

**CHAPTER 1046**  
**Sewers Generally**

|         |  |         |   |
|---------|--|---------|---|
| 1046.01 | Objectives.  | 1046.13 | Enforcement.                              |
| 1046.02 | Definitions.   | 1046.14 | City's responsibilities and prerogatives. |
| 1046.03 | Abbreviations.   | 1046.15 | Retention of records by users.            |
| 1046.04 | Unsanitary deposits or discharges into natural outlets prohibited. | 1046.16 | Retention of records by City; audits.     |
| 1046.05 | Private sewage disposal systems.                                   | 1046.17 | User charge system.                       |
| 1046.06 | Building sewers and connections.                                   | 1046.18 | Variances.                                |
| 1046.07 | Use of public sewers.  | 1046.19 | Validity and severability.                |
| 1046.08 | Wastewater contribution permits.                                   | 1046.20 | Conflict of laws.                         |
| 1046.09 | Fees for pretreatment.   | 1046.99 | Penalty; equitable remedies.              |
| 1046.10 | Protection from damage.  |         | Appx. A Toxic Pollutants.                 |
| 1046.11 | Municipal liability.   |         |   |
| 1046.12 | Power and authority of sewer inspectors and the City.              |         |   |

**CROSS REFERENCES**

Sewers and sewer systems generally - see Mich. Const. Art. 7, Sec. 24; M.C.L.A. Secs. 46.171 et seq., 67.34, 123.241 et seq., 323.151 et seq., 325.201 et seq.

Sewers and sewer systems in home rule cities - see M.C.L.A. Secs. 1174b, 117.4e, 117.4f, 117.35

Sewer rates and charges - see S.U. & P.S. Ch. 1048

Sewers in subdivisions - see P. & Z. 1246.41, 1248.12

**1046.01 OBJECTIVES.**

The objectives of this chapter are:

- (a) To prevent the introduction of pollutants into the wastewater system which will interfere with the normal operation of the system or contaminate the resulting Municipal sludge;
- (b) To prevent the introduction of pollutants into the wastewater system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;

[text continues on Page 33]



- (c) To prevent the introduction of pollutants into the wastewater system which will cause the POTW to violate its NPDES permit;
- (d) To prevent the introduction of pollutants into the wastewater system which will pose an acute health or safety threat to the employees of the POTW;
- (e) To improve the opportunity to recycle and reclaim wastewater and sludge from the system; and
- (f) To provide for the equitable distribution of the cost associated with the operation, maintenance, and replacement of equipment at the POTW.  
(Ord. 95-4. Passed 7-10-95.)

#### **1046.02 DEFINITIONS.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

- (1) Act shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et. seq.
- (2) Authorized Representative of Industrial User refers to:
  - A. A corporate officer if the industrial user is a corporation;
  - B. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or
  - C. A duly authorized representative of the individual designated in either of the above if such representative is responsible for the overall operation of the facilities from which the nondomestic discharge originates.
- (3) Biochemical Oxygen Demand, BOD or BOD (5-Day) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at twenty degrees Celsius, expressed in terms of parts per million (ppm).
- (4) Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.
- (5) Building Sewer shall mean a sewer conveying wastewater from the premises of a user to the public sewer or other place of disposal.
- (6) Bypass shall mean the intentional diversion of waste streams from any portion of an industrial user's treatment facility.
- (7) Categorical Standards shall mean National Categorical Pretreatment Standards or Pretreatment Standard.

- (8) Chemical Oxygen Demand (COD) shall mean a measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. COD shall also be known as OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.
- (9) Chlorine Demand shall mean the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.
- (10) City shall mean the City of Litchfield, Hillsdale County, Michigan.
- (11) Combined Sewer shall mean a sewer receiving both surface run-off and sewage.
- (12) Commercial User shall mean all nondomestic sources, other than industrial users, as defined herein, including, but not limited to, the following: a publicly or privately owned facility where persons are engaged in the exchange or sale of goods or services, hospitals, retail establishments, schools, and facilities operated by local and State governments.
- (13) Commercial Waste shall mean a liquid or water-carried waste material from a commercial business engaged in buying, selling, or exchanging goods or engaging in said goods or services.
- (14) Compatible Pollutant shall mean a substance amenable to treatment in the wastewater treatment plant, such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit, if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. Examples of such additional pollutants may include: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fats, oils and greases of animal or vegetable origin.
- (15) Composite Sample shall mean a series of samples taken over a specific time period whose volume is proportional to the flow in the waste stream, which are combined into one sample.
- (16) Cooling Water shall mean the water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- (17) Debt Service Charge shall mean charges levied to customers of the wastewater system which are used to pay the principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system. The debt service charge shall be in addition to the user charge specified below.
- (18) Direct Discharge shall mean the discharge of treated or untreated wastewater directly to the waters of the State.

- (19) Domestic Wastewater shall mean wastewater derived principally from dwellings due to domestic activities.
- (20) Environmental Protection Agency, or EPA shall mean the U.S. Environmental Protection Agency, its Administrator or other duly authorized official.
- (21) Garbage shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, and sale of food products and produce.
- (22) Grab Sample shall mean a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (23) Holding Tank Waste shall mean any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (24) Incompatible Pollutants shall mean any pollutant which is not a compatible pollutant.
- (25) Indirect Discharge shall mean the discharge or the introduction of nondomestic pollutants into the POTW (including holding tanks wastes discharged into the system).
- (26) Indirect Wastes shall mean the wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structure with these characteristics, as distinct from their employees' domestic wastes or wastes from sanitary conveniences.
- (27) Industrial User shall mean a source of wastewater discharge which originates from, but is not limited to, facilities engaged in industry, manufacturing, business, trade, or research, including the development, recovery, or processing of natural resources.
- (28) Industrial Wastes shall mean the wastewater discharges from industrial, manufacturing, trade, or business processes, or wastewater discharge from any structure with these characteristics, as distinct from their employees' domestic wastes or wastes from sanitary conveniences.
- (29) Infiltration shall mean any waters entering the system from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include and is distinguished from inflow.
- (30) Infiltration or Inflow shall mean the total quantity of water from both infiltration and inflow.
- (31) Inflow shall mean any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross-connections.
- (32) Inspector shall mean any person or persons duly authorized by the City to inspect and approve the installation of building sewers, their connection to the public sewer system, or other activities as may be authorized within this chapter.

