;
 - (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials loading and unloading operations, control of plant-site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency responses;
 - (5) Other information as required by the Control Authority. Review and approval of such plans and operating procedures by the Control Authority shall not relieve the user from the responsibility for the effectiveness of the facility and for modifications to the facility as necessary to meet the requirements of this chapter or a permit.
- (c) Posting of Emergency Numbers. The user shall cause to be furnished and permanently posted on the user's bulletin boards notices advising employees whom to call in case of an accidental discharge.
- (d) Notification. The user shall immediately notify the treatment plant upon the accidental discharge of wastes to the collection system so that countermeasures may be taken to minimize damage to the environment, the collection system and treatment plant and the receiving waters. Such notification shall include the location of the discharge, the date and time thereof, the type of waste, the concentration and volume of the discharge and corrective actions taken by the user. This notification shall be followed, within fifteen days of the date of occurrence, by a detailed written statement to the Control Authority describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any fines provided for in this chapter or any ordinance, for any expense, loss or damage to the environment, the collection system and treatment plant or treatment processes or for any fines imposed on the Control Authority on account thereof.

(Ord. 337. Passed 9-8-92.)

1043.16 UPSETS.

An industrial user experiencing an upset shall submit the following information to the Control Authority as soon as possible and no later than twenty-four hours of becoming aware of the upset:

- (a) A description of the indirect discharge and cause of noncompliance;
- (b) The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue;
- (c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance; and
- (d) Other information as required by the Control Authority.

(Ord. 337. Passed 9-8-92.)

1043.17 BYPASSES.

- (a) A bypass may be approved by the Control Authority if request is made at least ten days before the proposed date of the bypass and if:
 - (1) The bypass is for essential maintenance to ensure efficient operation;
 - (2) Pretreatment standards or requirements will not be violated by the bypass; and
 - (3) The Control Authority determines that no adverse effect will result from the bypass.
- (b) An emergency bypass initiated without the prior approval provided in subsection (a) hereof will not be subject to enforcement if:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury or substantial property damage;
 - (2) There was no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, reduction or cessation of production, retention of untreated wastes or maintenance during normal periods of equipment downtime; and
 - (3) The need for the bypass shall not have resulted from the failure to install adequate back-up equipment if required by a permit or in the exercise of reasonable engineering judgment.
- (c) Any user who experiences a bypass, whether approved or not, shall submit the following information:
 - (1) In the case of an emergency or unapproved bypass, the user shall submit oral notice to the Control Authority as soon as reasonably practical following discovery of such bypass, and in any event within twenty-four hours of such bypass.
 - (2) In all cases a written statement shall be submitted to the Control Authority within five days of the bypass, providing, at a minimum, the following information.
 - (A) A description of the bypass and its cause;
 - (B) 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;
 - (C) Steps taken or planned to reduce, eliminate and prevent recurrence of the bypass; and
 - (D) Other information as required by the Control Authority.

(Ord. 337. Passed 9-8-92.)

1043.18 DISCHARGES OF HAZARDOUS WASTE.

- (a) A user shall notify the Control Authority, the USEPA Regional Waste Management Division Director and State hazardous waste authorities, in writing, of any discharge from a

facility under the user's control into the collection system and treatment plant of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261 or Section 3001 of the Resource Conservation and Recovery Act. Such notification must include, at a minimum:

- (1) The name of the hazardous waste as set forth in 40 CFR, Part 261;
 - (2) The USEPA hazardous waste number;
 - (3) The type of discharge (continuous, batch or other);
 - (4) The following information to the extent such information is known and readily available to the industrial user:
 - (A) Identification of the hazardous constituents contained in the wastes; and
 - (B) An estimation of the mass and concentration of such constituents in the waste stream discharged.
- (b) For the purposes of notification under this section, the user must contact, at a minimum, the following:
- (1) Industrial Pretreatment Coordinator or Plant Manager
Traverse City Regional Wastewater Treatment Plant
606 Hannah Avenue Traverse City, MI 49686
(616) 922-4921
 - (2) The Office of Solid Waste and Hazardous Waste
U.S. Environmental Protection Agency
260 S. Dearborn Avenue
Chicago, IL 60604
 - (3) Chief, Waste Management Division
Michigan Dept of Natural Resources
P.O. Box 30241
Lansing, MI 48909

(Ord. 337. Passed 9-8-92. Ord. 914. Passed 5-16-11.)

