

NOTICE

At a Regular Rochester Hills City Council Meeting held at the City of Rochester Hills Municipal Offices, 1000 Rochester Hills Drive, Oakland County, Michigan on Monday, July 13, 2009:

Present: President Gregory Hooper, Members Erik Ambrozaitis, J. Martin Brennan, Vern Pixley, James Rosen, Michael Webber

QUORUM PRESENT

MOTION BY Webber, seconded by Yalamanchi, **Resolved that Ordinance No. 537**, an ordinance to repeal Article V of Chapter 102, Utilities, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, and to adopt Amendments to the Code of Federal Regulations regarding the discharge of wastewater into wastewater collection and treatment systems which are binding upon the City of Rochester Hills, to streamline necessary procedures for compliance with the aforementioned Federal Amendments and for improvement of the efficiency, operation and implementation of the City of Detroit Water and Sewerage Department's Industrial Pretreatment Program, to establish new regulatory requirements for centralized waste treatment facility dischargers and for groundwater dischargers, to place new responsibility upon industrial users for conducting self-monitoring and waste minimization activities, to modify the appeal and reconsideration process available to industrial users for redress of administrative actions by the City of Detroit Water and Sewerage Department and the City of Rochester Hills, to repeal conflicting ordinances, and prescribe a penalty for violations, **BE AND IS HEREBY ADOPTED** and shall become effective on Friday, July 24, 2009 the day following its publication in the *Rochester Post*.

Ayes: Ambrozaitis, Brennan, Hooper, Pixley, Rosen, Webber and Yalamanchi

MOTION CARRIED

ORDINANCE NO. 537

AN ORDINANCE TO REPEAL ARTICLE V, OF CHAPTER 102, UTILITIES, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, AND TO ADOPT AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS REGARDING THE DISCHARGE OF WASTEWATER INTO WASTEWATER COLLECTION AND TREATMENT SYSTEMS WHICH ARE BINDING UPON THE CITY OF ROCHESTER HILLS, TO STREAMLINE NECESSARY PROCEDURES FOR COMPLIANCE WITH THE AFOREMENTIONED FEDERAL AMENDMENTS AND FOR IMPROVEMENT OF THE EFFICIENCY, OPERATION AND IMPLEMENTATION OF THE CITY OF DETROIT WATER AND SEWERAGE DEPARTMENT'S INDUSTRIAL PRETREATMENT PROGRAM, TO ESTABLISH NEW REGULATORY REQUIREMENTS FOR CENTRALIZED WASTE TREATMENT FACILITY DISCHARGERS AND FOR GROUNDWATER DISCHARGERS, TO PLACE NEW RESPONSIBILITY UPON INDUSTRIAL USERS FOR CONDUCTING SELF-MONITORING AND WASTE MINIMIZATION ACTIVITIES, TO MODIFY THE APPEAL AND RECONSIDERATION PROCESS AVAILABLE TO INDUSTRIAL USERS FOR REDRESS OF ADMINISTRATIVE ACTIONS BY THE CITY OF DETROIT WATER AND SEWERAGE DEPARTMENT AND THE CITY OF ROCHESTER HILLS, TO REPEAL CONFLICTING ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Article V of Chapter 102 of the Code of Ordinances is hereby repealed in its entirety and replaced by new Article V, as follows:

ARTICLE V. WASTEWATER DISCHARGE CONTROL

Sec. 102-511. Delegation of authority

CODIFIED ORDINANCE NO. 537

The City of Detroit, through the Detroit Water and Sewerage Department, as the State approved Control Authority, is authorized to administer and enforce the provisions of this Article on behalf of the City of Rochester Hills. The City of Rochester Hills has executed and hereby ratifies its delegation agreement with the City of Detroit through the Detroit Water and Sewerage Department, which sets forth the terms and conditions of such delegated authority, consistent with this Article, and shall allow the Detroit Water and Sewerage Department to perform the specific responsibilities of Control Authority pursuant to State and Federal law.

Sec. 102-512. Purpose

(a) The purpose of this Article is the protection of the environment, and of public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of wastes admitted to or discharged into the wastewater collection and treatment system under the jurisdiction of the City of Rochester Hills and enabling the City of Rochester Hills to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act, being 33 USC 1251, et seq, and the General Pretreatment Regulations, being 40 CFR part 403.

(b) The objectives of this Article are:

- (1) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or contaminate the resulting sludge, or will pose a hazard to the health or welfare of the people or of employees of the City of Detroit Water and Sewerage Department and the City of Rochester Hills;
- (2) To prevent the introduction of pollutants into the wastewater system which will pass inadequately treated through the system into receiving waters, the atmosphere or the environment, or otherwise be incompatible with the system;
- (3) To improve the opportunity to recycle or reclaim wastewater or sludge from the system in an economical and advantageous manner; and
- (4) To provide for the recovery of the costs from users of the wastewater collection and treatment system sufficient to administer regulatory activities and meet the costs of the operation, maintenance, improvement or replacement of the system.

(c) This Article provides for the regulation of contributors to the Detroit and City of Rochester Hills wastewater collection and treatment system through the issuance of wastewater discharge permits to certain users and through the enforcement of general requirements for all users, authorizes monitoring and enforcement, and authorizes fees and penalties.

Sec. 102-513. Authority.

By virtue of the obligations and authority placed upon the City of Rochester Hills; by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 et seq; the 1963 Constitution of the State of Michigan; Public Act 245 of 1929, as amended, being MCL 323.1 et seq; the Detroit City Charter; the National Pollutant Discharge Elimination System (NPDES) permit for the City of Detroit Publicly Owned Treatment Works (POTW); the Consent Judgment in U.S. EPA v. City of Detroit et al, U.S. District Court for the Eastern District of Michigan Case No.77-1100, as amended; and existing or future contracts between the Board of Water Commissioners and suburban communities or other governmental or private entities; or by virtue of common law usage of the system, this Article shall apply to every user contributing or causing to be contributed, or discharging, pollutants or wastewater into the wastewater collection and treatment system of the City of Detroit POTW.

Sec. 102-514. Definitions.

For purposes of this Article and unless the context specifically indicates otherwise, the following terms and phrases, shall have the meanings ascribed to them by this section:

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Act or the act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 et seq.

Authorized representative of industrial user means:

- (1) Responsible corporate officer, where the industrial user submitting the reports required by this division is a corporation, who is either (a) the president, vice-president, secretary, or treasurer of a corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or (b) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred and fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) in second-quarter 1980 dollars, when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or
- (2) A general partner or proprietor where the industrial user submitting the reports required by this division is a partnership or sole proprietorship respectively.

Available cyanide means the quantity of cyanide that consists of cyanide ion (CN⁻) hydrogen cyanide in water (HCNaq), and the cyano-complexes of zinc, copper, cadmium, mercury nickel and silver, determined by EPA method OIA-1677, or other method designated as a Standard Method or approved under 40 CFR 136.

Best Management Practices (BMP) means programs, practices, procedures or other directed efforts initiated and implemented by the User which can or do lead to the reduction, conservation or minimization of pollutants being introduced into the ecosystem, including but are not limited to the Detroit sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control and may include technical and economic considerations.

Biochemical oxygen demand (BOD) means the quantity of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five (5) days at twenty (20) degrees centigrade expressed in terms of mass and concentration (milligrams per liter (mg/l)) as measured by standard methods.

Board means the Board of Water Commissioners of the City of Detroit.

Bypass means the intentional diversion of a waste stream from any portion of an industrial user's treatment facility. [See 40 CFR 403.17.]

Centralized waste treatment (CWT) facility means any facility that treats any hazardous or non-hazardous industrial waste received from off-site by tanker truck, trailer roll-off bins, drums, barges, or any other forms of shipment including: (i) a facility that treats industrial waste received exclusively from off-site, and (ii) a facility that treats industrial waste generated on-site as well as industrial waste received from off-site.

City means the City of Rochester Hills.

Compatible industrial wastewater means wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater, and which can be efficiently and effectively transported and treated with domestic wastewater.

Compatible pollutant means pollutants which can be effectively removed by the POTW treatment system to within the acceptable levels for the POTW residuals and the receiving stream.

Composite sample means a collection of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provides a representative sample of the average stream during the sampling period. A minimum of four (4) aliquot per twenty-four (24) hours shall be used where the sample is manually collected. [See 40 CFR 403, Appendix E.]

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Confidential information means the information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

Control authority means the Detroit Water and Sewerage Department which has been officially designated as such by the State of Michigan under the provisions of 40 CFR 403.12.

Cooling water means the non-contact water discharged from any use such as air conditioning, cooling or refrigeration, and whose only function is the exchange of heat.

Days mean consecutive calendar days for the purpose of computing a period of time prescribed or allowed by this division.

Department means the City of Detroit Water and Sewerage Department, and authorized employees of the Department.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the State of Michigan.

Director means the Director of the Detroit Water and Sewerage Department, or the Director's designee.

Discharger means a person who, directly or indirectly, contributes, causes, or permits wastewater to be discharged into the POTW.

Domestic sewage means waste and wastewater from humans or household operations which is discharged to, or otherwise enters, a treatment works.

