

(n) Harmful Contributions. The City may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health, safety, or welfare of persons, to the environment, causes interference to the wastewater treatment system, or causes the City to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary to prevent or minimize damage to the wastewater treatment system or endangerment to any individuals, including immediate severance of the sewer connection. The City shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen days of the date of the occurrence.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.09 FEES FOR PRETREATMENT.**

(a) Purpose. It is the purpose of this section to provide for the recovery of costs from users of the wastewater treatment works for the implementation of the pretreatment program established herein. The applicable charges or fees shall be as set forth by resolution passed by the City Council.

(b) Charges and Fees.

(1) The POTW may adopt charges and fees for the following:

- A. For reimbursement of costs of setting up and operating the pretreatment program.
- B. For monitoring, inspections and surveillance procedures, including the cost of reviewing monitoring reports submitted by the industrial user.
- C. For reviewing accidental discharge procedures and construction.
- D. For filing appeals.
- E. For consistent removal by the City of pollutants otherwise subject to Federal pretreatment standards.

(2) Other fees as the City may deem necessary to carry out the requirements contained herein may be charged. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the POTW.

- (3) Additional surcharges may be made by the City to compensate the City for the cost of treatment of pollutant loadings not normally treated or in excess of the limits expressed in the definition of normal domestic strength.
- (4) There shall be additional charges for laboratory testing of wastewater. The laboratory charge shall be for the cost thereof and will be determined for each industrial user.
- (5) Pretreatment rates for disposal at the POTW treatment plant shall be determined by the POTW at the time of acceptance.
- (6) The charges and fees for the services provided by the system shall be levied upon any user which may have any sewer connections and which discharges industrial waste to the wastewater treatment plant or any part thereof. Such charges shall be based upon the quantity and quality of industrial wastewater used thereon or therein.  
(Ord. 95-4. Passed 7-10-95.)

#### **1046.10 PROTECTION FROM DAMAGE.**

No unauthorized person shall enter or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater sewerage works.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.11 MUNICIPAL LIABILITY.**

The City shall not be responsible for interruptions to service due to natural calamities, equipment failures, actions of the system's users or otherwise. It shall be the responsibility of the user that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.12 POWER AND AUTHORITY OF SEWER INSPECTORS AND THE CITY.**

(a) The Sewer Inspector, City employees designated as his or her duly authorized agents, or consultants or other agents of the City, are to act on behalf of the City in lieu of City employees if problems arise. Those bearing proper credentials and identification shall be permitted to enter upon such properties as may be necessary for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter.

(b) Industries that may significantly impact the City treatment process shall plan on sampling discharges four times per year unless otherwise noted. The City may sample discharges at least two times per year to verify the user's compliance with the wastewater contribution permit.

(c) Self-monitoring sampling and analytical procedures shall be permitted, provided that the industry furnish the following:

- (1) The name and address of the laboratory proposed to perform each of the chemical analyses required. The user has the option of contracting with an outside lab or performing the analyses internally, provided that the proposed laboratory is licensed and/or certified to perform the required analyses.
- (2) A description of the equipment and test methods proposed for each chemical analysis.
- (3) A description of quality control procedures used by the laboratory.
- (4) A description of the sample point and sample collection procedures.
- (5) A description of the sample preservation methods.
- (6) The name and telephone number of the person responsible for sampling and testing.

(d) The City may, at its discretion, contract with an outside laboratory for the completion of chemical analyses of discharges or perform the analyses internally, provided that the laboratory performing the analyses is licensed and/or certified to perform such analyses. The costs of such analyses shall be borne by the user.

(e) Verification, scheduling, monitoring, and sampling shall be in accordance with the City of Litchfield's Wastewater Treatment Plant Industrial Pretreatment Program, as approved by the Michigan Department of Natural Resources.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.13 ENFORCEMENT.**

(a) Administrative Enforcement Remedies.

- (1) Notification of violation. Whenever the POTW finds that any industrial user has violated or is violating this chapter, or a wastewater permit or order issued hereunder, the Superintendent, or his or her agent, may serve upon said user written notice of the violation. Within ten days of the receipt date of this notice, an explanation of the violations and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.
- (2) Consent orders. The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible

for the noncompliance. Such orders will include compliance schedules, stipulated fines or remedial actions, and signatures of the Superintendent and industry representatives. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraph (a)(4) hereof.