- (33) Interference shall mean any discharge which alone or in conjunction with a discharge or discharges from other sources, both:
- A. Inhibits or disrupts the POTW and any of its sludge use or disposal; and
  - B. 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.
- (34) Laboratory Determination shall mean the measurements, test and analyses of the characteristics of waters and wastes in accordance with the procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136.
- (35) Lateral Line shall mean that portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk line and which collects sewage from a particular property for transfer to the trunk line.
- (36) Letter of Intent shall mean a written statement from an industrial user to a municipality of that user's intent to utilize a specified portion of the publicly owned waste treatment facility for a given length of time.
- (37) Manager shall mean the City Manager, or his or her authorized representatives.
- (38) National Categorical Pretreatment Standard or Pretreatment Standard shall mean any Federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial users.
- (39) National Pollution Discharge Elimination System or NPDES shall mean the permit system administered by the State of Michigan which controls the discharge from the City wastewater treatment system by prescribing pollutant limitations, data and information collection procedures, reporting, and other requirements deemed appropriate. The authority for the system is derived from the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, Section 401 (33 U.S.C. 1342).
- (40) National Prohibitive Discharge Standard or Prohibitive Discharge Standard shall mean any regulation developed under the authority of Section 307(b) of the Act and 40 CFR, Section 403.5.
- (41) Natural Outlet shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- (42) New Source shall mean any building, structure, facility or installation of which the construction commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act (33 U.S.C. 1317) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that (i) the construction is a site at which no other source is located; (ii) the process or production equipment that causes the discharge of pollutants at an existing source is totally replaced; or (iii) the production or wastewater-generating processes are substantially independent of an existing source at the same site.

- (43) Normal Domestic Sewage (NDS) shall mean wastewater which, when analyzed, shows a daily average concentration of not more than 200 mg/l of BOD; nor more than 240 mg/l of suspended solids; nor more than five mg/l of phosphorus; nor more than 100 mg/l of fats, oils, and grease; nor more than twenty mg/l of total kjeldahl nitrogen.
- (44) Obstruction shall mean any object of whatever nature which substantially impedes the flow of sewage from the point of origination to the trunk line. This shall include, but not be limited to, objects, sewage, tree roots, rocks and debris of any type.
- (45) Operation and Maintenance shall mean all work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation and treatment system consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable State and Federal regulations, and includes the cost of replacement.
- (46) Owner or Owners of Record of the Freehold of a premise or Lesser Estate therein shall mean a mortgagor or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a building.
- (47) Pass Through shall mean a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (48) Permit shall mean a legal document explaining the quality and conditions by which a person or industry can discharge waste into the sewer system.
- (49) Person shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or its legal representatives, agents, or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.
- (50) pH shall mean the logarithm (Base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution as measured in accordance with standard methods.
- (51) Pollutant shall mean any of various chemicals, substances, and refuse materials, such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, and industrial, Municipal and agricultural wastes, which impair the purity of the water and soil.
- (52) Pollution shall mean the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (53) POTW Treatment Plant shall mean that portion of the POTW designed to provide treatment to wastewater.

- (54) Pretreatment or Treatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature 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 a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR, Section 403.6(d).
- (55) Pretreatment Requirements shall mean any substantive or procedural requirement for treating of a waste prior to inclusion in the POTW.
- (56) Pretreatment Standard or Standard shall mean any local, State or Federal regulation containing pollutant discharge limits. This term includes local limits, prohibitive discharge limits, including those promulgated under 40 CFR, Section 403.5, and categorical pretreatment standards.
- (57) Private Sewer Lines shall mean all service lines and equipment for the disposal of sewage installed or located on any property, from the property line to and including any structure or facility which exists on the property.
- (58) Properly Shredded Garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (59) Property Owner shall mean the owner of the property which abuts the street.
- (60) Publicly Owned Treatment Works (POTW) shall mean a treatment works as defined by Section 212 of the Act, including any devices and systems used in the storage, treatment, recycling, and reclamation of Municipal sewage and industrial waste. The system shall include sewers, pipes, and equipment used to convey wastewater to the treatment facility. The term also includes the Municipality as defined in Section 502(4) of the Act which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (61) Public Sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- (62) Replacement shall mean the replacement in whole or in part of any equipment, appurtenances and accessories in the wastewater transportation or treatment systems to insure continuous treatment of wastewater in accordance with the NPDES permit and other applicable State and Federal regulations.
- (63) Sanitary Sewage shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.
- (64) Severe Property Damage shall mean substantial physical damage or property damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.