Environmental Protection Agency or administrator or EPA administrator means the United States Environmental Protection Agency or, where appropriate, the authorized representatives or employees of the EPA.

Facility means a location, which contributes causes or permits wastewater to be discharged into the POTW including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.

Fats, Oils or Grease (FOG) means any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other nonvolatile material of animal, vegetable or mineral origin that is extractable by solvent in accordance with standard methods.

Flow proportional sample means a composite sample taken with regard to the flow rate of the waste stream.

Grab sample means an individual sample collected over a period of time not exceeding fifteen (15) minutes, which reasonably reflects the characteristics of the stream at the time of sampling.

Indirect discharge or discharge means the discharge or the introduction of pollutants into the POTW from any non-domestic source regulated under 33 USC 1317(b), (c) or (d).

Industrial user means a person who contributes, causes or permits wastewater to be discharged into the POTW, including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable but excludes single family and multi-family residential dwellings with discharges consistent with domestic waste characteristics.

Industrial waste means any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both: (i) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (ii) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and

regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, as amended, being 33 USC 1345; the Solid Waste Disposal Act (SWDA), as amended, (including the Resource Conservation and Recovery Act (RCRA), and State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

May means permissive.

National categorical pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 USC 1317 (b) and (c) which applies to a specific class or category of industrial users.

National Pollutant Discharge Elimination System (NPDES) permit means a permit issued pursuant to 33 USC 1342.

New source means:

- (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 33 USC 1317(c) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided, that: (a) the building, structure, facility or installation is constructed at a site where no other source is located; or (b) the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or (c) the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered; or
- (2) Construction on a site where an existing source is located resulting in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (i)(b) or (i)(c) of this definition but otherwise alters, replaces, or adds to existing process or production equipment; or
- (3) Construction of a new source has commenced where the owner or operator has: (a) begun, or caused to begin as part of a continuous on site construction program: (1) any placement, assembly, or installation of facilities or equipment; or (2) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that are necessary for the placement, assembly, or installation of new source facilities or equipment; or (b) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

Pass through means discharge which exits the POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, co partnership, firm, company, corporation, association, joint stock company, trust, estate, unit of government, school district, or any other legal entity, or their legal representative, agent or assigns.

pH means the intensity of the acid or base condition of a solution, calculated by taking the negative base-ten logarithm of the hydrogen ion activity. Activity is deemed to be equal to concentration in moles per liter.

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Pollutant means any dredged spoil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or industrial, municipal and agricultural waste which is discharged into water.

Pollution means the introduction of any pollutant that, alone or in combination with any other substance, can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.

Pretreatment means the reduction of the amount of pollutants, the removal of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction, removal or alteration may be attained by physical, chemical or biological processes, or process changes by other means, except as prohibited by federal, State or local law, rules and regulations.

Pretreatment requirements means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user. [See 40 CFR 403.3(r)].

Pretreatment standards means all National Categorical Pretreatment Standards, the general prohibitions specified in 40 CFR 403.5(a), the specific prohibitions delineated in 40 CFR 403.5(b), and the local or specific limits developed pursuant to 40 CFR 403.5(c), including the discharge prohibitions specified in this article.

Public sewer means a sewer of any type controlled by a governmental entity.

Publicly owned treatment works (POTW) means a treatment works as defined by 33 USC 1292(2)(A) which is owned by a state or municipality, as defined in 33 USC 1362, including:

- (1) Any devices and systems used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial waste of a liquid nature;
- (2) Sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant; or
- (3) The municipality, as defined in 33 USC 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater, including recycling and reclamation of wastewater.

Quantification Level means the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.

Representative sample means any sample of wastewater, which accurately and precisely represents the actual quality, character, and condition of one (1) or more pollutants in the waste stream being sampled. Representative samples shall be collected and analyzed in accordance with 40 CFR Part 136.

Sanitary wastewater means the portion of wastewater that is not attributable to industrial activities and is similar to discharges from domestic sources including, but not limited to, discharges from sanitary facilities and discharges incident to the preparation of food for on-site non-commercial consumption.

Shall means mandatory.

Significant noncompliance means any violation which meets one (1) or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of all of the measurements taken during a six (6) month period exceed by any magnitude the daily maximum limit or the average limit for the same parameter;

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- (2) Technical review criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, Fats, Oil and Grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Department 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;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority;
- (5) Failure to meet a compliance schedule milestone contained in a local control mechanism, or enforcement order for starting construction, completing construction, or attaining final compliance within ninety (90) days after the scheduled date;
- (6) Failure to provide required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty (30) days after the due date;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations which the Department determines will adversely affect the operation or implementation of the local pretreatment program.

Significant industrial users means any user of the POTW who:

- (1) Has an average discharge flow of 25,000 gallons per day or more of process wastewater excluding sanitary, boiler blowdown, and noncontact cooling water; or
- (2) Has discharges subject to the national categorical pretreatment standards; or
- (3) Requires pretreatment to comply with the specific pollutant limitations of this division; or
- (4) Has in its discharge toxic pollutants as defined pursuant to 33 USC 1317, or other applicable federal and State laws or regulations, that are in concentrations and volumes which are subject to regulation under this division as determined by the Department; or
- (5) Is required to obtain a permit for the treatment, storage or disposal of hazardous waste pursuant to regulations adopted by this State or adopted under the Federal Solid Waste Disposal Act, as amended by the Federal Resource Conservation and Recovery Act, as amended, and may or does contribute or allow waste or wastewater into the POTW including, but not limited to, leachate or runoff; or
- (6) Is found by the City of Detroit or City of Rochester Hills to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.

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

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, 1987, as amended.

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Standard methods mean methods set forth in 40 CFR Part 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants" or the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, or methods set forth in 40 CFR 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants." Where these two (2) references are in disagreement regarding procedures for the analysis of a specific pollutant, the methods given in 40 CFR Part 136 shall be followed.

State means the State of Michigan.

Storm water means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended solids (total) mean the total suspended matter which floats on the surface of, or is suspended in, water, wastewater or other liquids, and is removable by laboratory filtration or as measured by standard methods.

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

Total Phenolic Compounds means the sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2, 4-dichlorophenol, 2, 4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/l.

Toxic pollutant means any pollutant or combination of pollutants designated as toxic in regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the provisions of the Clean Water Act, being 33 USC 1317, or included in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or by other federal or State laws, rules or regulations.

Trade secret means the whole, or any portion or phase, of any proprietary manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value, and whose secrecy the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products or their constituents discharged or sought to be discharged into the Detroit wastewater treatment plant, or into the wastewater system tributary thereto.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with limits imposed under this division or with national categorical pretreatment standards due to factors beyond the reasonable control of the industrial user but excludes noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

User means any person who, directly or indirectly, contributes, causes or permits the discharge of wastewater into the POTW as defined herein.

Wastewater or waste stream means the liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which are contributed to or permitted to enter the POTW including infiltration and inflow waters, storm water, and cooling water.

Wastewater discharge permits mean permits issued by the Department in accordance with this Article.

Waters of the State mean groundwater, lakes, rivers, streams, all other watercourses and waters within the confines of this state as well as bordering this state in the form of the Great Lakes.

Sec. 102-515. Abbreviations.

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For purposes of this article, the following acronyms shall have the meanings designated by this section:

BMR	Baseline monitoring report
BOD	Biochemical Oxygen Demand
C.F.R.	Code of Federal Regulations
EPA	Environmental Protection Agency
FOG	Fats, Oil or Grease
l	Liter
MDEQ	MI. Department of Environment Quality
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act, being 42 USC 6901 et seq
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act, being 42 USC 6901 et seq.
TSS	Total Suspended Solids
U.S.C.	United States Code

Sec. 102-516. General pollutant prohibitions.

No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general discharge prohibitions shall apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or to any other federal, State, or local pretreatment standards or requirements. In addition, it shall be unlawful for a user to discharge into the POTW:

- (a) Any liquid, solid or gas, which by reason of its nature or quantity, is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or to be injurious in any other way to persons, to the POTW, or to the operations of the POTW. Pollutants, which create a fire or explosion hazard in a POTW, include, but are not limited to, waste streams with a closed cup flash point of less than 140°F or 60°C using the test methods specified in 40 CFR 261.21; or
- (b) Any solid or viscous substance in concentrations or quantities, which are sufficient to cause obstruction to the flow in a sewer or other encumbrances to the operation of the POTW, including, but not limited to, grease, animal guts or tissues, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones; or
- (c) Any wastewater having a pH of less than 5.0 units or greater than 11.5 units; or
- (d) Any wastewater containing petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, or toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference, or pass through, or constitute a hazard to humans or animals; or
- (e) Any liquid, gas, solid or form of energy, which either singly or by interaction with other waste is sufficient to create toxic gas, vapor, or fume within the POTW in quantities that may cause acute worker health and safety problems, or may cause a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair; or

- (f) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW, such as residue, sludge, or scum to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under 33 USC 1345, with any criteria, guidelines, or developed and promulgated regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act, or with State criteria applicable to the sludge management method being used; or
- (g) Any substance which will cause the POTW to violate either the Consent Judgment in U.S. EPA v. City of Detroit et al., U.S. District Court for the Eastern District of Michigan Case No. 77-1100, or the City of Detroit's National Pollutant Discharge Elimination System permit; or
- (h) Any discharge having a color uncharacteristic of the wastewater being discharged; or
- (i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150°F or which will cause the influent at the wastewater treatment plant to rise above 104°F (40°C); or
- (j) Any pollutant discharge which constitutes a slug; or
- (k) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable federal or State regulations; or
- (l) Any floating fats, oil or grease which are sufficient to cause interference with or pass through the POTW; or
- (m) Any solid materials having a specific gravity greater than 1.2 or a cross section dimension of one-half (1/2) inch or greater which are sufficient to cause interference with the POTW.