1043.19 NOTICE OF PROHIBITED DISCHARGES.

All users shall notify the treatment plant and the Control Authority immediately of any prohibited discharge to the collection system or treatment plant, including any slug loading.

(Ord. 337. Passed 9-8-92.)

1043.20 ADDITIONAL MONITORING; CONTROL OF PRODUCTION.

- (a) In addition to all other requirements of this chapter, each industrial user shall take all reasonable steps to identify and minimize any indirect discharge in violation of the standards of this chapter or of a permit, including accelerated or additional monitoring necessary to determine the nature and impact of the noncomplying discharge.
- (b) Each industrial user shall control production and all discharges to the extent necessary to maintain compliance with pretreatment standards and requirements upon reduction, loss or failure of its pretreatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, in the situation where the primary source of power to the pretreatment facility is reduced or fails.

(Ord. 432. Passed 12-4-95.)

1043.21 COMPLIANCE REQUIRED PRIOR TO DISCHARGE TO THE COLLECTION SYSTEM AND TREATMENT PLANT.

It shall be unlawful for any person to discharge directly or indirectly into the collection system and treatment plant without having satisfied all applicable terms and conditions of this chapter. (Ord. 337. Passed 9-8-92.)

1043.22 INDUSTRIAL WASTE SURVEY QUESTIONNAIRES.

All industrial users proposing to connect to or discharge wastewater into the collection system and treatment plant shall complete and file with the Control Authority, prior to connecting to the collection system and treatment plant, an industrial waste survey questionnaire (IWSQ). Each existing industrial user shall file an IWSQ periodically as required by the Control Authority. All IWSQs shall be signed by an authorized signatory of the user. (Ord. 337. Passed 9-8-92.)

1043.23 INDUSTRIAL DISCHARGE PERMITS.

- (a) If the Control Authority determines, following review of the IWSQ for a user, that the user is a significant industrial user, or if the Control Authority deems it necessary to impose special requirements on the user, the user shall provide any further information, including a baseline monitoring report, if requested, pay any applicable fees that may be required by the Control Authority and obtain an industrial discharge permit. This permit shall be in addition to all others permits required by the City. The application form and required information for such permit shall be at the discretion of the Control Authority.
- (b) The Control Authority will evaluate such application and approve and issue the permit, deny the permit or require the submission of additional information. Notice of denial of completed applications shall be given expeditiously and shall contain a statement of reasons for denial. Written notices will be sent to the address provided by the applicant. Any user whose permit application is proposed to be denied shall have the opportunity for a hearing before the Control Authority before the application is denied unless immediate action is necessary to protect the collection system, treatment plant or the public health, safety or welfare approvals may be subject to certain preconditions which, if not met, shall negate and void the permit without further action of the Control Authority. Approvals may be subject to certain requirements, which, if not met, may result in revocation of the permit.
- (c) Each permit shall be deemed to incorporate all provisions of this chapter as if the same were fully set forth herein. Each permit requires the permit holder to take the following steps and meet the following standards (whether or not expressly recited in the permit), except as the permit may otherwise provide:
 - (1) Achieve effluent limitations based upon standards and requirements established pursuant to any and all applicable Federal, State or local regulations, including this chapter, together with such further discharge restrictions and safeguards against unauthorized discharges as may be necessary to meet water quality standards, area-wide plans adopted pursuant to law or other legally applicable requirements;
 - (2) Where appropriate, meet schedules for compliance with the terms of the permit and interim deadlines for progress or reports of progress towards compliance;
 - (3) Ensure that all indirect discharges are consistent at all times with the terms and conditions of the permit and that no pollutant will be discharged more frequently than authorized or at a level in excess of that which is authorized by the permit;

