

**Chapter 1042**  
**Water Discharge Regulations**

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CROSS REFERENCES
Water quality - see Mich. Const., Art. 4, Sec. 52; M.C.L.A. Secs. 67.38, 323.1 et seq.
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.
Water supply generally - see Mich. Const., Art. 7, Sec. 24; M.C.L.A. Secs. 46.171 et seq., 123.11 et seq., 325.201 et seq., 486.51 et seq., 486.101 et seq.
Department of Public Works - see ADM. Ch. 238
Sewer Department - POTW - see ADM. Ch. 242
Water pollution - see GEN. OFF. 670.01, 670.02
Combined water supply and sewage disposal system - see S.U. & P.S. Ch. 1040
Cross connection control - see S.U. & P.S. Ch. 1044

### **1042.01 PURPOSE; OBJECTIVES**

- A. The purpose of this chapter is to provide for the regulation of sewers, sewage, water, hydrants and industrial waste pretreatment facilities; the discharge of industrial waste into the Manistee publicly-owned treatment works (POTW); pollutant limitations, data collection, monitoring and sampling; issuance of discharge permits; establishment of administrative review procedures; and penalties and other remedies for violations of this chapter. (Ord. 00-01. Passed 1-4-00)
- B. The objectives of this chapter are to:
1. Prevent the introduction of pollutants into the City wastewater system which will interfere with the normal operation of the system or contaminate the resulting Municipal sludge;
  2. Prevent the introduction of pollutants into the City wastewater system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
  3. Improve the opportunity to recycle and reclaim wastewater and sludge from the system. (Ord. Unno. Passed 7-2-91.)
  4. Protect POTW personnel who may be affected by wastewater and sludge in the course of their employment; (Ord. 00-01. Passed 1-4-00)
  5. Provide for the investigation of instances of pass-through or interference, the notification of the responsible industry, and for appropriate enforcement actions; (Ord. 00-01. Passed 1-4-00)

### **1042.02 DEFINITIONS**

- A. As used in this chapter, unless the context specifically indicates otherwise:
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. 1251, et seq.
  2. "Authorized representative of an industrial user" includes, but is not limited to:
    - (a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
    - (b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

- (c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates, or for environmental matters of the company. Authorization for this representative must be submitted, in writing, to the City by the individual designated in either paragraph 2 (a) or (b) hereof.
  - (d) A director or highest official appointed or designated to oversee the operation and performance of the activities of a federal, state, or local government facility, or their designee.
3. "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at twenty degrees centigrade, expressed in terms of weight and concentration (milligrams per liter).
  4. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys the same to the building sewer, beginning five feet outside the inner face of the building wall.
  5. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.
  6. "Bypass" means the intentional diversion of waste streams from any portion of a user's pretreatment facility.
  7. "Categorical standards" means national categorical pretreatment standards or other pretreatment standards.
  8. "Chemical oxygen demand (COD)" means a measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. The term "chemical oxygen demand" is also known as O, oxygen consumed (OC) and dichromate oxygen consumed (DOC), respectively.
  9. "City" means the City of Manistee.
  10. "Combined sewer" means a sewer receiving both surface runoff and sewage.
  11. "Compatible pollutant" means a substance amenable to treatment in the wastewater treatment plant, such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the POTW was designed to treat such pollutants and in fact does remove such pollutants to a substantial degree. Examples of such additional pollutants include chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds and fats, oils and greases of animal or vegetable origin.
  12. "Composite sample" means a series of samples taken over a specific time period whose volume is proportional to the flow in the waste stream, which are combined into one sample.
  13. "Cooling water" means the water discharged from any use, such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.
  14. "Dilution" means any thinning or weakening of a wastewater discharge by mixing it with water or other liquid, including any process of mixing or diluting as a partial or

- complete substitute for adequate treatment necessary to achieve compliance with applicable standards and limitations. Dilution is prohibited unless specifically approved by the city in writing.
15. "Direct discharge" means the discharge of treated or untreated wastewater directly to the waters of the State.
  16. "Environmental Protection Agency" and "EPA" mean the U.S. Environmental Protection Agency, the EPA Administrator or other duly authorized official of the EPA.
  17. "Garbage" means solid waste from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
  18. "Grab sample" means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
  19. "Holding tank waste" means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.
  20. "Incompatible pollutants" means any pollutant which is not a compatible pollutant.
  21. "Indirect discharge" means the discharge or the introduction of nondomestic pollutants into the POTW (including holding-tank waste discharged into the system).
  22. "Industrial user" means any user who or which discharges industrial waste as defined in this section.
  23. "Industrial waste" means the wastewater discharge from industrial, manufacturing, trade, service or business processes, or the wastewater discharge from any structure with these characteristics, as distinct from their employees' domestic wastes or wastes from sanitary conveniences.
  24. "Interference" means the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the City's NPDES permit or reduces the efficiency of the POTW. The term "interference" also includes prevention of sewage sludge use or disposal by the POTW.
  25. "Laboratory determination" means the measurement, test and analysis of the characteristics of waters and wastes in accordance with the methods contained in the latest edition, at the time of any such measurement, test or analysis, of Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation, or in accordance with any other method prescribed by the rules and regulations promulgated pursuant to this chapter.
  26. "Local Limits" mean the numerical or non-numerical standards and requirements established by the City in order to protect the safety and welfare of the public and POTW workers, or to prevent pollutant interference, inhibition or pass-through in regard to plant operations, or to comply with state and federal regulations.
  27. "Manager" means the Manager of the City of Manistee, or his or her authorized deputy, agent or representative.
  28. "National categorical pretreatment standard" and "pretreatment standard" mean any Federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial users.
  29. "National pollution discharge elimination system (NPDES) permit" means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

30. "National prohibitive discharge standard" and "prohibitive discharge standard" mean any regulation developed under the authority of Section 307(b) of the Act and 40 CFR Section 403.5.
31. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
32. "New source" means any source, the construction of which is commenced after the publication of proposed national categorical pretreatment standards that will be applicable to such source, provided that:
  - (a) Construction is at a site where no other source is located;
  - (b) Process or production equipment causing discharge is totally replaced due to construction;  
or
  - (c) Production or wastewater generating processes of the facility are substantially independent of an existing source at the same site.  
Construction is considered to have commenced when the installation or assembly of facilities and/or equipment has begun, significant site preparation has begun for installation or assembly or the owner/operator has entered into a binding contractual obligation for the purchase of facilities or equipment intended to be used in its operation within a reasonable time. Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph (30)B. or C. hereof but otherwise alters, replaces or adds to existing process or production equipment.
33. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.
34. "pH" means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
35. "Pollutant" means any of various chemicals, substances and refuse materials, such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat and industrial, Municipal and agricultural wastes, which impair the purity of the water and soil.
36. "Pollution" means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.
37. "POTW treatment plant" means that portion of the POTW designed to provide treatment to wastewater.
38. "Pretreatment" and "treatment" means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutants or 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 or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).