Sec. 102-517. Specific pollutant prohibitions.

- (a) *Compatible pollutants.*

See Appendix C

- (b) *Non-compatible pollutants.* No user shall discharge wastewater containing in excess of:

mg/l

- (1) Arsenic (As), 1.0 mg/l.
- (2) Cadmium (Cd), See Appendix C
- (3) Chromium (Cr), 25.0
- (4) Copper (Cu), 2.5mg/l.
- (5) Cyanide (CN) (Available), 1.0 mg/l.
- (6) Iron (Fe), 1000.0 mg/l.
- (7) Lead (Pb), 1.0 mg/l.
- (8) Nickel (Ni), 5.0 mg/l.
- (9) Silver (Ag), 1.0 mg/l.
- (10) Zinc (Zn) 7.3 mg/l.

(11) Total Phenolic Compounds: 1.0 mg/l.

or See Appendix B

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR part 136.

- a. The limitation for Total PCB is Non-detect. Total PCB shall not be discharged at detectable levels, based upon U.S. EPA Method 608, and the quantification level shall not exceed 0.2 ug/m/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of Total PCB, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the Total PCB concentration is below the detection level, or submission of a BMP in accordance with this article.
- b. The limitation of Mercury (Hg) is Non-detect. Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 ug/m/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of Mercury, the user shall be required to demonstrate compliance. For the purposes of this section, this demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with this article.

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance 40 CFR Part 136.

(c) *Compliance Period.* Within thirty (30) days of the effective date of this ordinance, the Department shall notify all industrial user's operating under an effective wastewater discharge permit of the requirement to submit a compliance report within one hundred eighty (180) days after the effective date of this ordinance. The Compliance Report shall demonstrate the user's compliance or non-compliance with these limitations, and, in the event of non-compliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed (18) month from the effective date of this ordinance. An Industrial User who does not demonstrate compliance may petition the Department for a second extension as part of an Administrative Consent Order. The Department shall include appropriate monitoring, reporting, and penalties into an Administrative Consent Order that relates to a second extension, and shall enter into such an agreement only upon a good-faith showing by the industrial user of the actions taken to achieve compliance with this provision.

Sec. 102-518. National categorical pretreatment standards.

(a) *Generally.* All users shall comply with the applicable National Categorical Pretreatment Standards and requirements promulgated pursuant to the act as set forth in 40 CFR Subchapter N, Effluent Guidelines and Standards, which are hereby incorporated by reference and with all other applicable standards and requirements, provided, that where a more stringent standard or requirement is applicable pursuant to State law or regulation, or to this division, then the more stringent standard or requirement shall be controlling. Affected dischargers shall comply with applicable reporting requirements under 40 CFR part 403 and as established by the Department. The National Categorical Pretreatment Standards which have been promulgated as of the effective date of this section are delineated in Appendix A.

(1) *Intake water adjustment.* Industrial users seeking adjustment of National Categorical Pretreatment Standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15. Upon notification of

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approval by the Department, the adjustment shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial user's permit.

(2) *Modification of national categorical pretreatment standards.* The Department may apply to the U.S. Environmental Protection Agency, or to the Michigan Department of Environmental Quality, whichever is appropriate, for authorization to grant removal credits in accordance with the requirements and procedures in 40 CFR 403.7.

- a. Such authorization may be granted only when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought, provided, that any limitation of such pollutant(s) in the NPDES permit neither are being exceeded nor pose the prospect of being exceeded as a result of the removal credit being granted.
- b. Where such authorization is given to the Department, any industrial user desiring to obtain such credit shall make an application to the Department, consistent with the provisions of 40 CFR 403.7 and of this article.
- c. Any credits which may be granted under this section may be subject to modification or revocation as specified in 40 CFR 403.7, or as determined by the Department.
- d. A requisite to the granting of any removal credit may be that the industrial user pay a surcharge based upon the amounts of such pollutants removed by the POTW, such surcharge being based upon fees or rates which the Board may establish and, when appropriate, revise from time to time.
- e. Permits shall reflect, or be modified to reflect, any credit granted pursuant to this section.

(3) *New sources.* Industrial users who meet the new sources criteria shall install, maintain in operating condition, and “start-up” all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed ninety (90) days, new sources must meet all applicable pretreatment standards.

(4) *Concentration and mass limits.* When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Department may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users. Equivalent limitations shall be calculated in accordance with 40 CFR 403.6(c)(3) and/or 40 CFR 403.6(c)(4) and shall be deemed pretreatment standards for the purposes of 33 USC 1317(d) and of this article. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(5) *Reporting requirements for industrial users upon effective date of categorical pretreatment standards-baseline report.* Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the Detroit POTW shall submit to the Department a report containing the information listed in 40 CFR 403.12(b)(1-7). Where reports containing this information have already been submitted to the Director or regional administrator in compliance with the requirement of 40 CFR 128.140(b), the industrial user will not be required to resubmit this information. At least ninety (90) days before commencement of any discharge, each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the Department a report which contains the information listed in 40 CFR 403.12(b)(1-5). In such report, new sources shall include information concerning the method of pretreatment

the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 CFR 403.12(b),(4) and (5).

(b) *Dilution prohibited.* Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall increase the use of process water, or in any way dilute or 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 or requirement imposed by the City of Rochester Hills, the City of Detroit or by the State of Michigan.

(c) *Hauled in wastewater.* Any waste material or wastewater which is hauled into or within the service region for discharge to the POTW is subject to the requirements of this division including, but not limited to, permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the department for unloading such waste in accordance with the Board's rules pertaining thereto. The discharger shall be subject to applicable terms and conditions, surcharges, fees or rates as established by the Board. Hauled in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirements specified in this Article. The Department may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this division.

(d) *Centralized waste treatment.* It is unlawful for a centralized waste treatment (CWT) facility to discharge any industrial waste or wastewater into the POTW without a wastewater discharge permit from the Department. Any authorization granted, or permit issued, by the Department to a Centralized Waste Treatment (CWT) facility shall specify the type of wastewater for which treatment is provided, and discharge approval is sought, from the POTW. Unless such industrial waste or wastewater is determined by the Department to require further authorization, a centralized waste treatment (CWT) facility that has submitted an application to, and received previous approval from, the Department to discharge wastewater is not required to obtain further authorization from the Department before discharging such wastewater. An industrial user, that provides centralized waste treatment services and files an application for the treatment and discharge of such types of wastewater to the POTW, shall provide the following minimum information in support thereof:

- (1) The general nature, source and process(es) generating the type of wastewater. Any wastewater, which is generated from those processes and is subject to National Categorical Pretreatment Standards as delineated in Appendix A, shall be so designated;
- (2) The identity of the toxic pollutants known or suspected to be present in the wastewater;
- (3) At least one (1) sample report showing the results of an analysis for the EPA priority pollutants for each type of wastewater for which application is made in paragraph (d)(1) of this subsection;
- (4) A statement, that is certified by a professional engineer, which addresses the treatability and compatibility of the wastewater, received or collected by the facility's treatment process(es);
- (5) The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the State, or by any other governmental agency. Upon request, the Centralized Waste Treatment (CWT) facility shall provide a copy of its permit and/or license to the Department; and
- (6) Other information requested by the Department including, but not limited to, information required by Code, or by rules adopted by the Board.

The discharge from a centralized waste treatment (CWT) facility will be deemed approved for those specific types of wastewater delineated in a permit and, upon issuance

of such permit in accordance with the procedures contained in this article, will be deemed approved for discharge into the POTW. The Centralized Waste Treatment (CWT) facility shall comply with all applicable provisions contained in this article regarding permits. In furtherance of its obligations as control authority, the Department may include in the permit a requirement to report at selected intervals the information mandated in paragraphs (1) through (6) of this subsection.

All users granted a permit under this section shall maintain records which, at a minimum, identify the source, volume, character, and constituents of the wastewater accepted for treatment and disposal. These records may be reviewed at any time by the Department.

(e) *Groundwater discharges.* Unless authorization has been granted by the Department, the discharge of any groundwater into the POTW is prohibited.

(1) The Department may authorize the discharge of groundwater resulting from maintenance and related activities of gas, steam, or electrical utilities through the use of general permits. Subject to appropriate reporting requirements, the general permit shall authorize discharge in accordance with the terms of the permit. Utilities shall comply with this provision within one hundred eighty (180) days after its adoption.

