

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, November 9, 2009:

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

QUORUM PRESENT

MOTION BY Ambrozaitis, seconded by Brennan, **Resolved that Ordinance No. 540**, an ordinance to amend various sections of Chapter 102, Utilities, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify and add definitions; modify tenant responsibility provisions; add remedies for violations; delete high-strength surcharge exemption for restaurants; require owner approval for water service connections by tenants; authorize disconnection of prohibited connections; authorize cost recovery for violations; adopt grease interceptor requirements; repeal conflicting ordinances and prescribe a penalty for violations, **BE AND IS HEREBY ADOPTED** and shall become effective on Friday, November 20, 2009 the day following its publication in the *Rochester Post*.

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

MOTION CARRIED

ORDINANCE NO. 540

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF CHAPTER 102, UTILITIES, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO MODIFY AND ADD DEFINITIONS; MODIFY TENANT RESPONSIBILITY PROVISIONS; ADD REMEDIES FOR VIOLATIONS; DELETE HIGH-STRENGTH SURCHARGE EXEMPTION FOR RESTAURANTS; REQUIRE OWNER APPROVAL FOR WATER SERVICE CONNECTIONS BY TENANTS; AUTHORIZE DISCONNECTION OF PROHIBITED CONNECTIONS; AUTHORIZE COST RECOVERY FOR VIOLATIONS; ADOPT GREASE INTERCEPTOR REQUIREMENTS; REPEAL CONFLICTING ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 102-26 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-26. Definitions.

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The following words, terms and phrases, when used in this ~~article~~chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning or otherwise defined for the particular purpose of an article of this chapter:

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

Capacity charge means a charge to each user of the water and sewer systems for having the systems in place and available to serve.

Chemical oxygen demand (COD) means the quantity of oxygen utilized from a chemical oxidant in a specific test.

Chlorine demand means the difference between the amount of chlorine added to water or wastewater and the amount of residual chlorine remaining at the end of a specified contact period.

~~*Commercial user* means any establishment being involved in a commercial enterprise, business or service which, based upon a determination by the city, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.~~

Commodity charge means the charge related to the number of gallons of water used, in the case of the water supply system, or water and sewage received for treatment by the sewer system, including the cost of purchase by the city of water, sewage treatment, electricity and labor related thereto.

Compatible pollutant means a substance amenable to treatment at the Detroit Metro Wastewater Treatment Plant such as BOD, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the National Pollutant Discharge Elimination System permit for the Detroit Metro Wastewater Treatment Plant which is designed to treat such pollutants and in fact does remove such pollutants to an acceptable degree.

Critical material means the organic or inorganic substances, elements or compounds listed in the register compiled by the state department of natural resources.

Customer charge means a charge rendered to each customer of the water and sewer systems to cover the cost of servicing customers with such items as meters, connections, bills, meter reading, postage, etc.

Daily average shall be based upon a minimum of eight grab samples taken at one hour intervals.

Debt service and debt service charge means the charge assessed users of the system which is used to pay principal, interest, and administrative costs of retiring the debt incurred for the construction of the local portion of the system.

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Detroit capital charge means a charge for the City of Detroit capital expense as this city is required to pay pursuant to contract and law to pass on to the users of the system.

DNR means the state department of natural resources.

Incompatible pollutant means any pollutant which is not a compatible pollutant as defined in this section.

Industrial user means ~~any nongovernmental or nonresidential user of the wastewater treatment system, identified in the Standard Industrial Classification Manual (latest edition) under division A, B, C, E, or I~~ 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 ~~the liquid wastes, solids or semisolids from industrial processes as distinct from sanitary sewage~~ 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.

Maine formula means the fire service cost model developed by the Maine Water Utilities Association, for the Maine Public Services Commission, and referred to in American Water Works Manual M1, Water Rates (1991).