- (4) Submit a written request for revision of the permit prior to any contemplated facility expansion, process modification or changes in production that would result in new or increased indirect discharges, or, if these would not violate effluent limitations or other restrictions specified in the permit, notify the Control Authority of such new or increased indirect discharges;
 - (5) Install, use and maintain monitoring equipment, sample in accordance with methods, maintain and retain records of information from monitoring activities for a minimum of three years and submit to the Control Authority reports of monitoring results, as such may be stipulated in the permit or required by the Control Authority. Users shall report their monitoring results to the Control Authority as required by the permit, unless otherwise required by the Control Authority. Users shall identify the authorized signatory, as defined in this chapter, and discharge monitoring reports shall be signed by such authorized signatory of such users.
 - (6) At all times, maintain in good working order and operate as effectively as possible all facilities or systems of control installed to achieve compliance with the terms and conditions of the permit.
- (d) Permits shall be issued for a specified time period, but in no case for more than five years. The permittee shall submit such information, forms and fees as are required by the Control Authority for renewal of the permit 30 days prior to the date of expiration. If the permittee is not notified of reissuance or denial of the permit by the Control Authority prior to the expiration of the permit, the permit shall be extended until such time as the Control Authority reissues or denies a new permit.
 - (e) Transfer by way of incorporation of an unincorporated entity, or transfer of control of a corporate entity by way of merger or consolidation, shall not be deemed an assignment of the permit. If all or substantially all of the assets of the user at the facility are sold and the operation for which the permit is issued is carried-on without substantial change, the purchaser shall be deemed the permit holder with the same rights and responsibilities. The original permit holder shall give notice, in writing, to the Control Authority prior to transfer and shall provide a copy of the permit to the purchaser. The purchaser shall identify an authorized signatory and shall submit a letter to the Control Authority within thirty days, stating that a transfer has occurred.
 - (f) Any permittee who violates any conditions of the permit, this chapter or 40 CFR, Part 403, is subject to revocation of the permit.
 - (g) Unless the payment condition is waived by the Control Authority, no permit may be issued, modified or renewed by the Control Authority until the applicant or permittee, as the case may be, has paid all fees, charges, penalties or fines due and owing, or has entered into an agreement with the Control Authority establishing a payment schedule therefor, except that if a penalty or fine is contested, the applicant or permittee shall satisfy the provisions of this section by posting financial security as required pursuant to applicable statutory provisions.
 - (h) The Control Authority may revise a permit in order to meet the changing needs of the collection system and treatment plant or the user or to meet the requirements of new or revised regulations. When a permit is to be revised, the permit holder shall be given written notice of the proposed revision and the opportunity to comment, if time permits, prior to issuance of the revised permit.
 - (i) If pretreatment, operational changes, maintenance or any combination thereof is required to meet the requirements of the user's permit, the user shall develop and submit a compliance

schedule to the Control Authority. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet applicable Federal categorical pretreatment standards and requirements or any local pretreatment standard or requirement, e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc. No increment shall exceed nine months and the total length of the compliance schedule shall not exceed eighteen months. The Control Authority will review the proposed schedule and decide whether it is appropriate for the improvements needed to meet applicable standards. The Control Authority will notify the user of its decision and may then incorporate the compliance schedule into a permit or other control document and issue it to the user. Not later than fourteen days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Control Authority.

- (j) No permit shall be issued allowing an indirect discharge to the collection system and treatment plant, that, taken together with existing and projected discharges, would exceed the design average capacity of the treatment plant or exceed a Maximum Allowable Headworks Loading or probably exceed the ability of the treatment plant to effectively treat the wastewater inflow. Provided that, no such permit shall issue which would cause the total inflow of any factor or pollutant to exceed the capacity allocated to the unit of government in which the permit holder is discharging into the system.

(Ord. 432. Passed 12-4-95.)

1043.24 LIQUID WASTE HAULERS.

It shall be unlawful for any person to transport and discharge holding tank waste into the collection system or treatment plant unless received by the Grand Traverse County Septage Treatment Facility in accordance with the rules and regulations of the Grand Traverse County Septage Treatment Facility. (Ord. 337. Passed 9-8-92. Ord. 914. Passed 5-16-11.)

1043.25 MONITORING AND REPORTING.

- (a) Within 180 days after the effective date of a Federal categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such Federal categorical pretreatment standards and currently discharging to or scheduled to discharge to the collection system and treatment plant shall submit to the Control Authority a baseline monitoring report (BMR) which contains, at a minimum, the following information:
 - (1) The name and address of the facility, including the name of the operator and owners;
 - (2) A list of any environmental control permits held by or for the facility;
 - (3) A brief description of the nature, average rate of production and standard industrial classification of the operations carried-out by such industrial user. This description shall include a schematic process diagram which indicates points of discharge to the

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- collection system and treatment plant from the regulated processes.
- (4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the treatment plant from each of the following:
 - (A) Regulated process streams; and
 - (B) Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).
 - (5) The Federal categorical pretreatment standards applicable to each regulated process;
 - (6) The results of sampling and analysis identifying the nature and concentration (or mass, where required by the applicable standard or Control Authority) of regulated pollutants in the discharge from each regulated process. The sample shall be representative of daily operations and shall be done in accordance with 40 CFR 403.12(b)(iii) and (iv).
 - (7) Other information as required by the Control Authority.