(2) If a person, who proposes to discharge groundwater resulting from purge, response activity, or UST projects, has applied for and received a permit from the Department, the Department may authorize the discharge of such wastewater. Permits shall be issued in accordance with the procedures contained in this article, or in accordance with any rules adopted by the Board.

(f) *Right of revision.* The City of Detroit and the City of Rochester Hills reserve the right to establish rules or regulations adopted by the Board, additional or more stringent limitations or requirements on discharges to the POTW. Ninety (90) days after adoption by the Board, industrial users shall comply with such rules and regulations.

(g) *Accidental discharges.*

(1) Each industrial user, which does not currently have an approved spill prevention plan or slug control plan, shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division, and all significant industrial users shall submit to the Department detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided, and maintained at the owner's or industrial user's cost or expense.

a. Unless the significant industrial user has an approved spill prevention or slug control plan, all existing significant industrial users shall complete and submit such a plan within sixty (60) days of the effective date of this article.

b. New significant industrial users shall submit such a plan prior to the time they commence discharging.

(2) For purposes of this section, the information provided shall include the approximate average and maximum quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemicals and/or waste therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of five (5) percent or greater in the raw material, chemical solution or waste material, are required to be reported. Volumes of less than fifty-five (55) gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass through or cause interference with the POTW. The industrial user shall promptly notify the Department of any significant changes or modifications to the plan including, but not limited to, a change in the contact person, or substance inventory.

(3) At least once every two (2) years, the Department shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined by 40 CFR 403.8(f)(2)(v). Unless otherwise provided, all significant users shall complete,

implement, and submit such a plan within thirty (30) days of notification by the Department.

(h) *Notification requirements.* Unless a different notice is provided by this article or applicable law, within one (1) hour of becoming aware of a discharge into the POTW which exceeds or does not conform with Federal, State or City laws, rules, regulations or permit requirements, or which could cause problems to the POTW, or which has the potential to cause the industrial user to implement its plan prepared in accordance with paragraph (1) of this subsection, the industrial user shall telephone the Department at its control center and notify the Department of the discharge.

- a. The notification shall include the name of the caller, the location and time of discharge, the type of wastewater, the estimated concentration of excessive or prohibited pollutants and estimated volume, and the measures taken, or being taken, to abate the discharge into the POTW.
- b. Within five (5) calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences
- c. When required by the department, the industrial user's wastewater discharge permit may be modified to include additional measures to prevent such future occurrences.
- d. Such notification shall not relieve the industrial user of any expense, cost of treatment, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other environmental impairment or any other damage to person or property.

(i) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board, or other prominent place, advising employees whom to contact in the Department in the event of an actual or excessive or prohibited discharge.

Sec. 102-519. Recovery of costs.

Any user discharging in violation of any of the provisions of this article, which produces a deposit or obstruction, or causes damage to or impairs the Department's POTW, or causes the Department to violate its NPDES permit, shall be liable to the Department for any expense, loss, damage, penalty or fine incurred by the Department because of said violation or discharge. Prior to assessing such costs, the Department shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction, impairment, or violation of the City's NPDES permit and the Department's intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this division. Such charge shall be in addition to, and not in lieu of, any penalties or remedies provided under this article or other statutes and regulations, or at law or in equity.

Sec. 102-520. Hazardous waste notification.

All industrial users, who discharge into the City of Rochester Hills Collection System, shall notify the Department in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR Part 261. Such notification must comply with the requirements of 40 CFR 403.12(p).

Sec. 102-521. Authorized representative.

The authorized representative, as defined in this Article, may designate a duly authorized representative of the individual designated where:

- (a) The authorization is made in writing by the individual defined as the authorized representative.

- (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
- (c) The written authorization is submitted to the Department.

Sec. 102-522. Pollution prevention.

The Department shall encourage and support industrial users to develop and implement pollution prevention programs that are designed to eliminate or reduce pollutant contributions beyond the levels required by this article. The Department may require an industrial user to implement pollution prevention initiatives or BMP, as part of an enforcement response, or as necessary to comply with its NPDES permit.

Sec. 102-523. Fees.

The purpose of this section is to provide for the recovery of costs from users of the POTW. The applicable charges or fees established by the Board shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system, or as provided by law or by Board action.

Sec. 102-524. Types of fees.

The Board shall adopt charges and fees which shall include, but not be limited to:

- (a) Fees for reimbursement of costs of establishing, operating, maintaining, or improving the Department's industrial waste control and pretreatment programs;
- (b) User fees based upon volume of waste and concentration or quantity of specific pollutants in the discharge, and treatment costs including sludge handling and disposal; and
- (c) Reasonable fees for reimbursement of costs for hearings including, but not limited to, expenses regarding hearings officers, court reporters, and transcriptions; and
- (d) Other fees, which the Board may deem necessary, to carry out the requirements contained herein, or as may be required by law.

Sec. 102-525. Wastewater discharge permits.

It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference or pass through, or otherwise not comply with the discharge prohibitions of this Article. It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the Detroit Water and Sewerage Department. Unless otherwise expressly authorized by the Department through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this article.

Sec. 102-526. Applicability to significant users.

(a) All significant industrial users, which are in existence on the effective date of this article, shall apply for a wastewater discharge permit within thirty (30) days of the effective date of this article. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this provision. These applications are to include all information specified in this article and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 CFR 403.12(b).

(b) All new significant users shall apply for a wastewater discharge permit at least ninety (90) days prior to commencement of discharge. The application must include all information specified in this Code and, where applicable, any additional information

that may be needed to satisfy the federal BMR requirements of 40 CFR 403.12(b). Until a permit is issued and finalized by the Department, no discharge shall be made into the POTW.

(c) Any user, who proposes to discharge any wastewater other than sanitary or noncontact cooling water into the POTW, shall request approval from the Department for the discharge(s) at least thirty (30) days prior to the commencement of the discharge.

Sec. 102-527. Permit application.

(a) *Application or reapplication.* The Department may require any user to complete a questionnaire and/or a permit application and to submit the same to the Department for determining whether the industrial user is a significant user, or to determine changes in the wastewater discharges from a user's facility. Within thirty (30) days of being so notified, a user shall comply with the Department's request in the manner and form prescribed by the Department. Failure of the Department to so notify a user shall not relieve the user of the duty to obtain a permit as required by this article.

(1) A user, which becomes subject to a new or revised National Categorical Pretreatment Standard, shall apply for a wastewater discharge permit within ninety (90) days after the promulgation of the applicable National Categorical Pretreatment Standard, unless an earlier date is specified or required by 40 CFR 403.12(b). The existing user shall provide a permit application which includes all the information specified in this Article.

(2) A separate permit application shall be required for each separate facility.

(3) Existing permittees shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of existing permits on a form prescribed by the Department.

(b) *Required Information.* In support of an application or reapplication for a wastewater discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Corporate or individual name, any assumed name(s), federal employer identification number, address, and location of the discharging facility;
- (2) Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;
- (3) All SIC numbers of all processes at this location according to the Standard Industrial Classification manual, issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended;
- (4) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in this article, those pollutants limited by national categorical pretreatment standards regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge, regulated in the previous permit, or specifically requested by the Detroit Water and Sewerage Department.
 - a. For each parameter, the expected or experienced maximum and average concentrations during a one (1) year period shall be provided.
 - b. For industries subject to national categorical pretreatment standards or requirements, the data requested herein shall be separately shown for each categorical process waste stream.
 - c. Combined waste streams proposed to be regulated by the combined waste stream formula shall also be identified.
 - d. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to 33 USC 1314(g) and contained in 40 CFR Part 136, as amended. Where 40 CFR Part 136

does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.

- (5) A listing and description of activities, facilities and plant processes on the premises. Those processes, which are subject to national categorical pretreatment standards or requirements, shall be so designated. As pertains to paragraph (b)(4) of this section, identify which pollutants are associated with each process;
- (6) Restricted to only those pollutants referred to in paragraph (b)(4) of this section, a listing of raw materials and chemicals which are either used in the manufacturing process or could yield the pollutants referred to in paragraph (b)(4). Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;
- (7) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven (7) days of the week;
- (8) The average and maximum twenty-four (24) hour wastewater flow rates including, if any, daily, monthly and seasonal variations;
 - a. Each national categorical process waste stream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW; and
 - b. Each combined waste stream;
- (9) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process waste stream and which connections receive storm water, sanitary water or cooling water; also show which lines handle each combined waste stream. This schematic shall be cross-referenced to the information furnished in paragraph (b)(8) of this section;
- (10) Each product produced by type, amount, process or processes and rate of production as pertains to processes subject to production based limits under the national categorical pretreatment standards or requirements only;
- (11) A statement regarding whether or not the requirements of this article and of the national categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements. This statement shall be reviewed and signed by the authorized representative and, as appropriate, certified by a qualified professional;
- (12) Basic information on the program for the prevention of accidental discharges in accordance with the requirements of this article.
- (13) Proposed or actual hours of operation of each pretreatment system for each production process;
- (14) A schematic and description of each pretreatment facility which identifies whether each pretreatment facility is of the batch type or continuous process type;
- (15) If other than Detroit Water and Sewerage Department potable water, the industrial user's source of intake water together with the types of usage and disposal method of each water source, and the estimated wastewater volumes from each source;
- (16) If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this division and the national

categorical pretreatment standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;

- (17) Identify whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other waste at the facility; and
- (18) Any other information as may reasonably be required to prepare and process a wastewater discharge permit.