39. "Pretreatment requirements" means any substantive or procedural requirement for treating a waste prior to inclusion in the POTW.
40. "Process waste" means any water, which, during manufacturing or processing, comes into direct contact with, or results from the production of use of any raw material, intermediate product, finished product, by-product or waste product. This definition specifically eludes noncontact cooling water, domestic wastewater, infiltration and inflow.
41. "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
42. "Public sewer" means a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.
43. "Publicly-owned treatment works (POTW)" means a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the City. The term "POTW" includes any sewers that convey wastewater to the POTW treatment plant. For the purposes of this chapter, the term "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.
44. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
45. "Severe property damage" means substantial physical damage to property, damage to the user's pretreatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources, which can reasonably be expected to occur in absence of a bypass. The term "severe property damage" does not mean economic loss caused by delays in production.
46. "Sewage" means a combination of the water-carried wastes from residences, business buildings; institutions and industrial establishments, together with such ground, surface and storm waters as may be present.
47. "Sewer" means a pipe or conduit for carrying sewage.
48. "Shall" is mandatory; "may" is permissive.
49. "Significant industrial user" means any industrial user of the City's wastewater disposal system who:
  - (a) Is subject to categorical pretreatment standards under 40 CFR Part 403 and 40 CFR Part 405 through 40 CFR Part 471, along with amendments to the existing or hereafter promulgated standards;
  - (b) Has an average discharge flow of 10,000 gallons or more per average work day of process water to the POTW, excluding sanitary, non-contact cooling water and boiler blow-down wastewater;
  - (c) Has a flow greater than five percent of the average dry weather hydraulic or organic capacity in the City's wastewater treatment system;
  - (d) Has in his or her wastes toxic pollutants as defined pursuant to Section 307 of the Act or other applicable Federal and State laws and regulations; or
  - (e) Is found by the City, the Michigan Department of Environmental Quality or the EPA to have significant impact, either singly or in combination with other

- contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.
50. "Significant noncompliance" means one or more of the following:
    - (a) Chronic violations of a wastewater discharge limit, defined herein as when sixty-six percent or more of all the measurements for the pollutant parameter taken during a six-month period exceed, by any magnitude, the corresponding daily maximum limit or the corresponding average limit;
    - (b) Technical review criteria (TRC) violations of a wastewater discharge limit, defined here as when thirty-three percent or more of all the measurements for the pollutant parameter taken during a six-month period equal or exceed the product of the corresponding daily maximum limit multiplied by the applicable TRC factor, or the product of the corresponding average limit multiplied by the applicable TRC factor. (TRC factor = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
    - (c) Any other violation of a daily maximum limit or an average limit that the City determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
    - (d) Any discharge of a pollutant that has caused imminent endangerment to human health, public welfare or the environment, or has resulted in the POTW exercising its emergency authority to halt or prevent such a discharge;
    - (e) Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a City-issued discharge permit 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 and/or reports on compliance with compliance schedules;
    - (g) Failure to accurately report noncompliance; and
    - (h) Any other violation, or group of violations, which the City determines as adversely affecting operation or implementation of the City's pretreatment program.
  51. "Slug load" means any substance released in a discharge at a rate and/or concentration which causes interference to the POTW.
  52. "Standard industrial classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
  53. "State" means the State of Michigan.
  54. "Storm sewer" and "storm drain" mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
  55. "Storm water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.
  56. "Superintendent" means the person designated by the City to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative.

57. "Surcharge" means an additional charge paid, as part of the service charge, by any customer discharging wastewater having strength in excess of limits set forth by the City to cover the cost of treatment of such excess strength wastewater.
58. "Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
59. "Toxic pollutant" means any pollutant or combination of pollutants which is or can potentially be harmful to the public health or the environment, including those listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of Section 307(a) of the Clean Water Act or other Acts.
60. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with national categorical pretreatment standards because of factors beyond the reasonable control of the user. The term "upset" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.
61. "User" means any person who contributes causes or permits the contribution of wastewater into the POTW62.
63. "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground water, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
64. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
65. "Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, either surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof. (Ord. Unno. Passed 7-2-91.) (Ord. 00-01, Passed1-18-00)

### 1042.03 ABBREVIATIONS

The following abbreviations shall have the designated meanings: (Ord. Unno. Passed 7-2-91.)

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
l	liter
mg	milligrams
mg/l	milligrams per liter
NPDES	National pollutant discharge elimination system
POTW	Publicly owned treatment works
SIC	Standard industrial classification
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
TSS	Total suspended solids
O & M	Operation and maintenance
CWA	Clean Water Act

**1042.04 UNLAWFUL DEPOSITS OR DISCHARGES OF SOLID OR LIQUID WASTES; SEPTIC TANKS PROHIBITED; INSTALLATION OF TOILET FACILITIES AND CONNECTION TO PUBLIC SEWERS REQUIRED**

- A. No person shall place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.
- B. No person shall discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter and statutes and regulations of the State.
- C. Except as hereinafter provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- D. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right of way in which there is now located, or may in the future be located, a public sanitary or combined sewer for the City, is hereby required, at his or her expense, to install suitable toilet facilities directly with the proper public sewer in accordance with the provisions of this chapter. The City Council may require any such owner, pursuant to the authority conferred upon it by law or ordinance, to make such installation or connection. (Ord. Unno. Passed 7-2-91.)

**1042.05 PRIVATE SEWAGE DISPOSAL SYSTEMS**

- A. Where a public sanitary or combined sewer is not available under the provisions of Section 1042.04(d), the building sewer shall be connected to a private sewage disposal system constructed in compliance with State law and the regulations of the City Council.
- B. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 1042.04(d), a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

Upon application of the owner of such property, the City Council may grant a delay of not more than two years before making connection to a public sewer. Such delay shall be granted only if private facilities are satisfactory and create no nuisance or health hazard.