Measurements, tests and analyses means measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article which shall be determined in accordance with the current edition of Standard Methods For Examination of Water and Wastewater, published by the American Public Health Association, and in accordance with 40 CFR 136 entitled "Guidelines Establishing Test Procedures For Analysis of Pollutants," or as otherwise specified in this article.

Natural outlet means any outlet into a watercourse, pond, lake, or other body of water, either surface water or groundwater.

Nonresidential means a use of premises which is nonresidential, being institutional, commercial, industrial, etc., but does not include schools, churches, or government buildings.

Operation, maintenance and replacement means the expenditures required for operating, maintaining and replacement of the treatment works.

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

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution ~~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 deemed to be equal to concentration in moles per liter.~~

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Premises making a direct line connection means, for the purposes of section 102-188, a building, structure, or unit making a direct private service line connection to any public water and/or sanitary sewer line which has not been either privately constructed and paid for on behalf of the premises or publicly financed at least in part by means of special assessments levied against the property on which the premises are located. It shall not include a building, structure, or unit in a project or development which has an internal system of laterals, except a building, structure, or unit for which there is a direct private service line connection into the public water and/or sanitary sewer line as defined in section 102-188.

Property abutting a water or sewer line means for purposes of computing the lateral benefit charge for both water and sanitary sewer for acreage parcels not involving a freestanding single-family residence, that part of the property abutting which is part of the area to be or reasonably expected to be occupied and/or used by the occupants of the premises in more than an incidental way, taking into consideration the area for parking, the area to be landscaped and/or maintained, the area sectioned off or delineated in order to obtain a building permit and such other relevant factors as may appear. (Examples would be the dividing of a development into phases and the lateral charge being assessed only against the first phase, or an industrial factory only actually utilizing four of 50 acres.)

Public sewer means a sewer ~~in which all owners of abutting property have equal rights and of any type~~ which is controlled by a ~~public authority~~ governmental entity.

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

Residential unit or unit means a freestanding single-family residence, each residence in a townhouse or cluster house, each apartment in an apartment building, each half of a duplex house, each trailer or mobile home in a mobile home park, and includes schools, churches, or government buildings.

Revenues or net revenues means as defined in section 3 of Public Act No. 94 of 1933 (MCL 141.103, ~~MSA 5.2733~~).

Sanitary sewage means any liquid wastes discharged from residences, business buildings and institutions, as distinct from industrial wastes, and not exceeding the parameters specified in subdivision IV of division 2 of this article.

Sanitary sewer means a sewer which carries sewage and to which stormwaters and surface waters are not intentionally admitted.

Sewage treatment charge means the charge for treatment of sewage accepted by the system, including charges for operation, maintenance and replacement of the system, debt service and the Detroit capital charge, and any surcharges.

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Slug means discharge of water or wastewater, which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flow during normal operation.

Storm sewer means a sewer which carries stormwaters and surface waters and drainage, but which excludes sewage and polluted industrial wastes.

Surcharge means the additional charge that a user discharging wastewater having strength in excess of the limits set by the city for transmission and treatment within the sanitary sewer system will be required to pay to meet the cost of treating such excessively strong wastewater.

Suspended solids means the solids that either float on the surface of or are suspended in the water, sewage or other liquids and which are removable by laboratory filtering or as measured by standard methods.

~~25,000-gallons/day equivalent sani-sewage means any industry's wastewater discharge that exceeds any one of the following parameters on any day throughout the year: 25,000 gallons per day of flow, 62.6 lbs. per day of suspended solids, 50.1 lbs. per day of BOD or 2.5 lbs. per day of phosphorous.~~

User means any water or sewer service customer and the owner of the premises served by water or sewer service, and includes any person who, directly or indirectly, contributes, causes, or permits the discharge of wastewater into the publicly owned treatment works, as defined in this section.

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

Section 2. Section 102-93 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-93. Cash security deposit.