Sec. 102-528. Permit issuance.

Upon receipt of an application, the Department shall review the application, determine, and so notify the industrial user in writing regarding any of the following:

- (a) The industrial user does not meet the definition of a significant industrial user and is not required to have a wastewater discharge permit;
- (b) The industrial user does meet the definition of a significant industrial user but is found by the Department to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement, and is not required to have a wastewater discharge permit. The Department shall make such determination in accordance with the requirements of 40 CFR 403.8(f)(6);
- (c) The application is incomplete or the information only partially satisfies the information and data required by 40 CFR 403.12 or by the Department, and that additional information and data are required which shall be promptly furnished. Where appropriate, the industrial user is notified regarding specific information that is missing, or that the application is unacceptable;
- (d) The industrial user is required to have a wastewater discharge permit. The Department shall notify the industrial user of its determination and the basis of the determination.

Sec. 102-529. Permit withheld.

The Department may withhold issuance of a permit to a significant user, which has not submitted an adequate or timely report, or permit application, to the Department as the control authority in accordance with the reporting requirements of 40 CFR 403.12, or whose discharge is in violation of this article.

Sec. 102-530. Issuance of proposed permit for review.

(a) If the Department determines that an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the draft permit, so marked, for the industrial user's review.

(b) An industrial user has thirty (30) days from the date of mailing to file a response to the draft permit and, in accordance with the procedures contained in this article, twenty (20) days from the date of mailing to file an appeal regarding a permit issued as final. Only one (1) facility location shall be included in each permit.

Sec. 102-531. Permit contents.

Wastewater discharge permits shall contain all requirements of 40 CFR 403.8(f)(1)(iii) and shall be deemed to incorporate all provisions of this article, other applicable laws, rules, regulations, and user charges and fees established by the City of Detroit or City of Rochester Hills without repetition therein.

Sec. 102-532. Other permit conditions.

Wastewater discharge permits may also contain the following:

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(a) Limits on the average and maximum wastewater constituents or characteristics which are equivalent, more restrictive than, or supplemental to the numeric limits enumerated in this article, or the applicable national categorical pretreatment standards;

(b) Limits on average, and maximum rate and time of discharge or requirements for flow regulation and equalization;

(c) Requirements for installation, operation, and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;

(d) Restrictions on which of the user's discharge waste streams are to be allowed to be discharged at each point of connection to the POTW;

(e) Specifications for industrial user monitoring programs which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedules;

(f) Requirements for the prevention of accidental discharges and the containment of spills or slug discharges;

(g) Restrictions based on the information furnished in the application;

(h) Additional reporting requirements:

(1) All permittees shall submit a report on the form prescribed by the Department, or on an alternative form approved by the Department, indicating the status of compliance with all conditions enumerated or referred to in the wastewater discharge permit, or made applicable to the permit by this division. Unless required more frequently, the reports shall be submitted at six (6) month intervals on a schedule to be established by the Department. Analytical data generated by the Department may not be submitted in lieu of the facility's own monitoring data as required by the wastewater discharge permit.

(2) Permittees not subject to national categorical pretreatment standards or requirements shall submit a report in accordance with the requirements of this article. The report shall show the concentration of each substance for which there is a specific limitation in the permit, or which may be identified by the Department in accordance with this article.

(3) Permittees subject to national categorical pretreatment standards or requirements shall submit compliance reports at the times and intervals specified by federal regulations and by the Department.

(a) A compliance report shall be submitted to the Department no later than ninety (90) days following the final compliance date for a standard, or in the case of a new source, no later than ninety (90) days, following commencement of the introduction of wastewater into the POTW, and in accordance with 40 CFR 403.12(d). A report on continued compliance shall be submitted at six (6) month intervals thereafter on the schedule established by the Department and incorporated into the industrial users discharge permit and in accordance with this article

(b) The reports shall be either on a form prescribed by the Department or on an alternate form approved by the Department, and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by national categorical pretreatment standards, or which there is a specific limitation in the permit, or which may be identified by the Department in accordance with this article. The report shall

include a record of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by the permit. The combined waste stream formula may be used for reporting purposes after the initial information has been furnished to the Department, provided there have been no changes to the elements composing the combined waste stream.

- (4) Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein, and, for significant industrial users subject to production based standards, shall be cross-referenced to the related flow or production and mass as required to determine compliance with the applicable pretreatment standards.
 - a. The frequency of monitoring shall be as prescribed in the applicable general pretreatment regulations, being 40 CFR Part 403, or by the Department, but no less than is necessary to assess and assure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements
 - b. All sampling and analysis shall be performed in accordance with applicable regulations contained in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.
 - c. If an industrial user monitors any pollutant more frequently than required by the Department using the procedures as prescribed in this section, the results of this monitoring shall be included in such report. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards.
- (5) This report, and those required under this Article, shall include the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction, or supervision, in accordance with a system designed to 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 a fine and/or imprisonment for knowing violations. Said certification shall be signed by the facility's authorized representative, as defined in this Code. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the authorized representative definition must be submitted to the Department prior to, or together with, any reports to be signed by an authorized representative.

- (6) If sampling performed by a permittee indicates a violation, the user shall notify the Department within twenty-four (24) hours of the time said user becomes, or should have become, aware of the violation. In addition, the user shall repeat the sampling and analysis, and submit the results of the repeat analysis to the Department within thirty (30) days after said user becomes, or should have become, aware of the violation.

(i) In the event the Director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW, or the receiving stream, the Department has the authority to develop and enforce effluent limits applicable to the user. To the extent the Department seeks to impose restrictions in a permit which are more restrictive than established in this division, the Department shall provide written documentation to explain the greater restriction for protection against pass through, interference, or violation of the NPDES permit;

(j) Requirement for pollution prevention initiatives; and

(k) Other requirements reasonably necessary to ensure compliance with this article.

Sec. 102-533. Permit duration

(a) *Permit duration.* Permits shall be issued for a specified time period. Except as deemed necessary by the Department, or as otherwise provided for under this article, permits shall be issued for a specified period of not more than five (5) years nor less than one (1) year.

(b) *Existing permit extended.* The existing permit for significant industrial users, who timely submit an application for permit reissuance to the Department, shall be automatically extended until a permit is issued as final.

Sec. 102-534. Permit modification.

(a) *Permit modification.* The terms and conditions of the permit may be subject to modification by the Department during the term of the permit as limitations or pretreatment standards and requirements identified in this article are amended, or other just cause exists. Just cause for a permit modification includes, but shall not be limited to, the following:

- (1) Material or substantial changes to an industrial user's facility or operation, or changes in the characteristics of the industrial user's effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within thirty (30) calendar days of the change;
- (2) Change(s) in the Department's NPDES permit;
- (3) Embodiment of the provisions of a legal settlement or of a court order;
- (4) Any changes necessary to fulfill the Department's role as control authority;
- (5) An industrial user's noncompliance with portions of an existing permit;
- (6) A change of conditions within the POTW;
- (7) A finding of interference or pass through attributable to the industrial user;
- (8) Amendments to, or promulgation of, national categorical pretreatment standards or requirements including 40 CFR Part 403 and those delineated in Appendix A of this division.
 - a. Permittees shall request an application form and apply to the Department for a modified permit within ninety (90) days after the promulgation of a new or revised national categorical pretreatment standard to which the industrial user shall be subject.

b. Information submitted pursuant to this subsection shall be confined to that information related to the newly promulgated or amended national categorical pretreatment standard or requirement. However, information previously submitted need not be duplicated, insofar as the previously submitted information continues to be current and applicable.

c. In addition, the Department may initiate this action;

(9) Changes in the monitoring location;

(10) Typographical errors or omissions in permits;

(11) The Department may modify the permit on its own initiative based on its findings or reasonable belief of the above; or

(12) The user may request a modification of the permit.

(b) When initiated by the Department, the industrial user shall be informed of any proposed change in its permit. The Department will issue a draft permit and an industrial user has thirty (30) days to file a response to the draft modified permit. Thereafter, the Department will issue a final permit and, unless appealed in accordance with the procedures contained in this article, the permit will become effective twenty (20) days after issuance.

Sec. 102-535. Permit custody and transfer.

(a) Wastewater discharge permits are issued to a specific person as defined herein for a specific discharge.

(b) A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises, or a new or changed operation without notice to and written approval of the Department, and providing a copy of the existing permit to the new owner or operator.

(c) It shall be the permit holder's duty to notify the Department of any such change at least thirty (30) days before the date of the change.

(d) Wastewater discharge permits, which do not receive the written approval of the Department prior to the change, shall be null and void regardless of reassignment, or transfer, or sale. If it has occurred, the Department may revoke a permit.

(e) If a change takes place, the Department may require the application for a new or modified permit.

(f) Any succeeding person shall comply with the terms and conditions of any existing permit which the Department allows to be retained.