- C. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.
- D. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the City Council or the Michigan Department of Health with respect to private sewage disposal. (Ord. Unno. Passed 7-2-91.)

**1042.06 BUILDING SEWERS AND CONNECTIONS**

- A. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Manager or from such official as he or she may designate.
- B. All connections with any sewer of the City shall be made only after written authorization and permits issued by the City are obtained, and upon completion of such forms and the paying of such fees as shall be established from time to time by the City Council.
- C. All costs and expenses incident to the installation and connection of a building sewer shall be borne by the owner of such property. The owner shall indemnify the City from all loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. All applicants for sewer connection permits shall, when required, submit plans and specifications for all plumbing construction within such building or premises, and such plans and specifications shall meet the requirements of the Michigan Building Code, as adopted in Section 1420.01 of the Building and Housing Code, and all orders, rules and regulations of the Michigan Department of Health. When such plans and specifications have been approved by the City Council or by such official as it may designate, a sewer or plumbing permit shall be issued, subject to final inspection and approval when construction is completed.
- E. The applicant for a building sewer permit shall notify the Manager or the Code Official when the building sewer is ready for inspection. The Manager or the Code Official, or their designated representatives, shall then inspect the building and plumbing construction therein, and if such construction meets the previous requirement as approved in the construction permit, a sewer connection approval shall be issued, subject to the applicable provisions of other sections of this chapter.
- F. The cost of all repairs, maintenance and replacements of existing building sewers and their connections to public sewers shall be borne by the property owner. Such owner shall make application to the City through its designated representative for a permit to perform work.
- G. The applicant for a building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City's representative.
- H. All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. (Ord. Unno. Passed 7-2-91.)

**1042.07 GENERAL DISCHARGE PROHIBITIONS**

- A. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage water, cooling water or unpolluted industrial process waters to any sanitary sewer.
- B. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the City, to a storm sewer, combined sewer or natural outlet.
- C. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW, whether or not the user is subject to the national categorical pretreatment standards or any other national, State or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:
1. Any liquids, solids or gases, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit, which, by reason of their nature and quantity, are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
  2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, the following: grease, petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from the refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes. (Ord. 00-01, passed 1-18-00)
  3. Any wastewater having a pH less than 5.5 or greater than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the POTW.
  4. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW or exceed a limitation set forth in a categorical pretreatment standard.
  5. Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair,

including pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

6. Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
7. Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.
8. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
9. Any wastewater having a temperature which will inhibit biological activity in the POTW, resulting in interference, but in no case wastewater with a temperature which exceeds sixty-six degrees centigrade (150 degrees Fahrenheit).
10. Any pollutants, including suspended solids and/or oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause interference to the POTW.
11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
12. Any wastewater which causes a hazard to human life or creates a public nuisance.
13. Any unpolluted water, including, but not limited to, non-contact cooling water.
14. Any trucked or hauled wastewater, except as specifically allowed by the City. (Ord. Unno. Passed 7-2-91.)

D. No user shall discharge wastewater containing in excess of the local limits established below.

1. Non-permitted Users. Unless specially authorized via approval of the Superintendent and issue of a wastewater discharge permit, no wastewater containing pollutants in excess of the following background concentrations shall be discharged:

<b>Concentration</b>	<b>Pollutant</b>	<b>Sample Basis</b>
*	arsenic	24-hour composite
0.001 mg/l	cadmium	24-hour composite
*	chromium, total	24-hour composite
0.065 mg/l	copper	24-hour composite
0.007 mg/l	lead	24-hour composite
*	mercury	24-hour composite
0.002 mg/l	nickel	24-hour composite
0.001 mg/l	silver	24-hour composite
0.082 mg/l	zinc	24-hour composite
*	cyanide, total	average of grab(s) over 24 hour period
0.1 mg/l	phenols, total	average of grab(s) over 24 hour period
*	xylenes, total	average of grab(s) over 24 hour period
*	tetrachloroethylene	average of grab(s) over 24 hour period

- \* Any discharge of indicated pollutant at or above the level of detection shall be a specific violation of this ordinance. The sampling procedures, preservation/handling, and analytical protocol for compliance monitoring shall be in accordance with the following EPA methods; the detection levels shall not exceed the indicated values, unless higher levels are appropriate because of sample matrix interference:

Pollutant	Test Method	Level of Detection
arsenic	EPA 206.2	0.001 mg/l
chromium	EPA 218.2	0.001 mg/l
mercury	EPA 245.1	0.0005 mg/l
cyanides, total	EPA 335.2	0.005 mg/l
xylenes, total	EPA 602	0.001 mg/l
tetrachloroethylene	EPA 601	0.001 mg/l

2. Permitted Users. Upon approval of the Superintendent and issue of a wastewater discharge permit, wastewater not in excess of the following local limits may be discharged:

Concentration	Pollutant	Sample Basis
0.94 mg/l	arsenic	24-hour composite
0.026 mg/l	cadmium	24-hour composite
4.3 mg/l	chromium, total	24-hour composite
0.73 mg/l	copper	24-hour composite
0.75 mg/l	lead	24-hour composite
*	mercury	24-hour composite
1.2 mg/l	nickel	24-hour composite
0.032 mg/l	silver	24-hour composite
2.0 mg/l	zinc	24-hour composite
0.05 mg/l	cyanide, total	average of grab(s) over 24 hour period
0.53 mg/l	phenols, total	average of grab(s) over 24 hour period
0.75 mg/l	xylenes, total	average of grab(s) over 24 hour period
0.88 mg/l	tetrachloroethylene	average of grab(s) over 24 hour period

- \* Any discharge of indicated pollutant at or above the level of detection shall be a specific violation of this ordinance. The sampling procedures, preservation/handling, and analytical protocol for compliance monitoring shall be in accordance with the following EPA methods; the detection levels shall not exceed the indicated values, unless higher levels are appropriate because of sample matrix interference:

Pollutant	Test Method	Level of Detection
mercury	EPA 245.1	0.0005 mg/l

(Ord. #97-4. Passed 1/21/97)

**1042.08 INCORPORATION OF NATIONAL CATEGORICAL PRETREATMENT STANDARDS**

- A. Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the pretreatment standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter and shall be considered part of this chapter. The Superintendent shall notify all affected users of the applicable reporting requirements.
- B. Existing users subject to new national categorical pretreatment standards shall achieve compliance within three years of the date the standard is promulgated, unless a shorter compliance schedule is specified in the standard. New sources subject to national categorical pretreatment standards shall install, have in operating condition and have started-up all pretreatment equipment required to achieve compliance before beginning to discharge, and shall meet all applicable pretreatment standards within the shortest feasible time, but not to exceed ninety days after beginning to discharge. (Ord. Unno. Passed 7-2-91.)