- (3) Show cause hearing. The City may order any user who causes or allows an unauthorized discharge to enter the wastewater treatment system to show cause before the City Council as to why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the hearing, the reasons for the enforcement action, and a statement directing the user to show cause before the City Council on why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) deposited with the United States Postal Service at least ten days prior to the hearing. Service may be made on any agent or officer of a corporation.

The City Council may conduct the hearing and take evidence itself or may designate any of its members or any officer or employee of the office of the City Clerk to:

- A. Issue in the name of the City notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
- B. Take the evidence.
- C. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations, to the City Council for action thereon.

If the user can show evidence of an unavoidable, unintentional spill which causes an operational upset at the wastewater treatment plant and which was immediately reported to the Public Works Superintendent, no violation will be issued. However, the user shall not be absolved of any liability for damage or injury to equipment or persons as a result of said accident.

At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically or tape recorded. The transcript, so recorded, shall be made available to the public or to any party to the hearing upon payment of the usual charges thereof.

- (4) Compliance order. When the Superintendent finds that an industrial user has violated or continues to violate this chapter or a permit or order issued thereunder, he or she may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer

service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated, and compliance is achieved. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

- (5) Cease and desist orders. When the Superintendent finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all illegal or unauthorized discharges immediately.
  - A. In an emergency, the order to cease and desist may be given by telephone.
  - B. In nonemergency situations, the cease and desist order may be used to suspend or permanently revoke industrial wastewater discharge permits.
  - C. The cease and desist order may order the industrial user to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- (6) Emergency suspensions.
  - A. The Superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.
  - B. Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in paragraph (a)(7) hereof are initiated against the user.
  - C. An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in paragraph (a)(3) hereof.

- (7) Termination of permit. Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the control authority. Any user who violates the following conditions of this chapter or a wastewater discharge permit or order, or any applicable State or Federal law, is subject to permit termination:
- A. Violation of permit conditions.
  - B. Failure to accurately report the wastewater constituents and characteristics of its discharge.
  - C. Failure to report significant changes in operations or wastewater constituents and characteristics.
  - D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permits and will be offered an opportunity to show cause under paragraph (a)(3) hereof why the proposed action should not be taken.

(b) Judicial Remedies. If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the Superintendent, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the Circuit Court for Hillsdale County.

- (1) Injunctive relief. Whenever an industrial user has violated or continues to violate the provisions of this chapter or any permit or order issued hereunder, the Superintendent, through counsel, may petition the court for the issuance of a preliminary or permanent injunction, or both (as may be appropriate), which restrains, eliminates or compels the activities on the part of the industrial user.
- (2) Civil penalties.
  - A. Any industrial user who has violated or continues to violate this chapter or any order or permit issued hereunder, shall be liable to the POTW for a civil penalty of not more than five hundred dollars (\$500.00), plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above-described penalty and damages, the POTW may recover other expenses associated with the enforcement activities, including sampling, monitoring and analyses expenses.

B. The Superintendent shall petition the court to impose, assess, and recover such sums. In determining the amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

(3) Criminal prosecution.

A. Violations generally. Any industrial user who willfully or negligently violates any provision of this chapter, or any order or permit issued hereunder, shall, upon conviction, be guilty of a misdemeanor and shall be subject to the penalty provided in Section 1046.99.

B. Falsifying information. Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or any wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be subject to the penalty provided in Section 1046.99.

(4) Annual publication of industrial users in significant noncompliance. The Superintendent shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant noncompliance, as defined in Section 1046.02, with any provisions of this chapter, or any permit or order issued hereunder, during the period since the previous publication.

(c) Appeals Procedure. Any individual, corporation, or group wishing to appeal any enforcement action of the City under this chapter shall so notify the City in writing within ten days of receipt of notification of a violation. The same procedures shall be followed as are outlined for the conduct of a show cause hearing. The Litchfield City Council shall act as the Appeals Board for the purpose of this chapter, and the decisions of the Appeals Board shall be final.

(d) Supplemental Enforcement Remedies.