Sec. 102-536. Permit notification requirements

All industrial users shall promptly notify the Department in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which initial notification under 40 CFR 403.12(p) has been made, request a permit application form, and apply for a modification of the permit at least thirty (30) calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this article.

Sec. 102-537. Monitoring facilities.

(a) Significant industrial users shall provide, operate and maintain at their own expense a sampling manhole or special structure to facilitate monitoring, inspection, sampling, and flow measurement of their discharge by the Department and the industrial user, and to enable the Department to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits and standards as provided for in this division. In the event the Department determines that the monitoring facility identified in the permit application is inadequate, a new monitoring facility must be identified, or provided, which shall allow for collection of a representative sample of the wastewater discharged from the facility. Unless otherwise determined at the

discretion of the Department, said facility shall be provided within ninety (90) days of receipt of notification by the Department. The industrial user shall provide the Department with:

- (1) A drawing showing all sewer connections and sampling manholes by the size, location, elevation, and points or places of discharges into the POTW;
- (2) A flow schematic showing: (i) which connections receive each national categorical process waste stream, (ii) which connections receive storm water, sanitary water or cooling water, and (iii) which lines handle each combined waste stream. This report shall be certified by a professional engineer. If a significant industrial user fails to install the monitoring facilities within the prescribed time limits, then the Department may install such structure or device and the significant user shall reimburse the Department for any costs incurred therein.

(b) The sampling manhole should be situated on the industrial user's premises in a location readily accessible to the Department. When such a location would be impractical or cause undue hardship to the industrial user, the Department may allow the facility to be constructed in the public street or sidewalk area when there is room and the location will not be obstructed by landscaping or parked vehicles.

(1) It shall be the responsibility of the industrial user to obtain any necessary approvals which may be required from other government agencies for the location and construction of monitoring facilities.

(2) There shall be ample room in or near such sampling or monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user.

(3) Whether constructed upon public or private property, the sampling and monitoring facilities shall be provided in accordance with the Department's requirements and all applicable local construction standards and specifications.

Sec. 102-638. Inspection, sampling and record-keeping.

(a) *Right established.* For purposes of administering and enforcing this article, any other applicable provisions of this Article or applicable State or Federal laws and regulations, the Department may inspect the establishment, facility or other premises of the industrial user. The Department's employees or authorized representative shall have access to the industrial user's premises for purposes of inspection, sampling, compliance monitoring and/or metering activities.

(b) *Inspection activity.* Each such inspection or sampling activity shall be commenced and completed at reasonable times, and in a reasonable manner.

- (1) Upon arrival at the industrial user's premises, the Department shall inform the industrial user, or the industrial user's employees, that sampling and/or inspection is commencing, and that the facility's authorized representative has the right to observe the inspection and/or sampling.
- (2) The Department shall neither refrain from, nor be prevented or delayed from, carrying-out its inspection or sampling duties due to the unavailability of the authorized representative of the facility to observe or participate in the inspection or sampling activity.
- (3) While performing work on private property, employees or authorized representatives of the Department shall observe all reasonable safety, security and other reasonable rules applicable to the premises as established by the industrial user.
- (4) Duly authorized employees or representatives of the Department shall bear proper credentials and identification, and at the industrial user's

option may be accompanied by a duly authorized representative of the industrial user.

- (5) Duly authorized Department representatives shall not be restricted from viewing any of the facility site.
- (6) Department employees or representatives may take photographs of facilities subject to this division. Which shall be maintained by the Department as confidential in accordance with this article.

(c) *Security measures.* Where an industrial user has security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that, upon presentation of appropriate credentials, personnel from the Department will be permitted to enter for the purposes of performing their specific responsibilities.

(d) *Sampling.* Significant industrial users shall sample and analyze their discharge in accordance with the provisions of their permit. The Department may require such samples to be split with the Department for the Department's independent analysis.

(e) *Record-keeping.* Industrial users shall maintain records of all information from monitoring activities required by this article, or by 40 CFR 403.12(n). Industrial users shall maintain the records for no less than three (3) years. This period of record retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user, or the operation of the City of Detroit's Industrial Waste Program, or when requested by the department, by the State, or by the EPA.

(f) *Accessibility of records.* Upon the request of the Department, industrial users shall furnish information and records relating to discharges into the POTW. Industrial users shall make such records readily accessible to the Department at all reasonable times, and allow the Department to copy such records.

(g) *Department sample results.* In the event the Department obtains samples, and analyses are made of such samples, a copy of the results of such analyses shall be promptly furnished upon written request by the industrial user's authorized representative. When requested by the industrial user, the Department employee or representative shall leave with the user, a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the Department shall be controlling unless proven invalid.

(h) *Discharge violation report.* In addition to any other violation caused by the discharge described herein, in the event a single grab sample of the industrial user's discharge is obtained by the Department, and then analyzed in accordance with 40 CFR Part 136, and found to contain concentrations of pollutants which are two (2) or more times greater than the numeric limitations as listed in this article, or as contained in the facility's wastewater discharge permit, the industrial user shall implement its slug control plan, and shall provide a written report to the Department within fourteen (14) days, which describes the cause of greater concentration and provides a description of the means by which future discharge concentrations will be held to values of less than two (2) times the limitation in the future.

Sec. 102-539. Confidential information.

(a) Information and data on an industrial user obtained from written reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the Department that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

(b) When submitted to the Department, all information claimed to be confidential must be clearly marked 'confidential' When requested by the person furnishing the report, the portions of a report determined by the Department to disclose

trade secrets or trade secret processes, and which are clearly labeled as confidential, shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this division, to the National Pollutant Discharge Elimination System (NPDES) permit, and to the State Disposal System permit and/or the pretreatment programs, provided, however that information shall be treated as confidential by the governmental agency, until such time as the information has been determined to be non-confidential by the governmental agency. Confidential information on industrial users, which the Department releases pursuant to a request of another governmental agency, should be handled by the other governmental agency pursuant to its own confidentiality procedures. The Department cannot control how another governmental agency handles such confidential information, and assumes no responsibility for the disposition of the information released to the governmental agency. The Department will use sufficient care to inform the other governmental agency of the existence of the industrial user's confidentiality claim.

The Department shall determine whether the information requested to be treated as confidential, in fact, satisfies the requirements of confidential information as defined herein. The decision of the Department shall be made in writing.

Wastewater constituents and characteristics will not be recognized as confidential information.

(c) Except as otherwise determined by the Department or provided for by applicable law, all information with respect to an industrial user on file with the City of Rochester Hills shall be made available upon request by such user or the user's authorized representative during normal business hours.

Sec. 102-540. Statues, laws and regulations [National Categorical Pretreatment Standards].

The National Categorical Pretreatment Standards defined in 40 CFR Chapter I, Subchapter N, Parts 405-471, shall be and are incorporated by reference herein and made a part hereof. Unless otherwise provided, any reference in this article to a code, standard, rule, regulation, or law enacted, adopted, established, or promulgated by any private organization, or by any element or organization of government other than the City of Rochester Hills shall be construed to apply to such code, standard, rule, regulation, or law in effect or as amended or promulgated, from the date of enactment of this article.

Sec. 102-541. Enforcement

It shall be a violation of this Article for any user to:

- (1) Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;
- (2) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in this article;
- (3) Refuse reasonable access to the industrial user's premises, waste discharge, or sample location for the purpose of inspection or monitoring;
- (4) Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided, that upon request reasonable access to the facility is promptly provided to the Department;
- (5) Restrict, interfere, tamper with, or render inaccurate any of the Department's monitoring devices including, but not limited to, samplers;
- (6) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;
- (7) Fail to comply with any limitation, prohibition, or requirement of this Article including any rule, regulation, or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued

prior to the effective date of this division shall be deemed to be in compliance with the requirements of this division, and such permits shall remain in effect and be enforceable under this division until a superseding permit is effective. Industrial users shall comply with applicable National Categorical Pretreatment standards and requirements on the date specified in the federal Regulations, regardless of compliance schedules.

Sec. 102-542. Upsets

(a) *Affirmative defense.* An upset shall constitute an affirmative defense to an action brought for noncompliance with National Categorical Pretreatment standards where the requirements of Subsection (b) of this section are met.

(b) *Basis for affirmative defense.* An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

- (1) An upset occurred and the industrial user can identify the cause(s) of the upset;
- (2) At the time, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
- (3) The industrial user has submitted the following information to the Department, orally or in writing, within twenty-four (24) hours of becoming aware of the upset and where this information is provided orally, a written submission must be provided within five (5) days:
 - a. A description of the discharge and cause of noncompliance;
 - b. The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(c) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof;

(d) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this division upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

Sec. 102-543. Bypass

Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements, but only if it is for essential maintenance to ensure efficient operation of the treatment system. These bypasses are not subject to the provisions of Subsections (a) and (b) of this section.

- (a) *Notice of anticipated bypass.* Industrial users anticipating a bypass shall submit notice to the Department at least ten (10) days in advance.
- (b) *Notice of unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five (5) days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall

contain a description of the bypass including exact dates and times, and if the bypass has not been corrected, the prevent reoccurrence of the bypass.