Where notice is given that a tenant is responsible for such charges and service as provided by section 21 of Public Act No. 94 of 1933 (MCL 141.121), no further service shall be rendered such premises until a cash deposit in ~~the an~~ amount ~~of \$300.00~~ equivalent to one year's average consumption shall have been made as security for payment of such charges and service. This section shall not apply to release the owner from liability for payment of any charges or costs incurred by the city to repair damage to the water and /or sewer system caused by the tenant.

Section 3. Section 102-95 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

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Sec. 102-95. Other remedies.

- (a) Court action. The charges and penalties in this subdivision shall constitute a debt which may be recovered by the city through court action.
- (b) Service shutoff. In addition to any other lawful enforcement method for the assessment or collection of water or sewer system rates and charges as provide by law, the payment of the of the charges for water service to any premises may be enforced by discontinuing the water service to the premises and the payment of charges for sewage disposal service or storm sewer service to the premises may be enforced by discontinuing the water service, the sewage disposal service or the storm water disposal service to the premises, or any combination of the services.

Section 4. Section 102-124 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-124. Service to city.

- (a) *Normal use rate.* The city shall pay for all water used by it at the rates established in section 54-741.
- (b) *Fire service fee.* As a fire service fee for providing a water system with extra capacity available for fighting fires and protecting property in the city, the city shall be charged based on a base-extra capacity approach attributing to fire protection the difference between total system capacity and capacity required by other customer classes. The fire service fee shall be reviewed and adjusted annually to reflect actual versus budgeted revenue requirement for the water fund for the previous year.

~~Note: The fire service fee shall be phased out over four years, beginning in 2001, and shall be offset by a \$0.02 per 100 cubic feet increase in the commodity rate each year over those four years.~~

- (c) *Quarterly billing.* Charges against the city shall be payable in quarterly installments from the current city's fire fund or from the proceeds of taxes which the city, within constitutional limitations, is authorized and required to levy in an amount sufficient for this purpose.
- (d) *City park drinking fountains.* The city shall not be required to pay charges for water consumption attributable to freestanding drinking fountains located at city-operated parks.

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Section 5. Section 102-160 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-160. High strength surcharge.

- (a) *Levels of pollutants.* There shall be an additional charge, as a high strength surcharge, for all industrial and commercial customers contributing sewage to the sewage disposal system with concentration of pollutants exceeding any of the following levels:
 - (1) Biochemical oxygen demand (BOD), 275 milligrams per liter (mg/l).
 - (2) Total suspended solids (TSS), 350 milligrams per liter (mg/l).
 - (3) Phosphorous (P), 12 milligrams per liter (mg/l).
 - (4) Fats, oils, and grease (FOG), 100 milligrams per liter (mg/l).
- (b) *Charges.* The charges shall be as set forth in section 54-745.

~~(c) *Exemption.* All restaurants shall be exempt from the high strength surcharge.~~

Section 6. Section 102-291 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-291. Permit requirements.

- (a) *Required.* No connection shall be made to any water main without obtaining a water service connection permit from the city. The application for the permit must be made by the owner of the premises to be served or if made by the tenant, the application must include the owner's approval for the connection that the tenant is applying for.
- (b) *Capital, lateral, tap-in charges paid.* A water service connection permit shall only be issued upon presentation of a paid receipt from the city treasurer certifying all applicable capital, lateral and tap-in charges as required by article II of this chapter and the cost of the meter have been paid or a contract has been entered into for deferred payments for such part of the charges that might be deferred, as provided in article II of this chapter.
- (c) *Preinspection.* Before a water service connection permit is issued, if the water service is to replace a private water system, there shall be a preinspection at a cost as provided in section 54-806. The preinspection shall be by the building department, which shall determine the private water system is in good working order for the health of the occupants and that all rules and regulations regarding cross connections and provisions for cross connections as authorized and/or stated in this article and the state plumbing code have been met.
- (d) *Plumbing permit.* If there are to be any alterations of the water distribution lines in the building to allow the installation of the water meter, a plumbing permit shall be obtained. An inspection shall be requested and made after the meter template is installed.