All categorical users, and any other users required by the Control Authority, shall submit a baseline monitoring report containing the information provided in this subsection as a requirement of application for a permit to discharge to the collection system and treatment plant.

- (b) Within ninety days following the date for final compliance with applicable Federal categorical pretreatment standards, or, in the case of a new source as defined in 40 CFR 403.5(k)(1), following commencement of the introduction of wastewater into the collection system and treatment plant, any industrial user subject to Federal categorical pretreatment standards shall submit to the Control Authority a compliance status report.
- (c) Each industrial user shall complete monitoring and submit monitoring reports to the Control Authority as required by this chapter, the program and a permit. If during any reporting period an industrial user fails to comply with permit requirements and limitations, the industrial user shall include in the report an explanation of the noncompliance, any known or suspected causes and actions taken or to be taken to prevent further occurrences.
- (d) If an industrial user monitors any pollutant more frequently than required by the Control Authority, using approved procedures, the results of such monitoring shall be included in the report.
- (e) All sampling, analyses and flow measurements shall be performed by a laboratory approved by the Control Authority. Monitoring and analysis shall be conducted according to methods approved under 40 CFR, Part 136, unless other test procedures have been specified by the Control Authority.
- (f) All users shall furnish to the Control Authority, upon request, any information which may be requested to determine if cause exists for modifying, revoking or reissuing a permit or to determine compliance with this chapter, the program or a permit.
- (g) All users shall provide any and all information to the Control Authority that may be required to determine the characteristics or nature of the potential discharge.
- (h) If monitoring and/or analysis is performed by the Control Authority in lieu of the user performing it, the user may be charged and shall be required to pay any fees imposed by the Control Authority.

(Ord. 432. Passed 12-4-95.)

1043.26 NOTIFICATIONS OF NONCOMPLIANCE.

- (a) A user shall promptly notify the treatment plant or the Control Authority in advance of any substantial change in the volume or character of pollutants in the indirect discharge.
 - (b) A user shall notify the Control Authority of any indirect discharge which causes injury to persons or damage to the environment, or poses a threat to human health or the environment, as soon as the user becomes aware of the occurrence.
 - (c) If sampling performed by an industrial user, or other information available to it, indicates a violation, the user shall notify the Control Authority within twenty-four hours of becoming aware of the violation. If the standard violated is a Categorical Pretreatment Standard, or if the Control Authority requires it, the user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty days after becoming aware of the violation, except that the industrial user is not required to resample if the Control Authority performs sampling of the Industrial User within thirty days of the initial violation.
 - (d) All users shall comply with the notification requirements of this chapter.
- (Ord. 432. Passed 12-4-95.)

**1043.27 RETENTION OF RECORDS; SAMPLING REQUIREMENTS;
 FALSIFICATION.**

- (a) Any industrial user subject to the reporting requirements required by this chapter, the program or a permit shall be required to retain, for a minimum of three years from the date of the sample, measurement, report or application, any records of monitoring activities and results (whether or not such monitoring activities are required by this chapter) and shall make such records available for inspection and copying by the Control Authority. Records include all calibration and maintenance records, copies of all reports required by this chapter, the program or a permit and records of all data used to complete the application for a permit. This period may be extended by request of the Control Authority at any time. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the USEPA or the Michigan Department of Natural Resources.
 - (b) The following information, at a minimum, is required for all samples:
 - (1) The date, exact place, method and time of sampling and the names of the person or persons taking such samples;
 - (2) The dates analyses were performed;
 - (3) Who performed the analyses;
 - (4) The analytical techniques/methods used; and
 - (5) The results of such analyses.
 - (c) The reports and other documents required to be submitted or maintained under this chapter, the program or a permit are subject to the provisions of 18 U.S.C. Section 1001 relating to fraud and false statements, the provisions of Section 309(c)(4) of the Act, as amended, governing false statements, representation or certification and the provisions of Section 309(c)(6) of the Act regarding responsible corporate officers, which sections provide for civil and/or criminal penalties for making any false statement, record, report, plan or other document.
- (Ord. 337. Passed 9-8-92.)