- (3) *Prohibition of bypass and enforcement.* Bypass is prohibited, and the Department may take enforcement action against a user for a bypass, unless:
 - a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - c. The industrial user properly notified the Department as described in Subsection (3)b. of this section.
- (4) *Bypass approval.* Where it meets all conditions in Subsection (3)c. of this section, the Department may approve an anticipated bypass.

Sec. 102-544. Pollution prevention initiatives.

Where one (1) or more of the measurements taken for any pollutant defined in this article during a six (6) month period exceed by any magnitude the daily maximum non-detect limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP, as part of its response. The Department may, as part of an Administrative Order, also require development of a BMP as a part of the Department's enforcement response. Upon approval of the Department, these pollution prevention initiative, or BMPs shall be made an enforceable part of the wastewater discharge permit. Industrial users shall provide, at six (6) month intervals, analytical results and certifications in support of its implementation of an approved pollution prevention initiative or BMPs. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

Sec. 102-545. Emergency suspension and orders.

(a) *Authority.* The Department may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where, in the opinion of the Department, such suspension is necessary to stop any actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW, or causes or may cause the City of Detroit to violate any condition of its NPDES permit.

(b) *Voluntary stoppage upon notification.* Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution.

(c) *Informal verification.* In the event the Department provides informal notification under this section, written confirmation and an order shall be provided within twenty-four (24) hours.

(d) *Failure to voluntarily stop.* In the event of a failure of the person to comply voluntarily with any suspension or revocation order, the Department shall take such steps as deemed necessary, including immediate severance of the sewer connection or services, to prevent or minimize damage to the POTW system or danger to any individual or the environment.

- (1) *Notice to user; hearing.* In the event such steps are taken, the Director shall notify the industrial user within twenty-four (24) hours in writing of such action and order, and the specific recourse available. In any event, the Department shall provide the industrial user with an opportunity for a hearing before the Director, or his designated representative, within ten (10) days of such action.

- (2) *Notice to city.* The industrial user shall submit a detailed written statement to the Department within fifteen (15) days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.

(e) *Permit or service reinstatement.* Upon proof of elimination of the noncomplying discharge, the Department shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

Sec. 102-546. Notice of suspected violation.

Except in the case of an actual or threatened discharge as specified in Subsection (e) of this section, whenever the Department has reason to believe that any industrial user has violated or is violating this division, the Department shall serve a written notice stating the nature of the violation upon such industrial user. Where applicable, the Department shall pursue appropriate escalating enforcement action as defined within its approved enforcement response plan. The failure of the Department to issue a notice of violation shall not preclude the Department from escalating its enforcement response.

Sec. 102-547. Actions to eliminate or remedy violation.

(a) *Administrative actions.* Whenever the Department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, or a pretreatment standard or requirement or any prohibition of this division, the Department, may initiate appropriate administrative enforcement action, except in the case of emergency or flagrant violation, in order to compel the industrial user to eliminate or to remedy such violation as soon as possible.

(b) *Conferences.* The Department may order any person, who violates this Article, to attend a conference wherein the Department may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule:

- (1) *Serving of notice of violation.* The notice of violation shall be served at least ten (10) days before the scheduled conference and shall set forth the date, time, and place thereof.
- (2) *Agenda.* The conference shall be conducted by a representative of the Department. The industrial user shall present a plan and schedule for achieving compliance with this division. Nothing contained herein shall require the Department to accept or agree to any proposed plan or schedule, or to prevent the Department from proceeding with a show cause hearing as set forth in Subsection (e) of this section.
- (3) *Modification of permit.* If the attendees agree upon a compliance schedule, the user and the Department's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement.
- (4) *Good faith and expeditious efforts.* An industrial user must exhibit good faith and expeditious efforts to comply with this division and any procedures, requirements, and agreements hereunder.

(c) *Compliance schedules.* The user and the Department may agree upon a schedule which sets forth the terms and conditions, and time periods or schedules for completion of actions to remedy or to eliminate the causes of violation. These schedules may be developed as part of a compliance agreement, administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:

- (1) 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 upgraded or additional pretreatment facilities, or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards including, but not limited to, hiring an engineer, completing preliminary plans, completing

final plans, executing contracts for major components, commencing construction, and completing construction;

- (2) No single increment referred to in Subparagraph (1) of this subsection shall exceed nine (9) months;
- (3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Department including, at a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reason(s) for delay, and the steps being taken by the industrial user to return to the established schedule; and
- (4) Any deviations from the compliance schedule may result in the industrial user being found in violation of this article.

(d) *Administrative orders.* The Department may order any industrial user, who violates or continues to violate this division or a duly issued permit, to install and to properly operate devices, treatment facilities, or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violation including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction, and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order, which is the result of an agreement, or a unilateral administrative order.

(e) *Show cause hearing.* The Department may order any industrial user, who violates this division or allows such violation to occur, to show cause before the Department why a proposed enforcement action should not be taken.

- (1) *Notice of hearing.* A notice shall be served upon the industrial user specifying the time and place of a hearing before the Department regarding the violation, the reason(s) why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the Department why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally, or by registered or certified mail with return receipt requested, at least ten (10) days before the hearing. Service may be made upon any agent or officer of a corporation, or its authorized representative.
- (2) *Proceeding.* The hearing shall be conducted in accordance with the procedures adopted by the Board. A hearings officer shall conduct the show cause hearing and take the evidence, and may:
 - a. In the name of the Board, issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
 - b. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Director for action thereon.
- (3) *Transcript.* At any show cause hearing held pursuant to this division, testimony shall be recorded by a court reporter.
- (f) *Actions ordered.* After a show cause hearing has been conducted, the hearings officer shall issue order to the industrial user directing any of the following actions:

- (1) Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this division, or applicable local, State or Federal law or regulation;

- (2) Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specified time period;
- (3) Submission of compliance reports on effluent quality and quantity as determined by self- monitoring and analysis during a specified time period;
- (4) Submission of periodic reports on effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;
- (5) Control of discharge quantities;
- (6) Payment of costs for reasonable and necessary inspection, monitoring, and administration of the industrial user's activities by the Department during compliance efforts; and/or
- (7) Any such other orders as are appropriate including, but not limited to, immediate termination of sewer or wastewater treatment services, or revocation of a wastewater discharge permit, or orders directing that following a specified time period sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices, or operation and maintenance practices have been employed.
- (8) A finding the user has demonstrated by a preponderance of the evidence that a violation either of this division or of a duly issued permit did not occur.

Sec. 102-548. Public notification of significant noncompliance.

The Department shall publish in the largest daily newspaper published in the City of Detroit and the City of Rochester Hills a list of all industrial users which were in significant noncompliance with applicable pretreatment requirements at any time during the previous twelve (12) months. All industrial users identified in a proposed publication shall be provided with a copy of the proposed notice at least thirty (30) days before publication and allowed an opportunity to comment as to its accuracy.

Sec. 102-549 Legal action for violations.

(a) *Criminal action.* Any user, who violates any provision of this article including the failure to pay any fees, fines, charges or surcharges imposed hereby, or any condition or limitation of a permit issued pursuant thereto, or who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or wastewater discharge permit, or who tampers with or knowingly renders inaccurate any monitoring device required under this article, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each violation per day, or by imprisonment for not more than ninety (90) days, or by both. The Department is hereby authorized, through its counsel, to seek prosecution of criminal charges against any person violating any provision of this article.

(b) *Civil action.* Whenever the Department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, a pretreatment standard or requirement or any requirement of this article, the Director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and/or to obtain appropriate relief to remedy the violations.

(c) *Additional relief.* The Department or Board may also seek additional legal and/or equitable relief. The commencement of suit neither constitutes an exclusive election of remedies nor prohibits the Department, Director, Board, or City of Detroit from commencing action in Federal Court for discharges believed to be in violation of this division, State and Federal requirements contained in the Clean Water Act, the City of Detroit's NPDES permit, or other applicable laws or requirements.

(d) *Cost recovery.* In addition, the City of Detroit may recover the reasonable attorney fees, court costs, court reporters' fees, and other unusual expenses related to enforcement activities or litigation against the person found to have violated this division, or the orders, rules, regulations and permits issued hereunder.

(e) *Payment of fines, etc.* All fines, costs, and penalties which are imposed by any court of competent jurisdiction shall be payable to the City of Detroit Water and Sewerage Department.

Sec. 102-520. Reconsideration and appeal to authority.

(a) *Generally.* Through the procedures of reconsideration and appeal, a user may contest actions, determinations, or decisions of the Department which result from its construction, application and enforcement of this division. The procedures contained within this section govern reconsideration and appeal with respect to construction, application, and enforcement of this article.

(b) *Selection of reconsideration or appeal.* Except for those actions, determinations, or decisions which are expressly identified as subject only to appeal, reconsideration may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger, who is adversely affected by any action, determination, or decision that is made by, or on behalf of, the Department by the Director, or an authorized representative, and that interprets, implements or enforces the provisions of this article.

(1) An appeal may be requested by any permit applicant, permittee, authorized industrial wastewater discharge or other discharger, who is adversely affected (i) by a permit issued as final by the Department, or (ii) by an administrative order entered after a show cause order and hearing, or after a hearing for reconsideration.