**1042.09 STATE DISCHARGE LIMITATIONS**

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those provided in this chapter. (Ord. Unno. Passed 7-2-91.)

**1042.10 LOCAL DISCHARGE LIMITATIONS**

The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if such limitations or requirements are deemed necessary to comply with the objectives presented in Section 1042.01.

(Ord. Unno. Passed 7-2-91.)

**1042.11 GREASE, OIL AND SAND INTERCEPTORS**

- A. Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

- B. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.

(Ord. Unno. Passed 7-2-91.)

**1042.12 REVIEW AND APPROVAL OF CERTAIN DISCHARGES**

- A. The admission into the public sewers of any waters or wastes
1. containing five-day biochemical oxygen demand greater than 300 parts per million by weight, or

2. containing suspended solids greater than 350 parts per million by weight, or
  3. containing chemical oxygen demand greater than 600 parts per million by weight, or
  4. containing total **Kjeldahl** nitrogen greater than 40 parts as N per million by weight, or
  5. containing total phosphorus greater than 15 parts per P per million by weight, or
  6. containing oil and grease greater than 100 parts per million by weight, or
  7. having an average daily flow which imposes an unreasonable burden upon the public sewers, pumping stations, or the POTW treatment plant, shall be prohibited unless reviewed and approved by the City and covered by a wastewater discharge permit.
- B. Such excess discharges may be assessed per-pound and/or per-gallon surcharge fees, as appropriate, in accordance with Section 1042.18 of this Ordinance. The sample basis for per-pound surcharge fees shall be 24-hour composites or, when appropriate in the opinion of the City, the average of grab(s) collected of a 24-hour period.

In no case, however, shall a User discharge wastewater containing in excess of:

Concentration	Pollutant	Sample Basis
980 mg/l	5-Day Biochemical Oxygen Demand	24-Hour Composite, or Average of Grab(s) over 24 Hour Period
1,200 mg/l	Total Suspended Solids	24-Hour Composite, or Average of Grab(s) over 24 Hour Period
2,280 mg/l	Chemical Oxygen Demand	24-Hour Composite, or Average of Grab(s) over 24 Hour Period
290 mg/l	Total Kjeldahl Nitrogen	24-Hour Composite, or Average of Grab(s) over 24 Hour Period
45 mg/l	Total Phosphorus	24-Hour Composite, or Average of Grab(s) over 24 Hour Period
550 mg/l	Oil & Grease	24-Hour Composite, or Average of Grab(s) over 24 Hour Period

#### **1042.13 DILUTION OF DISCHARGES**

Except where expressly authorized to do so by an applicable national categorical pretreatment standard, no user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant-specific limitation developed by the City or State. (Ord. Unno. Passed 7-2-91.)

#### **1042.14 ACCIDENTAL DISCHARGES**

- A. Protective Facilities and Procedures; Emergency Notification. Where required, a user shall provide protection from accidental discharges of prohibited materials or other substances regulated by this chapter. The City will evaluate, at least once every two years, whether a user without such protection will be subjected to these requirements. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be

approved by the City before construction of the facility. All required users shall complete such a plan within six months of the adoption of this chapter. If required by the City, a user who commences contribution to the POTW after the effective date of this chapter shall not be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include the location of the discharge, the type of waste, the concentration and volume of such waste and corrective actions.

- B. Written Notice. Within five days following an accidental discharge, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to persons or property, nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this chapter or other applicable law.
- C. Notice to Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. Unno. Passed 7-2-91.)

#### **1042.15 SPECIAL AGREEMENTS FOR ACCEPTANCE OF UNUSUAL INDUSTRIAL WASTES**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern, provided that such waste will not damage the sanitary or storm sewers, the sewage treatment plant or the receiving waters and provided that the Federal categorical standards will not be violated. (Ord. Unno. Passed 7-2-91.)

#### **1042.16 UPSETS**

- A. An upset shall constitute an affirmative defense by users in unintentional and temporary noncompliance with applicable national categorical pretreatment standards or pretreatment requirements, provided that it can be proved that:
1. An upset occurred and the user can identify the causes of the upset;
  2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
  3. The user submitted the following information to the City within twenty-four hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
    - (a) A description of the discharge and the 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; and
- (c) Steps being taken and/or planned to reduce eliminate and prevent recurrence of the noncompliance.

B. In any enforcement proceedings, the user seeking to establish the occurrence of an upset shall have the burden of proof. Users shall not have an affirmative defense for the discharge of pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute health and safety problems to workers.

(Ord. Unno. Passed 7-2-91.) (Ord. 00-01. Passed 1-18-00)

#### **1042.17 BYPASSES**

A. A bypass producing a discharge which violates applicable national categorical pretreatment standards or pretreatment requirements is prohibited, and the City may take enforcement action against a user for such bypass, unless the bypass was unavoidable to prevent loss of life, personal injury or severe property damage; 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 (except where adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to operate during normal periods of equipment downtime or preventive maintenance); and the user submitted required notices.

B. If the user knows in advance of the need for a bypass, a prior notice shall be submitted to the City at least ten days before the date of the bypass. The City may approve or disapprove this anticipated bypass, after considering its adverse effects.

C. A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment requirements to the City within twenty-four hours from the time the user becomes aware of the bypass. Unless waived by the City, a written submission shall then be provided within five 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 recurrence of the bypass.

(Ord. Unno. Passed 7-2-91.)

#### **1042.18 RATES AND CHARGES FOR SEWAGE DISPOSAL SERVICE**

A. The sanitary sewer system of the City shall, as far as possible, be operated and maintained on a public utility basis as authorized by law. Each premise within the City connected to and using the facilities of the system shall pay the rates and charges for such use as fixed and established from time to time by the City Council.