(1) Performance bonds. The Superintendent may decline to re-issue a permit to any industrial user which has failed to comply with the provisions of this chapter, or any order or previous permit issued hereunder, unless such user first files with the Superintendent a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

- (2) Liability insurance. The Superintendent may decline to re-issue a permit to any industrial user which has failed to comply with the provisions of this chapter, or any order or previous permit issued hereunder, unless the industrial user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.
- (3) Water supply severance. Whenever an industrial user has violated or continues to violate the provisions of this chapter, or any order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- (4) Public nuisances. Any violation of the prohibitions of this chapter, or any permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent or his or her designee. Any person(s) creating a public nuisance shall be subject to the provisions of these Codified Ordinances governing such nuisance, including reimbursing the POTW for any costs incurred in removing, abating, or remedying said nuisance.
- (5) Information rewards. The Superintendent is authorized to pay up to five hundred dollars (\$500.00) for information leading to the discovery of noncompliance by an industrial user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the Superintendent is authorized to disperse up to ten percent of the collected fine or penalty for the information. However, a single reward payment may not exceed ten thousand dollars (\$10,000).
- (6) Contractor listings.
  - A. Industrial users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the City of Litchfield.
  - B. Existing contracts for the sale of goods or services to the City of Litchfield held by an industrial user found to be in significant violation with pretreatment standards may be terminated at the discretion of the Municipality. (Ord. 95-4. Passed 7-10-95.)



**1046.14 CITY'S RESPONSIBILITIES AND PREROGATIVES.**

The City is charged with the duty of investigating, preventing and abating violations and enforcing the provisions of this chapter.

The City shall be responsible for the supervision and control of the maintenance of the existing sewer line and all new connections. The City shall be responsible for the supervision and control of all other matters relating to the operation, maintenance, alteration, repair, and management of the wastewater treatment works. The City may employ such person or persons in such capacity or capacities as advisable to carry out the efficient management and operations of the system and may make such necessary or recommended rules, orders and regulations to assure the efficient management and operation of the system, including the setting of rates, surcharges, fees, penalties, or other charges, for the use of said system. (Ord. 95-4. Passed 7-10-95.)

**1046.15 RETENTION OF RECORDS BY USERS.**

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

(Ord. 95-4. Passed 7-10-95.)

**1046.16 RETENTION OF RECORDS BY CITY; AUDITS.**

(a) The City will maintain and keep proper books of records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the system. The City will cause an annual audit of such books of records and accounts for the preceding operating year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized public officials on request.

(b) In conjunction with the audit, there shall be an annual review of the sewer charge system for adequacies meeting expected expenditures for the following year and to insure proportionality among user classes as required by Federal regulations.

(c) Classification of old and new industrial users shall also be reviewed annually.

(d) The City will maintain and carry insurance on all physical properties of the System, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All monies received for losses under any such insurance policies shall be solely for the replacement and restoration of the property damaged or destroyed.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.17 USER CHARGE SYSTEM.**

(a) System Established; Basis for Computations. Rates and charges for the use of the wastewater system of the City shall be based upon the methodology in the user charge system approved by the Michigan Department of Natural Resources. Revisions to the rates for total sewer service charges are to be established by resolution of the City Council, which may be enacted apart from the published ordinances as necessary to ensure sufficiency of revenues in meeting operation, maintenance and replacement costs, as well as debt services. User charges for operation, maintenance and replacement shall be subject to an annual review of the user charge system. User charges shall be the same for all customers of the system regardless of geographical boundaries. Such charges and rates shall be made against each lot, parcel of land or premises which may have any sewer connections with the sewer system of the City, or which may otherwise discharge sewage or industrial waste, either directly or indirectly, into such system or any part thereof. Such charges shall be based upon the quantity of water used thereon or therein.

(b) Amounts; Billings; Sewer Service Charges. The rates and charges for service furnished by such system shall be levied upon each lot or parcel of land, building or premises, having any sewer connection with such system, on the basis of the quantity of water used thereon or therein as the same is measured therein used, or, in the absence thereof, by such equitable method as shall be determined by the City, and shall be collected monthly, except that in cases where the character of the sewage from a manufacturing or industrial plant, building or premises is such that an unreasonable additional burden is placed upon the system, greater than that imposed by the normal domestic sewage delivered to the system plant, the additional cost of treatment created thereby shall be an additional charge over the regular rates hereinafter set forth, or the City may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises, to treat such sewage in such a manner as shall be specified by the City before discharging such sewage into the sewage disposal system. Rates for all users obtaining all or part of their water supply from sources other than the City water system may be determined by gauging or metering the actual sewage entering the system or by metering the water used by them, in a manner acceptable to the City.