1043.28 RIGHT OF ENTRY FOR INSPECTION, SAMPLING AND ANALYSIS.

All users shall allow any authorized representative of the Control Authority bearing proper credentials to enter upon the premises of any facility without delay where a real or potential discharge is located to inspect the facility, monitoring equipment and practices and pretreatment operations, and/or to measure, sample or test any discharge of wastewater to the collection system and treatment plant. Where records are required to be kept under the terms and conditions of this chapter or a permit, access must be granted at reasonable times to copy records required to be kept under the terms and conditions of this chapter or a permit in order to determine compliance with the requirements of this chapter, a permit or 40 CFR, Part 403.

(Ord. 337. Passed 9-8-92.)

1043.29 CONFIDENTIAL INFORMATION; PUBLIC ACCESS.

- (a) Except as otherwise provided in 40 CFR 2.302, any records, reports or other information obtained pursuant to this chapter, the program or a permit, including any correspondence relating thereto, shall be available to the public. However, any information submitted by a user which the user believes to be entitled to protection as a trade secret should specifically be identified by the user when submitted. If the Control Authority determines that making public of any report or information, or a part thereof, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, the Control Authority will consider such record, report or information, or part thereof, to be confidential, and access thereto shall be limited to authorized officers or employees of Federal or State agencies or the Control Authority.
- (b) The Control Authority will serve upon the furnisher of such confidential information verbal notice of the intent to disclose such information prior to disclosure, written notice of the disclosure of such information and the person who properly requested such information. The Control Authority will submit the claim of confidentiality with the information to the requesting person.
- (c) Information provided by users or the Control Authority pursuant to this chapter and the program that has not been classified as confidential are open for public inspection. Requests for such review are to be made in writing and an appointment for review may be required.

(Ord. 337. Passed 9-8-92.)

1043.30 NOTICE OF VIOLATION.

A notice of violation will be issued, in writing, by the Control Authority to any user for failure to meet any pretreatment standards or requirements pursuant to Federal, State or local regulations, this chapter or a permit. The notice shall be delivered to the user or mailed. If mailed, the notice shall be addressed to the permit holder if a permit has been issued or, if not, to the user, by registered or certified mail, to such user's or permit holder's last known address.

(Ord. 337. Passed 9-8-92.)

1043.31 ENFORCEMENT RESPONSE PLAN.

The Control Authority will enforce the provisions of this chapter according to an enforcement response plan which contains detailed procedures for investigation and response to violations of this chapter or a permit. The plan:

- (a) Describes escalating enforcement responses to all anticipated types of violations by users and the time periods within which enforcement action shall be taken.

- (b) Identifies, by title, the officials responsible within the Control Authority for taking enforcement action.
- (c) Will be made available to users in such manner as the Control Authority will determine, and, at a minimum, will be distributed to each permit holder at the time the permit is issued.

The Control Authority will at all times retain the authority to vary from the express terms of the plan if it determines that the public interest and the interests served by this chapter will be furthered by the variance.

(Ord. 337. Passed 9-8-92.)

1043.32 SUSPENSION OF WASTEWATER DISCHARGE SERVICES OR PERMITS.

- (a) The Control Authority may suspend wastewater treatment service or a permit, or both, without notice, or with such notice, including notice by telephone or facsimile, as the Control Authority deems feasible, when, in the opinion of the Control Authority, an indirect discharge or other act or omission violates or threatens to violate this chapter or a permit and such suspension is immediately necessary to prevent an actual or threatened discharge or other activity which presents a serious danger to the health, safety or welfare of the public, the environment, the collection system or the treatment plant. Immediately following a suspension under this section, the Control Authority will promptly proceed as provided in subsection (b) hereof.
- (b) In the event the Control Authority determines that an indirect discharge or other act or omission violates or threatens to violate this chapter or a permit, the Control Authority may take action under this section to suspend sewer service, a permit or both. The Control Authority will give written notice of such proposed action to the user or permit holder, as the case may be, by personal delivery or certified mail. In case of delivery, notice shall be given not less than thirty days in advance of the proposed action, counting the date of delivery as the first day. In the case of certified mail, the date the mail was deposited with postage fully paid in a U.S. Postal Service receptacle shall count as the first day. The notice shall be addressed to the user or permit holder's last known address, as the case may be. If the address is unknown, the notice shall be sent to the address of the owner of the premises at which the indirect discharge is made into the collection system. The notice shall contain a statement of the reasons for the proposed action. The permit holder or the user, as the case may be, shall be given the opportunity for a hearing before the Control Authority or its designee prior to taking final action. Failure to respond in writing to the notice of violation during the notice period shall be deemed consent to the proposed action.
- (c) Thirty days after notice (and following a hearing, if requested by the user or permit holder, as the case may be), the Control Authority may modify or suspend the permit or limit, regulate or suspend the user's indirect discharge into the collection system and treatment plant, all as the Control Authority deems appropriate, or may terminate the notice if the violation or threat of violation has abated. The Control Authority will provide written notice of its actions to the user or the permit holder, as the case may be, in like manner as the notice of action.
- (d) Any user or permit holder notified of suspension of wastewater treatment service, a permit or both, shall immediately stop its indirect discharge or eliminate the violation. In the event the indirect discharge is not stopped or the violation eliminated, the Control Authority may