B. Where sewage disposal service is furnished to users not connected to the water system, or in cases where users make use of large quantities of water which may be discharged into storm sewers or approved outlets other than the sanitary sewer system, or for other

miscellaneous users of water for which special consideration should be given, special rates may be fixed by the City Council.

- C. the character of sewage from any manufacturing or industrial plant, or from any other building or premises, is such that it imposes an unreasonable burden upon the City's sewerage system, in the discretion of the City Council, an additional charge shall be made over and above the regular rates herein established; or, in the alternative, such owner may be required to separately and satisfactorily treat such sewage before emptying it into any public sewer, or the right to empty such sewage may be denied, if necessary, for the protection of the system, public health or safety.
- D. The City shall provide for the recovery of costs from users of the POTW for the implementation of the Industrial Pretreatment Program. The applicable charges or fees shall be set forth for:
1. Reimbursement of costs of setting up and operating the Pretreatment Program;
  2. Monitoring, inspection and surveillance procedures;
  3. Reviewing accidental discharge procedures and construction;
  4. Filing appeals;
  5. Consistent removal by the City of pollutants otherwise subject to Federal pretreatment standards; and
  6. Other purposes as the City may deem necessary to carry out the requirements contained in this chapter.

The charges and fees for the services provided by the system for the Industrial Pretreatment Program shall be levied upon any user who or which may have any sewer connections with the POTW and who or which discharges industrial waste to the POTW or any part thereof. Such charges shall be based upon the quantity and quality of industrial wastewater used thereon or therein.

- E. The rate to be billed for the use of the system shall be determined as follows for all industrial users within the sanitary sewer service area of the City:
1. A \_\_\_\_\_ per pound excess BOD surcharge shall be made for discharges in excess of \_\_\_\_ mg/l BOD.
  2. A \_\_\_\_\_ per pound excess suspended solids surcharge shall be made for discharges in excess of \_\_\_\_\_ mg/l suspended solids.
  3. Additional surcharges may be made by the City to compensate the City for the cost of treatment of pollutant loadings not normally treated at, or in excess of those treated by, the POTW.
  4. There shall be additional charges for laboratory testing of wastewater. The laboratory charge shall be for the cost thereof and will be determined for each industrial user.
  5. Rates will be established and amended by resolution by City Council.  
(Ord. Unno. Passed 7-2-91.)

**1042.19 DISCLOSURE OF INFORMATION FROM INDUSTRIAL USERS PRIOR TO CONNECTION AND CONTRIBUTION TO POTW; ADDITIONAL POWERS OF CITY RE CONTROL OF DISCHARGES**

- A. No person shall discharge to the waters of the State within the City, or in any area under the jurisdiction of said City, and/or to the POTW, any wastewater, except as authorized by the Superintendent in accordance with the provisions of this chapter, except as provided by an NPDES permit.
- B. All industrial users proposing to connect or contribute to the POTW shall submit information on the user, processes and wastewater to the City before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall submit this information within 180 days after the effective date of this chapter. The information submitted must be sufficient for the City to determine the impact of the user's discharge on the POTW and the need for pretreatment. The user shall submit, in units and terms appropriate for evaluation, on a disclosure form prescribed by the City, the following information:
1. The user's name, address and location (if different from the address).
  2. The user's SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
  3. Wastewater constituents and characteristics, including, but not limited to, those mentioned in Section 1042.07, as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with the procedures and methods detailed in:
    - (a) Standard Methods for the Examination of Water and Wastewater, American Public Health Association;
    - (b) Manual of Methods for Chemical Analysis of Water and Wastes, United States Environmental Protection Agency;
    - (c) Annual Book of Standards, Part 131, "Water, Atmospheric Analysis," 1975, American Society for Testing and Materials
  4. The time and duration of contribution;
  5. Average daily wastewater flow rates, including daily, monthly and seasonal variations, if any;
  6. For industries identified as significant industries or subject to the national categorical pretreatment standards, or those required by the City, site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by size, location and elevation;
  7. A description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;
  8. Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State or Federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required by the industrial user to meet applicable pretreatment standards;

9. If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

- (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards.
- (b) No increment referred to in paragraph (b)(9)A. hereof shall exceed nine months.
- (c) Not later than fourteen days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent, including, as 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 user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Superintendent.

10. Each product produced by type, amount, process or processes and rate of production;

11. The type and amount of raw materials processed, average and maximum per day;

12. The number and type of employees, hours of operation of the plant and the proposed or actual hours of operation of the pretreatment system.

13. Any other information as may be deemed by the City to be necessary to evaluate the impact of the discharge on the POTW.

The disclosure form shall be signed by a principal executive officer of the user and a qualified engineer.

The City will evaluate the complete disclosure form and data furnished and may require additional information. Within ninety days after full evaluation and acceptance of the data furnished, the City shall notify the user of the acceptance thereof.

C. Within 180 days after the effective date of the promulgation or revision of a national categorical pretreatment standard, all affected existing users must submit to the City the information required by paragraphs (b)(8) and (9) hereof. At least ninety days prior to commencement of discharge, new sources and existing sources that become affected users subsequent to the promulgation of an applicable national categorical pretreatment standard shall submit to the City information on the method of pretreatment they intend to use to meet the applicable pretreatment standard and estimates of flow and pollutants to be discharged. Industrial users shall report any changes in the Baseline Monitoring Report to the POTW within 60 days. (Ord. 00-01. Passed 1-18-00)

D. Wastewater discharges shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the City. The City may:

- 1. Set unit charges or a schedule of user charges and fees for the wastewater to be discharged to the POTW;