- (65) Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters as may be present.
- (66) Sewage Treatment Plant or Wastewater Treatment Plant shall mean any arrangement of devices and structures used for treating sewage.
- (67) Sewage Works shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
- (68) Sewer shall mean a pipe or conduit for carrying sewage.
- (69) Sewer Service Charge shall mean the sum of the applicable user charge, surcharges and debt service charges.
- (70) Shall is mandatory; May is permissive.
- (71) Significant Industrial User.
- A. Except as provided in paragraph B. hereof, the term significant industrial user means: (i) all industrial users subject to categorical pretreatment standards under 40 CFR, Section 403.6 and 40 CFR, Chapter I, Subchapter N; and (ii) any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater) or contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (iii) is designated as such by the POTW on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR, Section 403.8(f)(6).
- B. Upon a finding that an industrial user meeting the criteria in paragraph A.(ii) hereof has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the POTW may, at any time, on its own initiative or in response to a petition received from an industrial user in accordance with 40 CFR, Section 403.8(f)(6), determine that such industrial user is not a significant industrial user.
- (72) Significant Noncompliance (SNC) means:
- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

- B. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for 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);
  - C. Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the City determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
  - D. Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
  - E. Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
  - F. Failure to provide, within thirty days after the due date, required reports, such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
  - G. Failure to accurately report noncompliance; or
  - H. Any other violation or group of violations which the City determines will adversely affect the operation or implementation of the local pretreatment program.
- (73) Slug Discharge shall mean any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.
- (74) Slug Load shall mean any substance released in a discharge at a rate and/or concentration which causes interference to the POTW. Any discharge which exceeds, for a period of duration longer than fifteen minutes, more than five times the average twenty-four-hour flow during normal operation, or more than five times the twenty-four-hour allowable concentration of any substance listed in Appendix A, or which causes interference to the POTW.
- (75) Standard Industrial Classification (SIC) shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (76) State shall mean the State of Michigan.

- (77) Storm Sewer or Storm Drain shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
- (78) Storm Water shall mean any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (79) Superintendent shall mean the person designated by the City to supervise the operation of the Publicly Owned Treatment Works and who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative.
- (80) Surcharge shall mean, as part of the service charge, any additional charge to cover the cost of treatment of excess strength wastewater when a customer discharges wastewater having a strength in excess of limits set forth by the City.
- (81) Suspended Solids or SS shall mean the portion of residue contained in a water or wastewater sample which is removable by laboratory filtering as measured according to standard methods.
- (82) Toxic Pollutant shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under the provisions of the Clean Water Act, Section 307(A), 33 U.S.C. 1317, or included in the Critical Materials Register promulgated by the Michigan Department of Natural Resources.
- (83) Trunk Lines shall mean the main sewer line located under any street or within any street right-of-way which collects and transmits the sewage of the various properties served by the sewer system.
- (84) Uncontaminated Industrial Waste shall mean wastewater which has not come into contact with any substance used in or incidental to industrial processing operations and to which no chemical or other substance has been added.
- (85) User shall mean any person who contributes, causes or permits the contribution of wastewater into the POTW.
- (86) User Charge shall mean a charge levied on users of a treatment works for the cost of operation, maintenance and replacement of treatment works pursuant to Section 204(b) of the Clean Water Act.
- (87) User Class shall mean the kind of user connected to sanitary sewers, including, but not limited to, residential, industrial, commercial, institutional and governmental.
- A. Residential User shall mean a user of the treatment works whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units, such as detached, semi-detached and row houses, mobile homes, apartments, or permanent multi-family dwellings (transit lodging is not included; it is considered commercial).
- B. Industrial User shall mean any person who introduces pollutants into a POTW from any non-domestic source regulated under the Act, State law, or any local ordinance.

- C. Commercial User shall mean an establishment listed in the Office of the Management and Budget's "Standard Industrial Classification Manual" (SICM), involved in a commercial enterprise, business or service which, based on a determination by the City, discharges primarily segregated domestic waste or wastes from sanitary conveniences and which is not a residential user or an industrial user.
  - D. Institutional User shall mean any establishment listed in the SICM involved in a social, charitable, religious, or educational function which, based on a determination by the City, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
  - E. Governmental User shall mean any Federal, State or local government user of the wastewater treatment works.
- (88) Wastewater shall mean the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (89) Wastewater System shall mean the wastewater treatment facility, the sewers, manholes, regulator structures, pump stations, force mains, and other structures, including all appurtenances that convey, transfer, regulate, or treat the wastewater flow in the service area under the jurisdiction of the City.
- (90) Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.
- (91) Waters of the State includes:
- A. Both surface and underground waters within the boundaries of the State of Michigan subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
  - B. The floodplain free-flowing waters determined by the Department of Natural Resources on the basis of a 100-year flood frequency.  
(Ord. 95-4. Passed 7-10-95.)

#### 1046.03 ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

- (a) BOD – Biochemical Oxygen Demand
- (b) CFR – Code of Federal Regulations
- (c) COD – Chemical Oxygen Demand
- (d) EPA – Environmental Protection Agency
- (e) l – liter

- (f) mg/l – milligrams per liter
- (g) NDS – Normal Domestic Source
- (h) NPDES – National Pollutant Discharge Elimination System
- (i) P – Phosphorus
- (j) POTW – Publicly Owned Treatment Works
- (k) SIC – Standard Industrial Classification
- (l) SICM – Standard Industrial Classification Manual
- (m) SS – Suspended Solids
- (n) SWDA – Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.
- (o) O & M – Operation and Maintenance
- (p) CWA – Clean Water Act
- (q) TSS – Total Suspended Solids
- (r) USC – United States Code  
(Ord. 95-4. Passed 7-10-95.)

**1046.04 UNSANITARY DEPOSITS OR DISCHARGES INTO NATURAL OUTLETS PROHIBITED.**

(a) No person shall place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

(b) No person, when sewage and/or treatment facilities are available, shall discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted waters, unless specifically permitted by an NPDES permit.