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- (e) *City park drinking fountains.* No water service connection permit or capital or lateral charges shall be required for freestanding drinking fountains located at city-operated parks.

Section 7. Section 102-293 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-293. Installation.

- (a) *Specifications.* All pipes, equipment and meters used to provide water service to any premises shall be laid and installed as provided in the specifications for Avon Township Water District No. I, as prepared by Johnson and Anderson, Registered Engineers, which specifications are incorporated and made a part of this article by reference, copies of which shall be available in the office of the city clerk.
- (b) *Prohibitions.* The following shall be prohibited:
- (1) *Between buildings.* No connection through which water may pass from one house or business building to another shall be constructed, though the ownership of both properties may be the same.
 - (2) *Boilers or water heaters.* No boiler or water heater shall be directly connected to the service pipe. For boiler or hot water heaters there shall be a check valve and shutoff valve between the boiler and service pipe. There shall be no connection between the protective check valve and shutoff valve and the boiler or hot water heater. The owner shall make such provisions as may be required by the department of public service before the water may be supplied to such an installation.
- (c) *Owner responsibilities.* Responsibilities of the owner shall be as follows:
- (1) *Pipe installation.* The owner or his contractor shall install the necessary pipe from the property line into the building and the meter.
 - (2) *Protection of stop box.* If freezing weather occurs, it shall be the responsibility of the owner to cover the stop box with straw or other suitable material to protect pipes from freezing and to assume the cost of repairing any damage that may be done from frost or other causes. There shall be no backfilling or covering of any pipe before the proper inspections are made.
- (d) *Discontinuing prohibited connections.* If the City discovers an existing connection that would be prohibited under subsection (b) above, the City may require the owner of the premise to disconnect the prohibited connection.

Section 8. Section 102-386 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

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Sec. 102-386. Prohibitions.

- (a) *Generally.* A cross connection shall not be made:
- (1) Between a public water supply system and a secondary water supply.
 - (2) By submerged inlet.
 - (3) Between a public water supply and piping which may contain sanitary waste or chemical contaminant.
- (b) *Discontinuing prohibited connections. If the City discovers an existing cross-connection that would be prohibited under subsection (a) above, the City may require the owner of the premise to disconnect the prohibited cross-connection.*
- ~~(b)~~(c) *Taps.* No person shall, without first procuring a permit from the department of public service, tap any water main or distribution pipe of the city water system or insert a fixture or appliance or alter or disturb any service pipe, corporation stop, curb stop, gate valve, hydrant, water meter or any other attachment being part of the city water system.
- ~~(c)~~(d) *Water service pipe.* No person shall, without first procuring a permit from the department of public service, install any water service pipe or connect or disconnect any such service pipe with or from the mains or distribution pipes of the city water system or with or from any other service pipe connected with the system or make any repairs, additions to, or alterations of any such service pipe, tap, stop cock or any other fixture or attachment connected with any such service pipe.

Section 9. Section 102-514 of Chapter 102 of the Code of Ordinances shall be amended to add the following definitions:

Gray water means all liquid contained in a grease interceptor that lies below the floating grease layer and above the solids layer.

Grease means a liquid or solid material containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit, composed primarily of fats, oils or grease from animal and vegetable sources.

Grease interceptor means a device located underground and outside of a food service facility designed to collect, contain or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste (“gray water”) to discharge to the wastewater collection system.

Grease trap means a device located inside a food service facility designed to collect contain or remove food wastes and grease from the stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.

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

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Section 10. Section 102-519 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-519. Recovery of costs.

Any user discharging in violation of any of the provisions of this article, and any owner whose tenant discharges in violation of any of the provisions of this article, which produces a deposit or obstruction, or causes damage to or impairs the City's or the Department's POTW, or causes the City or the Department to violate its NPDES permit, shall be liable to the City and the Department for any expense, loss, damage, penalty or fine incurred by the City or the Department because of said violation or discharge. Prior to assessing such costs, the City or 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 or the Department's NPDES permit and the City's or 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.