(2) Unless otherwise expressly provided for by this article, a request for reconsideration or appeal must be signed by an authorized representative, and received at the Department's General Offices within twenty (20) days from the date of the occurrence of the action, determination, or decision in dispute. A request for reconsideration shall contain the requester's name and address, a brief statement of the reason(s), and the factual basis underlying the request.

(3) A request for reconsideration shall be filed in triplicate either by hand delivery or by certified mail to the General Offices of the Department. Where a request for reconsideration or appeal either is not filed within the time period provided for in this subsection or is improperly made, the action, determination or decision of the Director, or the Department's authorized representative, is final and any right to reconsideration appeal may be deemed waived.

(c) *Reconsideration.* Within fifteen (15) days after receipt of a timely and proper request for reconsideration, the Department shall notify the applicant of the time and place for a hearing.

(1) A hearing for reconsideration shall be conducted by a hearings officer who is designated by the Director and may be an employee of the Department. The decision of the hearings officer shall be in the form of a recommendation to the Director and embodied in an administrative order. Except for an administrative consent order that was negotiated and agreed to by both parties, an administrative order is appealable in accordance with Subsection (d) of this section.

(2) Where improperly or untimely submitted, the Department may reject a request for reconsideration. The Department shall notify the requester in writing that the request has been rejected.

(3) Unless the date is mutually extended by both parties, the hearing shall be conducted neither less than ten (10) days nor more than thirty (30) days

after mailing of the notice. For cause and at the discretion of the hearings officer, the hearing may be continued for a reasonable time.

- (4) The hearing for reconsideration shall be an informal consultation and conference where the requester in person, or by counsel, shall present their argument, evidence, data, and proof in connection with the issue(s) being reconsidered. The parties shall not be bound by the Michigan Rules of Evidence. The hearing shall be transcribed and the requester may obtain a copy of the hearing transcript, as appropriate, from the Department or from the court reporter.
- (5) Within thirty (30) days after the close of the hearing, the hearing officer shall issue a final decision, which shall contain a recommendation to the Director. The hearing officer shall send such decision to the requester by certified mail.
- (6) Unless such action is necessary to prevent pass-through, interference or other harm to the POTW, to the public or to the waters of this State, the filing of a request for reconsideration in accordance with this section shall stay the action by the Department that is the subject of the hearing for reconsideration.

(d) *Appeal.* Within thirty (30) days after receipt of a timely and proper request for an appeal, the Department shall notify the applicant in writing regarding the time and place for a hearing. The hearing shall be conducted in accordance with procedures set by the Board until rules are promulgated pursuant to Section 2-111 of the 1997 Detroit City Charter. In addition:

- (1) Any request for an appeal must be made within twenty (20) days of the Department's action, determination or decision regarding the request for reconsideration or any permit issued in accordance with this article.
- (2) Where a request either is not filed within the time period contained in this subsection or is improperly made, the action, determination or decision of the Director, or the Department's authorized representative, is final and any right to appeal may be deemed waived. Where untimely or improperly submitted, the Department may reject the request for an appeal, and shall notify the requester in writing that such request has been rejected.
- (3) The Department shall appoint a hearing officer. The hearing officer shall review the evidence, and within fifteen (15) days after the close of the hearing shall issue a written recommendation to uphold, modify or reverse the action, determination, or decision of the Department.
- (4) The written recommendation of the hearing officer shall be submitted to the Board which shall render a final decision within thirty (30) days of its next regularly scheduled meeting.
- (5) In accordance with applicable law, the user or the Department may appeal any final decision of the Board to a court of competent jurisdiction.
- (6) Unless such action is necessary to prevent pass through, interference, or other harm to the POTW, to the public or to the waters of this State, the filing of a request for appeal in accordance with this section shall stay the action by the Department that is the subject of the appeal.

Appendix A	
Aluminum Forming	40 C.F.R. Part 467
Asbestos Manufacturing	40 C.F.R. Part 427
Battery Manufacturing	40 C.F.R. Part 461
Builder's Paper and Board Mills	40 C.F.R. Part 431

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Appendix A	
Canned and Preserved Fruits/Vegetables	40 C.F.R. Part 407
Canned and Preserved Seafood Proc	40 C.F.R. Part 408
Carbon Black Manufacturing	40 C.F.R. Part 458
Cement Manufacturing	40 C.F.R. Part 411
Centralized Waste Treatment	40 C.F.R. Part 437
Coal Mining.	40 C.F.R. Part 434
Coil Coating	40 C.F.R. Part 465
Copper Forming	40 C.F.R. Part 465
Dairy Products Processing	40 C.F.R. Part 405
Electrical and Electronic Components I & II	40 C.F.R. Part 469
Electroplating	40 C.F.R. Part 413
Explosives Manufacturing	40 C.F.R. Part 457
Feed Lots	40 C.F.R. Part 412
Ferroalloy Manufacturing	40 C.F.R. Part 424
Fertilizer Manufacturing	40 C.F.R. Part 418
Glass Manufacturing	40 C.F.R. Part 426
Grain Mills	40 C.F.R. Part 406
Gum and Wood Chemicals Mfg	40 C.F.R. Part 454
Hospital	40 C.F.R. Part 460
Ink Formulating	40 C.F.R. Part 447
Inorganic Chemicals Manufacture (I & III)	40 C.F.R. Part 415
Iron and Steel	40 C.F.R. Part 420
Landfills	40 C.F.R. Part 445
Leather Tanning & Finishing	40 C.F.R. Part 425
Meat Products	40 C.F.R. Part 432
Metal Finishing	40 C.F.R. Part 433
Metal Molding and Casting	40 C.F.R. Part 464
Metal Products and Machinery	40 C.F.R. Part 438
Mineral Mining and Processing	40 C.F.R. Part 436
Nonferrous Metals Forming	40 C.F.R. Part 471
Nonferrous Metals Mfg. I	40 C.F.R. Part 421
Nonferrous Metals Mfg. II	40 C.F.R. Part 421
Ore Mining and Dressing	40 C.F.R. Part 440
Organic Chemicals, Plastics, and Synthetic Fibers	40 C.F.R. Part 414
Paint Formulating	40 C.F.R. Part 446
Paving and Roofing Material	40 C.F.R. Part 443
Pesticide Chemicals	40 C.F.R. Part 455
Petroleum Refining	40 C.F.R. Part 419
Pharmaceutical	40 C.F.R. Part 439

Appendix A	
Phosphate Manufacturing	40 C.F.R. Part 422
Photographic	40 C.F.R. Part 459
Plastics Molding and Forming	40 C.F.R. Part 463
Porcelain Enameling	40 C.F.R. Part 466
Pulp, Paper, and Paperboard	40 C.F.R. Part 430 & 431
Rubber Manufacturing	40 C.F.R. Part 428
Soap and Detergent Mfg	40 C.F.R. Part 417
Steam Electric	40 C.F.R. Part 423
Sugar Processing	40 C.F.R. Part 409
Textile Mills	40 C.F.R. Part 410
Timber Products	40 C.F.R. Part 429
Transportation Equipment Cleaning	40 C.F.R. Part 442
Waste Combusters	40 C.F.R. Part 444

Appendix B

An Industrial User may elect, in lieu of the Total Phenols Limitation specified in Section _____, to substitute specific limitations for each of the eight (8) individual phenolic compounds identified under the Total Phenols Limitation. The following specific limitations, expressed in mg/l, shall be applied in lieu of the Total Phenols Limitation, upon election;

2-Chlorophenol	2.0 mg/l
4-Chlorophenol	2.0 mg/l
4-Chloro-3-methylphenol	1.0 mg/l
2,4-Dichlorophenol	5.5 mg/l
2,4-Dinitrophenol	2.0 mg/l
4-Methylphenol	5.0 mg/l
4-Nitrophenol	15.0 mg/l
Phenol	14.0 mg/l

Following election, the wastewater discharge permit shall be modified to incorporate these substituted parameters and an Industrial User shall be responsible for monitoring and reporting compliance with these parameters.

Appendix C. Interim Discharge Limitations

No user shall discharge wastewater containing any of the following pollutants in excess of the following interim pollutant discharge limitations:

- (a) Compatible Pollutants:

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- (1) Any Fats, Oil or Grease (FOG) in concentrations greater than 1,500 mg/l based on an average of all samples collected within a twenty-four (24) hour period.
- (2) Any Total Suspended Solids (TSS) in concentrations greater than 7,500 mg/l.
- (3) Any Biochemical Oxygen Demand (BOD) in concentrations greater than 7,500 mg/l.
- (4) Any Phosphorus (P) in concentrations greater than 250 mg/l.

Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a User's discharge, and in accordance with 40 CFR Part 146.

(b) Non-Compatible Pollutants

Cadmium (Cd) 1.0 mg/l

Section 2. Penalty. All violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety (90) days of confinement to jail or by a fine of not more than \$500, or both, in the court's discretion.

Section 3. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on July 24, 2009, following its publication in the *Rochester Post* on July 23, 2009.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on July 13, 2009.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I hereby certify the foregoing ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof on July 13, 2009.

Jane Leslie, Clerk
City of Rochester Hills

Accepted for First Reading: 06/29/09
CW: 7/21/09