(c) No person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, unless specifically permitted by the applicable county health department or as hereinafter provided.

(d) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, serving the public, or other purposes situated within the City and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public sewer or sanitary sewage conveyance system of the City, is hereby required, at his or her expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

(e) No discharger designated by the City as a significant industrial user shall discharge to the City sewer without a City issued discharge permit.

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

#### **1046.05 PRIVATE SEWAGE DISPOSAL SYSTEMS.**

(a) Where a public sanitary or combined sewer is not available under the provisions of Section 1046.04(d), the building sewer shall be connected to a private sewage disposal system complying with all requirements of the State Board of Health.

(b) Before commencement of a private sewage disposal system, the owner shall first apply to the County Health Department for a soil evaluation test. The fee shall be determined by the County Health Department and shall be paid to the County Health Department. Upon completion of the above soil evaluation test showing positive results, the property owner shall apply for a permit for the proposed sewage system. He or she shall include plans, specifications and other information as deemed necessary by the County Health Department. At the time the application is filed, the fee determined by the County Health Department for the permit and inspection shall be paid.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the County Health Department. The County Health Department shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seven days of the receipt of notice to the County Health Department. All persons receiving a permit for a private sewer disposal system shall provide the City with copies of final approved inspection reports issued by the County Health Department.

(d) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

(e) At such times as a public sewer becomes available to a property served by a sewage disposal system as provided in Section 1046.04(d), a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material, if so required by the inspector.

(f) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the State Board of Health or the EPA.

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

**1046.06 BUILDING SEWERS AND CONNECTIONS.**

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer, or appurtenances thereof, without first obtaining a written permit from the City. Before a permit may be issued for excavating for plumbing in any public street, way, or alley, the person applying for such permit shall have executed unto the City of Litchfield and deposited with the Treasurer a corporate surety in the sum of (\$10,000) ten thousand dollars, conditioned upon his or her faithful performance of all work with due care and skill and in accordance with the laws, rules, and regulations established under the authority or any ordinances of the City of Litchfield pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Litchfield and the owner of the premises against all damages, costs, expenses, outlays, and claims of every nature and kind arising out of unskillfulness or negligence on his or her part in connection with the plumbing or excavating for plumbing as prescribed in this chapter. Such bond shall remain in force and must be executed for a period of one year except, that on such expiration it shall remain in force as to all penalties, claims, and demands that may have accrued thereunder prior to such expiration.

(b) The City of Litchfield may refuse to issue a permit for a new sewer connection if it determines that there is insufficient capacity available in the downstream components of the sewerage works, including sewers, pump stations, force mains, and the sewage treatment plant.

(c) There shall be two classes of building sewer permits: (1) residential and commercial service, and (2) service to establishments producing industrial waste. In either case, the owner or his or her agent shall make application on a special form furnished by the City. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Inspector. Permit and inspection fees for residential or commercial and industrial building sewer permits shall be as established by the Litchfield City Council by ordinance and shall be paid to the City at the time the application for said permit is filed.

(d) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for said owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by said installation.

(e) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear through an adjoining alley, court, yard, or

driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only by special permission granted by the Superintendent.

(f) Old building sewers or portions thereof may be used in connection with new buildings only when they are found on examination and test by the Inspector to meet all requirements of this chapter.

(g) The building sewer shall be constructed of vitrified clay sewer pipe or poly-vinyl chloride (plastic) sewer pipe, as approved by the City. Vitrified clay pipe shall be ASTM C-700, Extra Strength Clay Pipe. Joints for clay pipe shall meet the requirements of ASTM C-425. Plastic pipe shall be ASTM D-178S, Schedule 40, minimum. Plastic pipes shall have solvent weld connections. Plastic pipes shall not be used where petroleum waste might be encountered. Joints between poly-vinyl chloride pipe and vitrified clay pipe shall be a suitable, premium-type flexible joint subject to approval by the City. The City reserves the right to specify and require the encasement of any sewer pipe with concrete, or the installation of the sewer pipe in concrete cradle if the foundation and construction are such as to warrant such protection in the opinion of the City. There will be a clean-out required at the property line at the owner's expense.

(h) The size and slope of the building sewer shall be subject to approval of the Sewer Inspector, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall be not less than one-quarter inch per foot, unless otherwise permitted.

(i) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid with properly curved pipe and fittings. Changes in direction greater than forty-five degrees must be provided with clean-outs accessible for cleaning and constructed to two forty-five degree fillings or a manhole.

(j) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by artificial means approved by the Sewer Inspector and discharged to the building sewer. Said lift mechanisms shall be installed at the expense of the building owner.

(k) All joints and connections shall be made gastight and watertight. All joints shall be approved by the Sewer Inspector.



(l) Additions to the sanitary sewer system shall be in accordance with the current standards and requirements of the City. Such standards and requirements shall be established as necessary by the City Council and shall be enforced by the City Department of Public Works and the Sewer Inspector. All alterations, additions, or improvements to the sanitary sewer system shall be approved by the City.

(m) Any new construction requiring a connection to the City sanitary sewer system, or reconstruction of an existing sewer line, will be required to have a clean out installed at the property line and a clean out installed just outside the structure.

(Ord. 95-4. Passed 7-10-95; Ord. 2006-03. Passed 5-9-06.)

#### **1046.07 USE OF PUBLIC SEWERS.**

(a) No person shall permit any new connections from inflow sources into the sanitary sewer portions of the sewer system.

(b) Storm water, ground water, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers. Discharge of cooling water or unpolluted process water to a natural outlet shall be approved only by the Superintendent of Public Works of the City of Litchfield and the Michigan Department of Natural Resources.