Section 11. Section 102-522A shall be added to Chapter 102 of the Code of Ordinances, as follows:

Sec. 102-522A. Pretreatment and control facilities.

- (a) *Pretreatment or flow-equalizing facilities.* Pretreatment or flow-equalizing facilities shall be provided as follows:
- (1) *Design and installation.* When the pretreatment or equalization of sewage flows is permitted, the design and installation of the plants and equipment shall be subject to the review and approval of the applicable city codes, this Code, and laws.
 - (2) *Maintenance and operation.* Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- (b) *Grease, oil, and sand interceptors.*
- (1) Grease, oil, and sand interceptors shall be provided when they are determined necessary by the City for the proper handling of liquid wastes containing grease in excessive amounts or any hazardous or flammable wastes, oil, sand or other harmful ingredients. Such interceptors shall not be required for residential dwelling units. All interceptors shall be of a type and capacity approved by the City Engineer and shall be located so as to be readily accessible for cleaning and inspection.

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- (2) All food service establishments discharging kitchen or food preparation wastewater including, but not limited to, restaurants, motels, hotels, hospitals, cafeterias, schools, night clubs, delicatessens, meat cutting-preparation, bakeries, bagel and donut shops, grocery stores or any other facility where food is manufactured, sold or prepared, except for small areas designated as employee break areas or the equivalent and residential dwelling units, discharging wastewater containing fats, oils, and grease to the sanitary sewer and/or the POTW shall install, operate, and maintain a sufficiently-sized oil and grease, water and solids separator (hereinafter called grease trap) necessary to achieve and maintain compliance with the limits indicated in this Code.
- (3) Unless otherwise authorized by the City Engineer, all grease traps shall be of the outdoor, inline variety. With special authorization by the City Engineer, grease traps of the indoor, under-counter, stand-alone variety may be allowed. In this case, maintenance of indoor grease traps shall be performed as frequently as necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25 percent rule," meaning that accumulated grease shall not be allowed to exceed twenty five percent (25%) of the depth of the grease interceptor. All grease interceptors and traps shall also comply with all Plumbing Code requirements.
- (4) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
- (5) Grease, oil, and sand interceptors shall be cleaned and maintained by the owner and shall be operated continuously in an efficient manner whenever the facility is in operation. The City shall have the right to inspect maintenance and disposal records related to the operation of grease, oil and sand interceptors.
- (6) The user shall be responsible for the proper removal and legal disposal of the grease, oil and sand interceptor waste. All waste removed from each interceptor must be disposed of at a facility permitted to receive such waste. No interceptor pumpage may be discharged to the sanitary sewer system. Maintenance shall include the complete removal of all contents, including floatable materials, wastewater, sludges and solids, and jet flushing to remove measurable build-up on tank walls. Top skimming of outdoor grease traps, decanting, or back flushing of the grease trap or its wastes for the purpose of reducing the volume to be hauled is prohibited.
- (7) Grease traps and other interceptors shall be installed in compliance with the current plumbing codes adopted by the City. The City Engineer shall make final determination and approval of a grease trap's size. If additional pretreatment and/or maintenance is required to meet the provisions in this section, the City

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Engineer may require an establishment in existence prior to the effective date of this section to upgrade to the requirements of this section.

- (8) Maintenance of an outdoor grease trap shall be performed at frequencies necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25 percent rule."
 - (9) Use of any bacteriological, chemical, or enzymatic addition for the purpose of maintaining a grease trap is prohibited unless written approval is obtained from the City Engineer.
 - (10) Should any user fail to properly clean and maintain a grease, oil or sand interceptor as required herein, the City, at its option, may contract for appropriate repair, cleaning and maintenance by a licensed contractor, the cost of which shall be collectable by the City from the user at a charge of actual cost plus twenty five percent (25%) for administration.
- (c) *Control manholes.* When required by the City Engineer, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of waste.
- (1) *Construction and location.* Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City Council.
 - (2) *Maintenance.* The manhole shall be installed by the owner at the owner's expense and shall be maintained by the owner to be safe and accessible at all times.