take such steps it deems necessary, including, but not limited to, immediate capping of the sewer connection, to prevent or minimize the violation.

- (e) The Control Authority may reinstate the wastewater treatment service, permit or both, if it is satisfied that the violation has been or will be corrected and upon payment of all fines and costs outstanding against the user or permit holder assessed by the Control Authority in connection with the sewer service. Prior to reinstatement, the Control Authority may require a written statement submitted from the user or permit holder describing the cause of the violation and describing the measures completed to prevent future violations. Reinstatement may be conditioned upon completion of such measures. The Control Authority may require the posting of a bond or other financial security as a condition of restoring sewer service, the permit or both.

(Ord. 337. Passed 9-8-92.)

1043.33 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The Control Authority, at least annually, will publish in the daily newspaper with the greatest circulation in the City and the townships of Acme, East Bay, Elmwood, Garfield and Peninsula, a public notice which will identify all users meeting the criteria for "significant noncompliance" with pretreatment requirements, as defined in this chapter, during the period since the last publication. The notice will identify the user and state the basis for the finding of significant noncompliance, together with such other information as the Control Authority deems appropriate in light of the purposes of this chapter.

(Ord. 337. Passed 9-8-92.)

1043.34 COSTS OF ABATEMENT.

All costs of abatement of any and all violations by any user shall be borne by that user.

(Ord. 337. Passed 9-8-92.)

1043.35 AFFIRMATIVE DEFENSES TO VIOLATIONS.

A person shall have an affirmative defense in any action brought against him or her alleging a violation of the general prohibitions established in Section 1043.07(a) and the specific prohibitions provided in Section 1043.07(b)(3), (4), (5), (6) and (7) where such person can demonstrate that:

- (a) An upset occurred;
- (b) He or she did not know or have reason to know that his or her indirect discharge, alone or in conjunction with an indirect discharge or indirect discharges from other sources, would cause pass-through or interference;
- (c) A local limit was developed for each pollutant in the indirect discharge that caused pass-through or interference, and that the user was in compliance with each such local limit directly prior to and during the pass-through or interference; or
- (d) If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed for the pollutants that caused the pass-through or interference, the indirect discharge directly prior to and during the pass-through or interference did not change substantially in nature or constituents from the prior discharge activity when the treatment plant was regularly in compliance with its NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof and may not claim an upset unless it has complied with the requirements of Section 1043.16.

(Ord. 337. Passed 9-8-92.)

1043.36 CONSTRUCTION AND LOCATION OF PRETREATMENT AND MONITORING FACILITIES.

- (a) A wastewater pretreatment system or device may be required to treat flows prior to discharge to the collection system and treatment plant of certain waste constituents not in compliance with this chapter, the program or a permit, in order to distribute more equally over a longer time period any peak discharges of wastewater, or to meet effluent limits required by this chapter, the program or a permit. All pretreatment systems or devices shall be approved by the Control Authority, but such approval shall not relieve the user of the responsibility of meeting any requirement of this chapter, the program or a permit.
- (b) All users shall be required to install, use and maintain such monitoring equipment or methods as may be necessary to carry out the objective of this chapter, including, but not limited to, suitable manholes, meters and appurtenances or other facilities to facilitate observation, sampling and measurement of the combined wastes from the premises. All monitoring equipment and facilities shall be installed by the user at his or her expense and shall be maintained by such user so as to be safe, operable and accessible at all times. All manholes installed to meet the requirements of this section shall be located on the user's premises unless the such a location would be impractical or cause an undue hardship. If no suitable location exists on the user's premises, the Control Authority may permit construction of a manhole in the public right of way or easement, subject to the approval of the local unit of government. If the monitoring facilities are located within a locked fence, the Control Authority shall be provided with keys to the gate lock. Unrestricted access to monitoring manholes or other meters, appurtenances or monitoring facilities shall be available to authorized personnel of the Control Authority at all times.
- (c) The Control Authority may require any user to furnish and install at the monitoring manhole or other appropriate location a calibrated flume, weir, flow meter or similar device approved by the Control Authority and suitable to measure the flow rate and total volume of the indirect discharge. A flow indicating-, recording- and totalizing-register may be required by the Control Authority.
- (d) Grease, oil and sand interceptors shall be provided and installed by any user when, in the opinion of the Control Authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the Control Authority and shall be so located as to be readily and easily accessible for cleaning and inspection.
- (e) All monitoring facilities, whether on public or private property, shall be constructed in accordance with applicable State and local construction standards and specifications. Plans and specifications for all such work shall be submitted, prior to construction, to the Control Authority for approval as conforming to requirements of the program, this chapter and other applicable ordinances.
- (f) All users shall obtain approval from the Control Authority prior to construction, installation, modification or operation of any facility for the collection, treatment or discharge of any