(c) Except as hereinafter provided, no person shall discharge, or cause to be discharged, any of the following waters or wastes to any public sewer:

- (1) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference and, in no case, wastewater with a temperature at the introduction into the POTW which exceeds 104 degrees Fahrenheit (40 degrees Centigrade).
- (2) Any water or waste which may contain more than 100 parts per million by weight of fat, oil, or grease.
- (3) Any liquids, solids, or gases, including gasoline, benzine, naphtha, and fuel oil, which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction, to cause fire or explosion, to be injurious in any other way to the operation of the POTW, or to cause unusual maintenance or operational problems.
- (4) Any garbage that has not been properly shredded.
- (5) Solid or viscous substances capable of causing obstruction to the flow in sewers or unusual operation or maintenance problems, such as, but not limited to, ashes, fly ash, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, paunch manure, or any other solid or viscous substance.
- (6) Any waters or wastes having corrosive properties capable of causing damage or hazard to structures, equipment, and personnel of the sewer works. The pH of wastes discharged into the sewer system must be not less than 6.0 nor higher than 9.0.

- (7) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, to constitute a hazard to humans or animals, to exceed the limitations set forth in categorical pretreatment standards, or to cause a violation of the State of Michigan Water Quality Standards. A toxic pollutant shall include, but not be limited to, any pollutant identified in the toxic pollutant list set forth in Appendix A, following the text of this chapter.
- (8) Any waters or wastes containing suspended solids or any constituent of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (9) Any noxious or malodorous liquids, gases, or solids which, either singly or by interaction, are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
- (10) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceeds limits established by the City in compliance with applicable State or Federal regulations. All users of radioactive materials shall register with the Sewer Inspector.
- (11) No user shall increase the use of potable or processed water in any water, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.
- (12) Any discharge which will violate any statute, rule, regulation, or ordinance of any public agency, including the EPA, or which will cause the POTW to violate its NPDES discharge permit.
- (13) Any substance which may cause the POTW's effluent or treatment residues, sludge, or scum to be unsuitable for reclamation and re-use or to interfere with the reclamation process.
- (14) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye waste and vegetable tanning solutions.
- (15) Any slug load, which shall mean any pollutant, including oxygen demanding pollutants and BOD, released in a single extraordinary discharge episode in such volume and strength as to cause interference to the POTW.
- (16) Any wastewater which causes a hazard to human life or creates a public nuisance.

- (17) Any substances which, by reason of their nature or quantity, may create a fire or explosion hazard or be injurious to the POTW or to the operation of the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or sixty degrees Centigrade using the test methods specified in 40 CFR, Section 261.21.
- (18) Any trucked or hauled pollutants, except with the prior written permission of the Superintendent.
- (19) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.

(d) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Sewer Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Sewer Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight, and equipped with easily removable covers which, when bolted in place, shall be gas-tight and watertight.

(e) When installed, all grease, oil, and sand interceptors shall be maintained by the owner, at his or her expense, and be in continuously efficient operation at all times.

- (f) Limitations on wastewater strength shall be as follows:
- (1) National Categorical Pretreatment Standards as promulgated by the EPA pursuant to the Act shall be met by all dischargers. An application for modification of the National Categorical Pretreatment Standards may be considered by the City if it can be demonstrated to the satisfaction of the City that the wastewater treatment system will achieve consistent removal of the pollutants as defined by 40 CFR, Section 403.7.
  - (2) State requirements on limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any incident where the State requirements are more stringent than the Federal requirements and limitations or those in this chapter or any other applicable ordinance.

- (3) No discharger shall discharge wastewater containing concentrations (and/or mass limitations) of the following enumerated materials except under contract or permit from the proper authorities:

| <u>Material</u>         | <u>Concentration (mg/l)</u> |
|-------------------------|-----------------------------|
| Arsenic                 | 0.30                        |
| BOD/5                   | 200.00                      |
| Cadmium                 | 0.01                        |
| Chlorine Demand         | 15.00                       |
| COD                     | 500.00                      |
| Copper                  | 0.50                        |
| Cyanide                 | 0.50                        |
| Hexavalent Chromium     | 0.10                        |
| Lead                    | 0.10                        |
| Mercury                 | (Less than Detection Limit) |
| Nickel                  | 0.10                        |
| Oil and Grease          | 50.00                       |
| PCB                     | (Less than Detection Limit) |
| Phenol                  | 0.20                        |
| Phosphate as P          | 5.00                        |
| Suspended Solids        | 240.00                      |
| Total Kjeldahl Nitrogen | 10.00                       |
| Trivalent Chromium      | 5.00                        |
| Zinc                    | 1.00                        |

Contribution from discharges is subject to control and volume and concentration by the City. Should the above concentrations, either individually or in combination, interfere with the sewage treatment process or cause difficulties or damage to the receiving waters, maximum allowable concentrations of these substances may be reduced by the City.

- (4) If any waters containing the substances or possessing the characteristics enumerated above are discharged or are proposed to be discharged to the public sewers, and said waters may, in the judgment of the City, have a deleterious effect upon the sewerage works, processes, equipment, or receiving waters or otherwise create a hazard to life or constitute a public nuisance, the City may reject the wastes or require pretreatment of the wastes prior to discharge to the sewerage works.
- (5) Where the strength of sewage from an industrial, commercial, or institutional establishment exceeds: A. 200 parts per million of biochemical oxygen demand; B. 240 parts per million by weight of suspended solids, or C. high-strength or excessive of normal waste, and

where such wastes are permitted to be discharged to the sewer system by the Sewer Superintendent, an added charge will be made against such establishment according to the strength of such waste. Added charges shall be determined by the City. These charges shall be based on the cost of operation, maintenance, replacement, administration, depreciation, and amortization, plus sufficient coverage for the sewerage works. The strength of such wastes shall be determined by composite samples taken over a sufficient period of time to ensure a representative sample. The cost of any sampling and testing shall be borne by the industry or establishment, whether owner or lessee. Tests shall be made by an independent laboratory.