2. Limit the average and maximum wastewater constituents and characteristics;
3. Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;
4. Require the installation and maintenance of inspection and sampling facilities;
5. Establish specifications for monitoring programs, which may include sampling locations, the frequency of sampling, the number, types and standards for tests and reporting schedules;
6. Establish compliance schedules;
7. Require the submission of technical reports or discharge reports;
8. Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the City, and affording City access thereto and copying thereof;
9. Require notification of the City in advance of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, including ground waters purged for remedial action programs and ground waters containing pollutants that infiltrate into sewers; (Ord. 00-01. Passed 1-18-00)
10. Require immediate notification of all discharges that could cause problems to the POTW, including any slug discharges;
11. Require other conditions as deemed appropriate by the City to ensure compliance with this chapter.
12. Convert concentration-based national categorical pretreatment standards to equivalent mass-based or production-based pretreatment requirements.
13. Control through permit, order, or similar means, the contribution to the POTW by each User to ensure compliance with applicable National Categorical Pretreatment Standards, Pretreatment Requirements, or this Ordinance. The control mechanism may have the following minimum conditions, which are enforceable:
  - (a) A statement of the duration of the control mechanism, which shall not be more than 5 years;
  - (b) A statement of not-transferability without prior notification to the publicly owned treatment works, and provisions that a copy of the existing control mechanism conditions shall be provided to the new
  - (c) Effluent limits based on applicable general pretreatment standards, local limits, and state and local law;
  - (d) Self-monitoring, sampling, reporting, notification, and record keeping requirements, including identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type based on the applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law;
  - (e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and applicable compliance schedules that do not extend the compliance date beyond applicable federal deadlines;
  - (f) A provision for the modification of the control mechanism by the City in the event of revised NPDES permit conditions, water quality standards, categorical pretreatment standards, or objectives of the City's Industrial Pretreatment Program; and
  - (g) Provisions whereby the City may issue, revoke, suspend, or formulate a control mechanism based upon the User's compliance with National Categorical Pretreatment Standards, Pretreatment Requirements, or this Ordinance, using

discharge data provided via periodic compliance reports pursuant to Paragraph 1042.20(b) of this Section. (Ord. 00-01. Passed 1-18-00)

14. Adjust national categorical pretreatment standards to reflect the presence of pollutants in a user's intake water. (Ord. Unno. Passed 7-2-91.)

#### **1042.20 REPORTING REQUIREMENTS**

A. Generally. Within ninety days following the date for final compliance with applicable pretreatment standards, or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. For users subject to equivalent mass-based or concentration-based limits established by the City, this report shall contain a reasonable measure of the long-term production rate. For users subject to categorical pretreatment standards expressed per unit of production, the report shall include the actual production during the sample period. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified to by a qualified representative.

#### **B. Periodic Compliance Reports.**

1. Any Significant Industrial User discharging into the POTW shall submit to the Superintendent during June and December, unless required more frequently in a control mechanism or by the Superintendent a report indicating the nature and concentration of pollutants in the effluent which are limited by National Categorical Pretreatment Standards, Pretreatment Requirements, or a control mechanism. The nature and concentration of pollutants reported shall be on the basis of representative sampling. Where required, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in Paragraph 1042.19(d)(3) of this section. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted. (Ord. 00-01. Passed 1-18-00)

Any User who discharges into the POTW shall, upon direction from the Superintendent, submit data indicating the nature and concentration of pollutants in the effluent which are limited by this Ordinance. This data may be collected by the User or may be collected by the City with the costs reimbursed by the User. The Superintendent may, based upon this data, require additional reporting or may designate the User as a Significant Industrial User and issue a control mechanism to apply to the discharge.

2. The Superintendent may also impose mass limitations on users who or which are using dilution to meet applicable pretreatment standards or requirements, or in other cases in which the imposition of mass limitations is appropriate. In such cases, the report required by paragraph (b)(1) hereof shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.
3. If a user is subject to reporting requirements and is required to demonstrate continued compliance and monitors any pollutant more frequently than required by the City, using approved procedures, the results of this additional monitoring shall also be included in the periodic compliance report.

4. If sampling performed by a user indicates a violation, the user shall notify the City within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and submit the results of re-analysis to the City within thirty days after becoming aware of the violation, except when the City will be performing scheduled surveillance sampling/analysis within this thirty-day period. (Ord. Unno. Passed 7-2-91.)

#### **1042.21 MONITORING FACILITIES**

The City may require monitoring facilities to be provided and operated at the user's own expense to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. Normally, the monitoring facility should be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the City and all applicable local construction standards and specifications. Construction shall be completed within ninety days following written notification by the City. (Ord. Unno. Passed 7-2-91.)

#### **1042.22 INSPECTIONS AND SAMPLING**

The City shall inspect the facilities of any user to ascertain whether the purposes of this chapter are being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, records copying or the performance of any of the City's or its representative's duties. The City, the Michigan Department of Environmental Quality and the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into such user's premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the City, the Michigan Department of Environmental Quality and the EPA will be permitted to enter the premises of such user without delay, for the purposes of performing their specific responsibilities.

(Ord. Unno. Passed 7-2-91.) (Ord 00-01. Passed 1-18-00)

#### **1042.23 PRETREATMENT FACILITIES**

Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by Federal pretreatment regulations and as required by the City. Any facilities required to pre-treat wastewater to a level acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or the method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes. (Ord. Unno. Passed 7-2-91.)

**1042.24 PUBLICATION OF NAMES OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE; RECORDS OF COMPLIANCE**

The City will annually publish in the major local newspaper a list of the users subject to Categorical Standards which were in significant noncompliance with any pretreatment requirements or standards at any time during the previous twelve months. The notification will also summarize any enforcement actions taken against such users during the same twelve months.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or the Michigan Department of Environmental Quality upon request. (Ord. Unno. Passed 7-2-91.)(Ord. 00-01. Passed 1-18-00)

**1042.25 CONFIDENTIAL INFORMATION**

- A. Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
- B. When requested by the person furnishing a report, the portion of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the NPDES permit or the pretreatment programs, provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
- C. Information accepted by the City as confidential shall not be transmitted to any government agency or to the general public by the City until and unless a ten-day notification is given to the user. (Ord. Unno. Passed 7-2-91.)

**1042.26 SIGNING OF REPORTS; CERTIFICATION STATEMENT**

All reports required by this section shall be signed by the authorized representative of an industrial user and include the following certification statement:

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

If the authorized representative of an industrial user changes because a different individual has responsibility for the overall operation of the facility or for environmental matters of the company, a new authorization satisfying the requirements of Section 1042.02(2)C. must be submitted to the City prior to or together with any reports to be signed by that representative. (Ord. Unno. Passed 7-2-91.)