(c) Annual Audit. The rates hereby fixed are estimated to be sufficient to provide for the expenses of operation, maintenance and replacement of the systems as are necessary to preserve the same in good repair and working order.

Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on said audit, rates for sewage services shall be reviewed annually and revised as necessary by the City Council by resolution to meet system expenses and to insure that all user classes pay their proportionate share of operation, maintenance and equipment replacement costs.

(d) Free Service Prohibited. No free service shall be allowed for any user of the wastewater treatment works.

(e) Billing. Billing for wastewater service shall be the responsibility of the City. All water meters shall be read quarterly and bills rendered quarterly.

(f) Collection of Delinquent Accounts. Unpaid charges for sewage disposal service furnished to any premises within the City shall be a lien against the premises. Enforcement of such lien shall be made pursuant to these Codified Ordinances and/or statute. Such lien remedy does not preclude any other remedy provided by law. Those premises outside the City that are served by the City wastewater treatment works that have delinquent bills will be certified to their governmental unit for collection as provided in the contract between the City and the governmental unit.

(g) Annual Notification. All customers of the City's wastewater treatment works will receive an annual notification, either printed on the bill or enclosed in a separate letter, which will show the breakdown of the sewer into its components for operation, maintenance and replacement and for debt service.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.18 VARIANCES.**

Any person, upon written application to the City, within ninety days after the effective date of this chapter, as amended, who shows, in the case of an activity being conducted or operated, that compliance with Section 1046.08 would either be impossible or constitute an undue hardship because of time limitations, may be granted a variance by the City for a reasonable time, not to extend beyond two years from the effective date of this chapter, as amended, upon which date all variances shall terminate and after which date no new variances will be granted. Any person being granted any variance by the City, within six months from the date of the granting of the variance, shall make reports to the City periodically as to the progress being made toward compliance with Section 1046.08. A variance shall not be granted under the provisions of this section where the person applying

therefor is causing a public nuisance or other injury to the general public, or is subject to a national categorical standard. Any such variances shown to have been granted under the provisions of this section shall not be construed to relieve the person who shall receive it from any liability or penalties imposed by other laws for the commission or maintenance of a nuisance.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.19 VALIDITY AND SEVERABILITY.**

(a) The provisions of this chapter are severable, and, if any of the provisions, words, phrases, clauses or terms, or the application thereof to any person, firm or corporation, or to any circumstances, shall be held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such decision or findings shall not in any way affect the validity, legality or constitutionality of any other provision, word, phrase, clause or term, and they shall continue in full force and effect.

(b) All laws and parts of laws, and all ordinances, codes and regulations, which are inconsistent with or in conflict with or pursuant to any provision of this chapter, shall be deemed not to apply, provided that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance, code or regulation which is more restrictive or establishes a higher standard than those provided in this chapter.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.20 CONFLICT OF LAWS.**

Upon the promulgation of the National Categorical Pretreatment Standard or other Federal or State regulation for a particular industrial category, the pretreatment standard, if more stringent than limitations imposed under this chapter, shall supersede the limitations imposed under this chapter and shall be deemed to be part of this chapter.

(Ord. 95-4. Passed 7-10-95.)

#### **1046.99 PENALTY; EQUITABLE REMEDIES.**

(a) Any person found to be violating any provision of this chapter shall be served with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person convicted of a violation of any provision of this chapter, for which no penalty is otherwise provided, shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than ninety days, or both such fine and imprisonment, in the discretion of the court. Each day during or on which any such violation shall continue shall be deemed a separate offense.

A violation of this chapter is also declared to be a public nuisance, and the City may abate the same, by injunction or other remedy, including the right to correct the violation and bill the owner or person in charge of the premises therefor. If not collected, such bill will become a lien upon the property.

Charges for sewer service furnished to any premises shall be a lien thereon and any such charges delinquent for six months or more shall be certified annually to the Assessor, who shall enter the same on the next tax roll against the premises to which such services shall have been rendered. Such charges shall be collected and said lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement and return thereof.

(c) Any business, industry or individual violating any of the provisions of this chapter, which violation results in fines or penalties being levied against the City, shall become liable for said fine or penalty, plus any expenses, losses or damages occasioned by such violation. This cost shall be levied in addition to the charges set forth in Section 1046.17.

(d) Any person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than ninety days, or both, with said penalties to be at the discretion of the court. (Ord. 95-4. Passed 7-10-95.)