(g) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(h) When required by the Sewer Inspector, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole with a continuous sampling device on the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole and sampling device, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Sewer Inspector. The manhole and sampling device shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(i) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in subsections (c) and (f) hereof shall be performed in accordance with the techniques prescribed in 40 CFR, Part 136 or, if 40 CFR, Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA, and shall be determined at the control manhole provided for in subsection (h) hereof, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(j) To determine the sewage flow from any establishment, the Sewer Inspector may use one of the following methods:

- (1) The amount of water supplied to the premises by the City as shown upon the water meter, if the premises are metered;
- (2) If the premises are supplied with river water or water from private wells, the amount of water supplied from such sources as estimated by the Sewer Inspector from the water, gas, or electric supply;

- (3) If such premises are used for an industrial or commercial purposes of such a nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system made by the Sewer Inspector from the water, gas, or electric supply;
- (4) The number of gallons of sewage discharged into the sewer system as determined by measurements and samples taken at a manhole installed by the owner of the property served by the sewer system at his or her own expense in accordance with the terms and conditions of the permit issued by the Sewer Inspector pursuant to this section; or
- (5) A figure determined by the Sewer Inspector by any combination of the foregoing or by any other equitable method.

(k) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Upon request of the City, detailed plans showing the facilities and operating procedures to provide this protection shall be submitted for review. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately notify the City of Litchfield Department of Public Works of the incident. The notification shall include the location of the discharge, type of waste, concentration and volume, and corrective actions.

Within five days following an accidental discharge, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar accidental discharges in the future. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the wastewater treatment system, fish kills, or any other damage to person or property, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law. Containment should be provided for storage tanks which may be serviced by commercial haulers and for chemical storage areas.

- (l) (1) Industrial users shall provide protection from accidental discharge of materials which may interfere with the POTW by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and the operating procedures, shall be approved by the POTW before construction of the facility.

- (2) Industrial users that store hazardous substances shall not contribute to the POTW after the effective date of this chapter unless a spill prevention plan has been approved by the POTW. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.
  - (3) The POTW shall evaluate each significant industrial user at least once every two years, and other industrial users as necessary, to determine whether such user needs a plan to control slug discharges. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
    - A. Description of discharge practices, including nonroutine batch discharges;
    - B. Description of stored chemicals;
    - C. Procedures for immediately notifying the POTW of slug discharges with procedures for follow-up written notification within five days; and
    - D. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
- (m) (1) In the case of any discharge in violation of this chapter or any permit conditions, and in the case of any discharge that could cause problems to the POTW, including any slug loadings, as defined in Section 1046.02, the industrial user shall immediately notify the POTW of the discharge by telephone. The notification shall include:
- A. The date, time, location and duration of the discharge;
  - B. The type of waste, including concentration and volume; and
  - C. Any corrective actions taken by the user.
- (2) All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR, Section 403.12(p).

- (n) (1) An industrial user may allow any bypass to occur which does not violate pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to paragraph (n)(2) or (n)(3) hereof.
- A. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, if possible at least ten days before the date of the bypass.
- B. An industrial user shall orally notify the POTW of an unanticipated bypass that exceeds applicable pretreatment standards or requirements within twenty-four hours of becoming aware of the bypass. A written submission shall also be provided within five days of becoming aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact times and dates, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- (2) Bypasses are subject to the following additional provisions:
- A. Bypass is prohibited and the POTW may take enforcement action against an individual user for a bypass, unless (i) bypass was unavoidable to prevent loss of life, personal injury or severe property damage; (ii) there are no feasible alternatives to bypass, such as use of auxiliary treatment facilities, retention of wastes or maintenance during normal periods of equipment downtime; (This condition is not satisfied by equipment downtime, nor is it satisfied if adequate back-up equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventive maintenance); and (iii) the industrial user submitted notices as required by subsection (m) hereof.
- B. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (n)(3)C. hereof.
- (3) Upsets are subject to the following provisions:
- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.



- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the requirements of paragraph (n)(3)C. hereof are met.
- C. An industrial user who wishes to establish the affirmative defense of upset 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. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
  3. The industrial user has submitted the following information to the POTW within twenty-four hours of becoming aware of the upset (if this information must be provided orally, a written submission must be provided within five 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;
    - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

The industrial user shall control production or all discharges to the extent necessary to maintain compliance with pretreatment standards upon the 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.

(o) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

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

**1046.08 WASTEWATER CONTRIBUTION PERMITS.**

(a) In General. All significant users proposing to connect to or to contribute to the City wastewater treatment system shall obtain a wastewater contribution permit or waiver before connecting to or contributing to the City wastewater treatment system. All existing industrial users connecting to or contributing to the City wastewater treatment system shall obtain a wastewater contribution permit within 180 days after the effective date of this chapter.

(b) Application for Permit. Industrial users shall complete and file with the City an application for permit or waiver in a form prescribed by the City and accompanied by the proper permit fee. Existing industrial users shall apply for a wastewater contribution permit within sixty days of the effective date of this chapter, and proposed new industrial users shall apply at least ninety days prior to connecting to or contributing to the City wastewater treatment system. Every application for a wastewater contribution permit shall include the following information:

- (1) Name, address, and location;
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Schedule of operations and number of employees;
- (4) Description of the type of wastewater discharged or proposed to be discharged to the City's wastewater treatment system; and
- (5) Indication as to the use and/or discharge of any materials listed in Appendix A following the text of this chapter.