**1042.27 DISCHARGES OF HAZARDOUS WASTE**

All users shall notify the POTW, the EPA Regional Waste Management Division Director and the State Hazardous Waste Authority in writing of any discharge into the POTW of a substance which would be a hazardous waste under 40 CFR 261 if disposed via other means. Notification details, as well as allowable exceptions, shall be in accordance with 40 CFR 403.12(p). In the case of any new regulations under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must provide notification of the discharge of such substance within ninety days of the effective date of such regulations. In the case of any notification of hazardous waste discharges, the user shall further certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Ord. Unno. Passed 7-2-91.)

**1042.28 OPENING AND CLOSING HOLES IN SEWERS**

No person shall cut, break or make any opening into any of the sewers, trunk line or otherwise, in any street or alley in the City, without first having permission from the City Manager of the City to do so. After having received such permission to open, make or break a hole in such sewer, the same shall not be closed except under the supervision and direction of the City Manager, or his or her designee. (Ord. Unno. Passed 7-2-91.)

**1042.29 FALSIFICATION**

No person shall 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 chapter, or who falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this chapter. (Ord. Unno. Passed 7-2-91.)

**1042.30 RETENTION OF RECORDS**

All users subject to this chapter shall retain and preserve for no less than three years any records, books, documents, memoranda, reports and correspondence, and any and all summaries thereto, relating to monitoring, sampling and chemical analyses made by or in behalf of a user in connection with such user's discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the City pursuant to this chapter shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. (Ord. Unno. Passed 7-2-91.)

**1042.31 SUSPENSION AND TERMINATION OF SERVICE; VIOLATIONS; ENFORCEMENT ACTIONS; OTHER REMEDIES**

- A. The City may suspend wastewater treatment services to any User when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, causes or may cause interference to the POTW, or causes or may cause the City to violate any condition of its NPDES Permit.
- B. The City may revoke, suspend, or terminate the wastewater discharge permit of any User which
  1. fails to accurately report the wastewater constituents and characteristics of its discharge;
  2. fails to report significant changes in wastewater constituents or characteristics;

3. refuses reasonable access to the User's premises by representatives of the City for the purpose of inspection or monitoring; or
  4. violates the conditions of this Ordinance or any final judicial order entered with respect thereto.
- C. Any person notified of a suspension of wastewater treatment service shall immediately stop or eliminate contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen days of the date of occurrence.
1. Whenever the City finds that a User has violated any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the Superintendent will issue a Notice of Violation to formally document the noncompliance. This document will specify the nature of the violation, establish a date by which the violation shall be corrected, and notify the affected User that failure to correct the violation would constitute a further violation which may result in additional enforcement action. A notice of Violation will be sent via first-class mail or personally served on an Authorized Representative of the User. Receipt, or not-receipt, of a Notice of Violation shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of a Notice of Violation shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.
  2. When the City finds that a User has violated any provision of this Ordinance, Industrial Waste Permit or Order issued hereunder, or other Pretreatment Standard or Requirement, the Superintendent may issue and Administrative Order to Show Cause requiring the affected User to appear at a hearing to demonstrate why escalated enforcement action should not be pursued. This document will specify the nature of the violation, establish the time and place for the hearing, and notify the affected User that failure to comply would constitute a violation of this Ordinance which may result in additional enforcement action. An Order to Show Cause will be issued at least ten (10) days prior to the hearing, and will be sent via certified mail/return receipt requested or personally served on an Authorized Representative of the User. Receipt, or non-receipt, of an Order to Show Cause shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an Order to Show Cause or conducting of the show cause hearing shall not be a bar against, or prerequisite for, any other enforcement actions by the City against the affected User.
  3. When the City and an affected User agree to a violation and to the remedial solution, the Superintendent may issue and Order of Consent or similar document to formally establish such agreement. This document will specify the nature of the violation and required actions such as compliance schedules, stipulated fines, additional self-monitoring, and improvements to treatment facilities or management practices designed to control the User's discharge to the sewer. An Order of consent will be sent via certified mail/return receipt requested, or personally served on an Authorized Representative of the User, and will require signatures of representatives from both the City and the affected User.

An Order of consent or similar document shall have the same force and effect as other administrative orders issued by the City pursuant to this Ordinance, shall be judicially enforceable, and shall not modify the requirements or extend the deadline for compliance established by a Pretreatment Standard or Requirements. Receipt, or non-receipt, of an Order of Consent or similar document shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of a Consent Order or similar document shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

4. When the City and affected User do not agree to the violation or to the remedial solution, the Superintendent may issue an Order to Achieve Compliance. This document will specify the nature of the violation and include required actions such as compliance schedules, stipulated fines, additional self-monitoring, and improvements to treatment facilities or management practices designed to control the User's discharge to the sewer. An Order to Achieve Compliance will be issued unilaterally in that terms need not be agreed to by the affected User, and will be sent via certified mail/return receipt requested, or personally served on an Authorized Representative of the User.

An Order to Achieve Compliance shall have the same force and effect as other administrative orders issued by the City pursuant to this Ordinance, shall be judicially enforceable, and shall not modify the requirements or extend the deadline for compliance established by the Pretreatment Standard or Requirement. Receipt, or non-receipt, of an Order to Achieve Compliance shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an Order to Achieve compliance shall not be a bar against, or prerequisite for, any other enforcement actions by the City against the affected User.

5. When the City finds that a user has violated and continues to violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the Superintendent and City Attorney may jointly issue a Cease and desist order requiring the affected User to eliminate the violation within twenty-four 24 hours following issuance of the order, the City may suspend sewer service without further notice until such time as the affected User is able to demonstrate to the City that it can comply with the discharge requirements. A Cease and Desist Order will be personally served on an Authorized Representative of the User.

Receipt, or non-receipt, of a Cease and Desist Order shall in no way relive the affected User of any and all liability associated with the violation. Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the User.