pollutant into the collection system and treatment plant.
(Ord. 337. Passed 9-8-92.)

1043.37 ESTABLISHMENT OF CHARGES AND FEES.

The Control Authority may establish, by resolution, reasonable charges and fees, which may include, at a minimum:

- (a) Fees for reviewing accidental discharge procedures and construction;
- (b) Fees for permit applications, modifications or renewals;
- (c) Fees for treatment of extra-strength pollutants;
- (d) Fees for monitoring and/or analysis of a user's indirect discharge;
- (e) Fees for filing appeals;
- (f) Other fees as the Control Authority may deem necessary to carry out the requirements of this chapter.

Such charges and fees relate solely to matters covered by this chapter and are separate from all other fees chargeable by any local unit of government.

(Ord. 337. Passed 9-8-92.)

1043.38 RECOVERY OF COSTS.

For each and every occurrence of any impact to the environment, the collection system, treatment facilities or other appurtenances thereto or the receiving waters, caused by an indirect discharge, and notwithstanding any fines, penalties and/or surcharges that may be applicable to the discharge, the Control Authority may recover from the user, and the user shall pay, the direct and indirect costs associated with the clean-up, repair, recovery or any other activity required directly or indirectly due to the impact of the discharge. Costs shall include, but not be limited to:

- (a) The actual direct and indirect costs of any labor required to monitor, test, repair, clean-up, pick-up, pump, vacuum, sweep or in any other way recover from the discharge and return the affected facility to the conditions required by permit;
- (b) The actual direct and indirect costs of any outside services billed to the Control Authority and/or its representatives for any services, monitoring, testing, repairs, clean-up, pumping, recording, containment, work or other activity engaged in to directly or indirectly assist the Control Authority in returning the affected facility to the conditions required by permit;
- (c) The actual direct and indirect costs of any materials, supplies, parts and/or equipment used by the Control Authority and/or its representatives for any services, monitoring, testing, repairs, clean-up, pumping, recording, containment, work or other activity engaged in to directly or indirectly assist the Control Authority in returning the affected facility to the conditions required by the permit;
- (d) The actual direct and indirect costs of any services related to the discharge provided to the Control Authority by any public agency;
- (e) The actual amount of any and all legal fees incurred by the Control Authority in defending against fines, penalties, administrative fees, judgments and/or settlements against the Control Authority or its representatives resulting directly or indirectly from the discharge;
- (f) The actual amount of any and all attorney fees and costs incurred by the Control Authority in enforcing this chapter, a permit or a compliance schedule, in prosecuting violations and in collecting any and all fines, penalties, administrative fees, judgments and/or settlements against the user or its representatives resulting directly or indirectly from the discharge; or

- (g) The actual amount of any fines, penalties, administrative fees, judgments and/or settlements against the Control Authority or its representatives resulting directly or indirectly from the discharge, whether imposed, adjudicated, negotiated or required by any legal means.

Costs shall be calculated by the Control Authority from the records, reports, documents and/or invoices submitted by the contractors, vendors, suppliers, agencies and/or claimants and may be verified by legal counsel to the Control Authority if requested by the user. The user shall be invoiced for these costs as they are developed and submitted, and payment is due net ten days, with the Control Authority receiving interest at the highest rate of interest permitted by law.

(Ord. 337. Passed 9-8-92.)