In addition to the above, an application for permit from a significant industrial user shall also provide the following:

- (6) A description of wastewater constituents and characteristics, including, but not limited to, those mentioned in Section 1046.07(f), as determined by a reliable, analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136.
- (7) Time and duration of contribution.
- (8) Wastewater constituents and characteristics, including, but not limited to, those mentioned in Section 1046.07(f), as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA.
- (9) Average daily and thirty-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- (10) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by size, location, and elevation, and a current water use schematic.

- (11) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged.
- (12) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal pretreatment standards, and a statement, signed by an authorized representative of the user and certified by a qualified professional, regarding whether or not the pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
- (13) If additional operation and maintenance and/or pretreatment will be required to meet all applicable pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. For existing industrial users, the completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For new sources, all pollution control equipment necessary to meet applicable pretreatment standards shall be installed and operational at the time of start-up and shall meet the applicable pretreatment standards within the shortest feasible schedule. The following conditions shall apply to this schedule:
  - A. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet applicable pretreatment standards.
  - B. No increment referred to in paragraph (b)(13)A. hereof shall exceed nine months.
  - C. Not later than fourteen days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent, which shall include, at a minimum, whether or not it has complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Superintendent.
- (14) Each product or byproduct produced by type, amount, process or processes, and rate of production.
- (15) Type and amount of raw materials processed (average and maximum per day).

- (16) Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system.
- (17) Any other information as may be deemed by the City to be necessary to evaluate the permit application.
- (18) The discharge form shall be signed by an authorized representative.

The City will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a wastewater contribution permit subject to terms and conditions provided herein.

(c) Permit Modifications. Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater contribution permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater contribution permit as required by subsection (b) hereof, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing wastewater contribution permit shall submit to the Superintendent within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard all relevant information required by paragraph (b)(8) or (9) hereof.

(d) Permit Contents. Wastewater contribution permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, use charges, and fees established by the City.

Permits shall contain, as appropriate, the following:

- (1) Statement of duration (not greater than five years), including issuance and expiration dates;
- (2) Effluent limitations based on the more stringent of categorical pretreatment standards, local limits as established by this chapter, and State and local law;
- (3) General and specific discharge prohibitions;
- (4) Requirements to pay fees for the wastewater to be discharged to the POTW;
- (5) Limitations on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (6) Requirements for installation and maintenance of inspection and sampling facilities;
- (7) Requirements and specifications for monitoring programs, including sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

- (8) Compliance schedules;
- (9) Requirements for submission of technical reports, discharge reports or certification statements. These include any reporting requirements contained in a National Categorical Standard or pretreatment requirement;
- (10) Requirements for collecting and/or retaining and providing access to plant records relating to a user's discharge and for providing entry for sampling and inspection;
- (11) Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater treatment system;
- (12) Requirements for notification of spills, potential problems to the POTW, including slug loadings, upsets or violations;
- (13) Requirements for the installation, operation, and maintenance of pollution control equipment;
- (14) Requirements to develop and implement spill and slug control plans;
- (15) Other conditions as deemed appropriate by the POTW to ensure compliance with this chapter, State and Federal pretreatment standards and requirements;
- (16) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;
- (17) Statement of non-transferability; and
- (18) Conditions for modification or revocation of permit.

(e) Permit Duration. Permits shall be issued for a specified time period, not to exceed five years. The user shall apply for permit reissuance at least 180 days before the expiration of its existing permit.

(f) Permit Transfer. Wastewater contribution permits are issued to a specific process or operation. A wastewater contribution permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without prior notification to the POTW. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Reporting in General.

(1) Baseline reports (for categorical dischargers only).

- A. Industrial users subject to National Categorical Pretreatment Standards shall submit baseline reports to the POTW in a form prescribed and furnished by the POTW.
- B. Within 180 days after the effective date of a National Categorical Pretreatment Standard, or 180 days after a final administrative decision has been made upon a categorical determination submission in accordance with 40 CFR, Section 403.6(a)(4), whichever is later, industrial users which are existing sources subject to such National Categorical Pretreatment Standards and currently discharging to the POTW shall submit a properly completed baseline report.
- C. New sources, when subject to a National Categorical Pretreatment Standard, shall submit a baseline report at least ninety days prior to commencement of discharge to the POTW.
- D. In support of the baseline report, the industrial user shall submit, in units and terms specified in the application, the following information:
  1. Name and address of the facility, including the name of the operator and owners.
  2. List of any environmental control permits held by or for the facility.
  3. Brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such user. This description shall include a schematic process diagram indicating points of discharge to the POTW from the regulated processes.
  4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
    - a. Regulated process streams; and
    - b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR, Section 403.6(e).

5. The industrial user shall identify the National Categorical Pretreatment Standards applicable to each regulated process, and shall:
  - a. Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations.
  - b. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, twenty-four-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The City may waive flow-proportional composite sampling techniques where feasible. The City may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
  - c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
  - d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR, Section 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR, Section 403.6(e), this adjusted limit along with supporting data shall be submitted to the POTW.