6. Whenever the City finds that a User's discharge is in violation of any provision of this Ordinance or any permit issued hereunder and that the violation creates or threatens to create an emergency situation such as damage to the sanitary sewer system, pass-through or interference to the wastewater treatment plant, hazard to Manistee Lake, endangerment to the public health and safety, or violation of any condition of the NPDES permit issued to the City, the Superintendent and City Attorney will jointly issue an Emergency cease and desist order notifying the affected User to eliminate the violating discharge immediately or face service severance via a temporary plug in its sewer connection at any time and without further warning. this document will specify

the nature of the violation, an require that the violating discharge cease until such time as the affected User is able to demonstrate to the City that it can comply with the discharge requirements. This document will also establish the time and place for a hearing where the affected User shall present a written Statement regarding the causes of the violation and measures taken to prevent future occurrences, and further will notify the affected User of its liability for any costs incurred by the City to conduct this enforcement action. An Emergency Cease and Desist Order will be personally served to an Authorized Representative of the User, or may be delivered verbally via telephone to an Authorized Representative of the User and then served personally. Receipt, or non-receipt, of an Emergency Cease and Desist Order shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an Emergency Cease and Desist Order shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

7. Except for emergency situations covered under Subparagraph 2f. of this Section, whenever the city finds that a User's continuing violation warrants revocation of its permit or privilege to discharge into the Wastewater System, the Superintendent and City Attorney will jointly issue a Notice of Termination to warn of the impending suspension of the sewer service up to and including severance via temporary plug in the affected User's sewer connection. This document will specify the date and time of scheduled service suspension in order to allow the affected User to either voluntarily cease the violating discharge or arrange appropriate actions such as production shutdown or alternative means of wastewater disposal. This document will also establish the time and place for a hearing where the affected User shall present a written statement regarding the causes of the violation and measures taken to prevent future occurrences, and further will notify the affected User of its liability for any costs incurred by the City to conduct this enforcement action. A Notice of Termination will be personally served on an Authorized Representative of the User at least ten (10) days before the scheduled service suspension.

Receipt, or non-receipt, of a Notice of Termination shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of a Notice of Termination shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

8. In addition to the sanctions, orders, liabilities, and other remedies prescribed under Subparagraphs 4.a through 4.g in this section, a User shall be liable to the city for any and all fines, penalties, and associated legal and other costs incurred or expended by the City as the result of any violation of the City's NPDES permit that is attributable, in whole or in part, to the User's violation of this Ordinance or a permit issued to the User hereunder.

- D. When the City finds that a User has violated or continues to violate any provision of this Ordinance, an Industrial Waste Permit or Order issued hereunder, or other Pretreatment Standard or Requirement, and administrative fine may be assessed against the affected User in an amount up to \$500 per violation. Each day during which the violation occurred or continues to occur may be deemed a separate violation and, in the case of a violation of monthly or other long-term average discharge limits, the fine may be assessed for each day during the period of averaging.

Receipt, or non-receipt, of an administrative fine shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

- E. Except for emergency situations covered under Subparagraph 2.f of this section, any User desiring to dispute a Notice of Violation or order of the City, pursuant to this Ordinance, including but not limited to fines, may present a written request for reconsideration. such a request shall be submitted to the City manager within ten (10) days of first being notified of the corresponding order for all but a Notice of Termination, where such a request shall be submitted within five (5) days of notification. If, in the opinion of the City Manager, the request has merit, he will convene a hearing on the matter as soon as possible to collect testimony of appropriate persons, take evidence, and render a final determination. In the even the affected User's appeal is unsuccessful, any original fine will become immediately due and the City may also add any additional costs incurred to administer this appeal. Further appeal of the City Manager's final determination shall be to the City Council.

Submittal of an appeal in no way relieves the affected User of any and all liability associated with the violation. An appeal shall not stay the corresponding order, or limit any other reinforcement proceedings by the City against the affected User.

- F. When the City finds that a User has violated or continues to violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the City Attorney may petition the Circuit Court of Manistee County for appropriate legal and/or equitable relief.
1. A User who has violated or continues to violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable to issuance of a preliminary injunction or permanent injunction, or both as may be appropriate. This action will be sought to restrain or compel activities on the part of the affected User.  
A petition of injunctive relief shall in no way relieve the affected User of any and all liability associated with the violation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, any other actions by the City against the affected User.
  2. A User who has violated or continues to violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable for a civil penalty of up to five-hundred dollars (\$500) per violation. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of the averaging. the affected User will also be liable for all costs incurred by the City for associated enforcement action such as reasonable attorney's fees, court costs, additional sampling and monitoring expenses, as well as costs or any environmental damage and any fines imposed upon the City for NPDES permit violations that result in whole or in part from the User's violation and expenses associated with remediation of sites thereby contaminated. The City Attorney may petition the court to impose, assess, and recover sums up to this limit of liability. In determining the appropriate amount of civil penalty to seek, the City may take into account all relevant circumstances including but not limited to the extent of harm

caused by the violation, the magnitude and duration of the violation, any economic benefit gained by the affected User as a result of the violation, corrective actions implemented or proposed to be implemented by the affected User, and history of compliance or noncompliance by the affected User.

A suit for civil penalties shall not be a bar against, or a prerequisite for, any other actions by the City against the affected User.

3. A User who has willfully or negligently violated or continues to willfully or negligently violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable to criminal prosecution. If convicted, the affected User will be guilty of a misdemeanor and may be punished by a monetary penalty of up to five-hundred dollars (\$500) per violation, imprisonment for up to ninety (90) days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of averaging. Criminal prosecution shall not be a bar against, or a prerequisite for, any other actions by the City against the affected User.
4. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Ordinance, Industrial Waste Permit or order issued hereunder, or Pretreatment Standard or Requirement will be liable to criminal prosecution. If convicted, the affected User will be guilty of a misdemeanor and may be punished by a monetary penalty of up to five-hundred (\$500) per violation, imprisonment for up to ninety (90) days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of averaging. Criminal prosecution shall not be a bar against, or a prerequisite for, other actions by the City against the affected User.
5. A User who falsifies, tampers with, or knowingly renders inaccurate any data device or test method used to monitor a discharge pursuant to this Ordinance, Industrial Waste Permit or order issued hereunder, or Pretreatment Standard or Requirement will be liable to criminal prosecution. If convicted, the affected User will be guilty of a misdemeanor and may be punished by a monetary penalty of up to five hundred dollars (\$500) per violation, imprisonment for up to ninety (90) days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of averaging. Criminal prosecution shall not be a bar against, or a prerequisite for, any other actions by the City against the affected User.

### **1042.32 SEPARABILITY**

If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

(Ord. Unno. Passed 7-2-91.)

**1042.99 PENALTY**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

Whoever violates Section 1042.29 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or by both, for each offense.

(Ord. Unno. Passed 7-2-91.)