1043.39 RATES AND SERVICE CHARGES.

- (a) It is hereby declared to be necessary and conducive to the protection of the public health, welfare and convenience to levy and collect rates and service charges upon premises served by the collection system.
- (b) To determine the sanitary wastewater flow from any source, the City Manager may use one of the following methods:
 - (1) The amount of water supplied to the premises by a public or private water supply as shown upon the water meter, if the premises are metered;
 - (2) If the premises are supplied with unmetered water from sources, such as private wells, the estimated amount of water supplied from such sources;
 - (3) If such premises are used for a nondomestic purpose of such a nature that the water supplied to the premises cannot be entirely discharged into the sewerage system, the estimated amount of wastewater discharged into the sewer system;
 - (4) The number of cubic feet of wastewater discharged into the sewerage system, as determined by measurements and samples taken at a manhole installed by the owner of the property served by the sewerage system in accordance with the terms and conditions of the permit issued by the City; or
 - (5) A figure determined by the City Manager by any combination of the methods described in paragraphs (b)(1) and (4) hereof or by another equitable method.
- (c) Wastewater treatment service charges shall be established for all users of the public sanitary sewerage system in the City by resolution of the City Commission placed on file with the City Clerk. When establishing rates, the City Commission shall establish a late payment interest and penalty as allowed by law.
- (d) The City shall not honor deductions from any customer's sanitary wastewater treatment account for water consumed which does not reach the sanitary sewer, unless such water is taken from a separate "deduct" metered connection. The expense of such connection shall be borne by the consumer in the same manner as other water supply connections.
Notwithstanding the foregoing, in order to give credit for lawn sprinkling for residential customers for the period from April 15 through October 15, the average waste consumption for the months of January, February and March shall be used as the basis for a sewer service charge.
- (e) For disposal of holding tank waste, the rate shall be established by the City Manager for each delivered load.
- (f) The City may enter into a special agreement or arrangement with any nondomestic user whereby waste of an unusual strength or character may be accepted by the treatment plant,

subject to payment therefor. Additional payment will be required to cover the added cost of handling and treating the waste. Surcharges required for excessive BOD, suspended solids and phosphorus shall be made. Where surveillance is required to limit wastewater flows or to sample waste to ensure compliance with this chapter, the user shall be billed for actual costs incurred by the City.

(Ord. 337. Passed 9-8-92.)

1043.40 COLLECTION OF CHARGES, FEES, PENALTIES, ETC.

The Control Authority may use all legal means of collecting charges, fees, costs, rates, interest, penalties and all other monetary charges, including the following:

- (a) The Control Authority may terminate or interrupt service to secure collection.
- (b) The Control Authority may commence litigation in any court of competent jurisdiction to secure collection, and the user shall be responsible for and shall pay all reasonable attorney's fees and costs of such litigation.
- (c) Charges for services furnished to premises shall be a lien on the premises at the time the services are rendered. Charges delinquent for six months or more shall be certified annually to the proper tax assessing officer, who shall enter the lien on the next tax roll against the premises to which the services have been rendered. Charges shall be collected and the lien shall be enforced in the same manner as other local property taxes. Where a tenant is responsible for the payment of the charges and the City is so notified in writing, together with a true copy of the lease for the affecting party premises, if there is one, the charges shall become a lien against the premises after the date of the notice. If a tenant is responsible for the payment of charges, the City may require a cash deposit in a sum not to exceed two-months estimated service charges as security for the payment of such charges.

(Ord. 337. Passed 9-8-92.)

1043.41 INJUNCTIVE RELIEF.

In addition to penalties provided in Section 1043.99 and all other remedies for violations of this chapter, a permit or a compliance schedule, an action may be commenced for an injunctive order restraining a violation of this chapter or a permit or requiring compliance therewith in the Circuit Court for the County in which the user is located.

(Ord. 337. Passed 9-8-92.)

1043.99 PENALTY.

- (a) Whoever violates any provision of this chapter, a permit or a compliance schedule, shall be guilty of a misdemeanor subject to a fine not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) for each violation (or such lesser sum as may be established by law as a maximum penalty for violation of this chapter). Each day during which a violation occurs or continues shall constitute a separate offense. A violation of the terms of a permit or a compliance schedule established under this chapter shall be deemed a violation of this chapter.
- (b) In addition to the provisions of Section 1043.41 and the penalties provided in this section, the Control Authority and any township affected by a violation of this chapter, a permit or a compliance schedule may recover from any person committing such violation all costs and damages as set forth in detail in Section 1043.38. Suit may be commenced in any court of competent jurisdiction.

(Ord. 432. Passed 12-4-95.)