Section 12. Section 102-549 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-549 Legal action for violations.

(a) *Criminal action.* Any user, who violates any provision of this article, or any owner whose tenant 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 City and the Department is hereby authorized, through its counsel, to seek prosecution of criminal charges against any person violating any provision of this article.

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(b) *Civil action.* Whenever the City or 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 City or the Director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and the owner from allowing the discharge, and/or to obtain appropriate relief to remedy the violations.

(c) *Additional relief.* The City and 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 City, 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 and 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 and the City of Detroit Water and Sewerage Department.

Section 13. Section 102-623 of Chapter 102 of the Code of Ordinances shall be amended, as follows:

Sec. 102-623. General pollutant limitations.

No user shall contribute or cause to be contributed to the publicly owned treatment works, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general discharge prohibitions apply to such users of the publicly owned treatment works, whether or not the user is subject to national categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements. In addition, industrial users shall not contribute the following substances to the publicly owned treatment works:

(1) Any liquid, solid, or gas which, because of its nature or quantity, is sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to persons, the publicly owned treatment works, or the operation of the publicly owned treatment works. Pollutants, which create a fire or explosion hazard in a POTW, include, but are not limited to, wastestreams with a closed cup flash point of less than 140°F or 60°C Using the test methods specified in 40 CFR 261.21.

(2) Any solid or viscous substance, in concentrations or quantities which are sufficient to cause obstruction to the flow in a sewer or other encumbrance to the operation of the publicly owned treatment works, such as but not limited to grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent

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grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, or tumbling stones.

(3) Any wastewater having a pH of less than 5.0 units or greater than 11.5 units.

(4) Any wastewater containing petroleum oil, nonbiodegradable 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.

(5) Any liquid, gas, or solid or form of energy which, either singly or by interaction with other wastes, is sufficient to create a toxic gas, vapor, or fume within the POTW in quantities that may cause acute worker health and safety problems, a public nuisance or hazard to life or is sufficient to prevent entry into the sewers for their maintenance and repair.

(6) Any substance which is sufficient to cause the publicly owned treatment works' effluent or any other product of the publicly owned treatment works, such as residues, sludges, or scums, to be unsuitable for reclamation processing where the publicly owned treatment works is pursuing a reuse and reclamation program. In no case shall a substance discharged to the publicly owned treatment works cause the publicly owned treatment works to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under Section 405 of the Act, with criteria, guidelines, or 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 state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the publicly owned treatment works to violate the consent judgment in U.S. Environmental Protection Agency v. City of Detroit, et al., C.A. No. 77-1100, or the City of Detroit's National Pollutant Discharge Elimination System permit.

(8) Any discharge having a color uncharacteristic of the wastewater being discharged.

(9) Any wastewater having a temperature which will inhibit biological activity in the publicly owned treatment works treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds ~~150~~140° Fahrenheit (~~66~~60° Celsius) or which will cause the influent at the wastewater treatment plant to rise above 104 degrees Fahrenheit (40 ° Celsius).

(10) Any pollutant which constitutes a slug.

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable state or federal regulations.

(12) Any floating fats, oil, or grease which are sufficient to cause interference with or pass through the publicly owned treatment works.

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(13) Any solid materials having a specific gravity greater than 1.2 or a cross section dimension of one-half inch or greater which are sufficient to cause interference with the publicly owned treatment works.

(14) Any noxious or malodorous gas or substance capable of creating a public nuisance.

Section 14. 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 15. 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 16. 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 November 20, 2009, following its publication in the *Rochester Post* on November 19, 2009.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on November 9, 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 NOVEMBER 9, 2009.

Jane Leslie, Clerk
City of Rochester Hills

Accepted for First Reading: 10/26/09
MJW: 11/09/09