6. The industrial user shall provide a statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether National Categorical Pretreatment Standards are being met on a consistent basis and, if not, whether additional operation and maintenance measures (O & M) or additional pretreatment is required for the industrial user to meet the National Categorical Pretreatment Standards.
7. If additional pretreatment or O & M will be required to meet the National Categorical Pretreatment Standards, the industrial user will provide the shortest schedule which will provide such additional pretreatment or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable National Categorical Pretreatment Standard.
  - a. Where the industrial user's National Categorical Pretreatment Standard has been modified by a removal allowance (40 CFR, Section 403.7) or the combined waste stream formula (40 CFR, Section 403.6(e)), or net/gross calculations (40 CFR, Section 403.15), at the time the industrial user submits a baseline report, the information required in paragraph (g)(1)D.6. hereof and this paragraph shall pertain to the modified limits.
  - b. If the National Categorical Pretreatment Standard for the industrial user is modified after the baseline report is submitted, the industrial user shall make any necessary amendments to information provided as a response to paragraph (g)(1)D.6. hereof and this paragraph and submit them to the POTW within sixty days after the modified limit is approved.
8. The following conditions shall apply to any schedule submitted in response to paragraph (g)(1)D.7. hereof:
  - a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable National Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
  - b. No increment referred to in paragraph (g)(1)D.8.a. hereof shall exceed nine months.



- c. Not later than fourteen days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW, including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the POTW.
9. Such other information as may be reasonably requested by the POTW.

(2) Monitoring and analysis in support of self-monitoring requirements.

- A. The reports required by paragraph (g)(1)A. to D. hereof shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR, Part 136 and amendments thereto. Where 40 CFR, Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the 40 CFR, Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW and other persons, approved by the Administrator. This sampling and analysis may be performed by the POTW in lieu of the industrial user. Where the POTW itself collects all the information required for the report, the significant industrial user will not be required to submit the report.
- B. If sampling performed by an industrial user indicates a violation, the user shall notify the POTW within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within thirty days after becoming aware of the violation, except that the industrial user is not required to resample if:
  1. The POTW performs sampling at the industrial user at a frequency of at least once per month; or
  2. The POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

- C. The reports required in paragraphs (g)(1)A. and D. hereof shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The POTW shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.
  - D. If an industrial user subject to the reporting requirements in paragraph (g)(1)A. to D. hereof monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in this paragraph (g)(2)A. to E., the results of this monitoring shall be included in the report.
  - E. The reports required by paragraph (g)(1)A. to E. hereof shall include the certification statement as set forth in 40 CFR, Section 403.6(a)(2)(ii), and shall be signed by an authorized representative.
- (h) Compliance Date Report. Within ninety days following the date for final compliance with the applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards and requirements.
- Where equivalent mass or concentration limits are established by the POTW for a user, this report shall contain a reasonable measure of the user's long-term production rate. Where a user is subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the user's actual production during the appropriate sampling period.
- The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards and requirements. This statement shall be signed by an authorized representative of the industrial user and certified by a qualified professional.
- (i) Periodic Compliance Reports.
- (1) All significant users who have been issued a wastewater contribution permit shall submit periodic compliance reports. Any user subject to a pretreatment standard, after the compliance date of such pretreatment

standard, or, in the case of a new source, after commencement of the discharge into the City wastewater treatment system, shall submit to the Superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards or this chapter. In addition, this report shall include a report of all daily flows which, during the reporting period, exceeded the average daily flow reported in the user's permit. All sampling and reporting shall be performed in the manner and form as may be specified by the Superintendent, including the locations to be sampled, the number and type of samples to be collected, the pollutants to be analyzed, the measurement of flows, and other items as the Superintendent deems necessary. All reports shall be based on data which is representative of conditions which occurred during the reporting period. If an industrial user monitors any pollutant more frequently than required in the permit, the results shall be included in the report. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, or other factors which may affect the submission of said report or the integrity of the report, the Superintendent may agree to alter the months during which the above reports are to be submitted.

If sampling performed by an industrial user indicates a violation, the user shall notify the POTW within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within thirty days of becoming aware of the violation.

Reports required under this subsection shall be signed by an authorized representative of the industrial user and certified by a qualified professional.

- (2) The City does not accept dilution as a method of pretreatment. The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by paragraph (i)(1) hereof shall indicate the mass pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of the sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of the pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in

the applicable pretreatment standards. All analyses shall be performed in accordance with the procedure established by the Clean Water Act. Sampling shall be performed in accordance with techniques approved by the Administrator.

These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass, where requested by the City, of pollutants contained therein which are limited by the applicable pretreatment standards.

- (3) For industrial users subject to equivalent mass or concentration limits established by the POTW in accordance with the procedures in 40 CFR, Section 403.6(c), the report required by paragraph (g)(1)D.3. hereof shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph (g)(1)D.3. hereof shall include the user's actual average production rate for the reporting period.
  - (4) Significant noncategorical industrial users shall submit to the POTW at least once every six months (on dates specified by the control authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the POTW.
- (j) Hazardous Waste Notification.
- (1) Any industrial user, except as specified in paragraph (j)(5) hereof, which discharges to the POTW any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR, Part 261, shall notify the POTW in writing of such discharge.
  - (2) All hazardous waste notifications shall include:
    - A. The name of the hazardous waste as set forth in 40 CFR, Part 261;
    - B. The EPA hazardous waste number;
    - C. The type of discharge (continuous, batch, or other); and
    - D. A certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
  - (3) In addition to the information submitted in paragraph (j)(2) hereof, industrial users discharging more than 100 kg. of hazardous waste per calendar month to the POTW shall also report, to the extent such information is known and readily available to the industrial user:
    - A. An identification of the hazardous constituents contained in the waste;

- B. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and
  - C. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months.
- (4) Hazardous waste notifications shall be submitted no later than February 19, 1991, except that industrial users commencing the discharge of listed or characteristic hazardous wastes after August 23, 1990, shall provide the notification no later than 180 days from the discharge of the wastes. Any notification under this provision need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must be submitted under paragraph (j)(2) hereof.
  - (5) Industrial users are exempt from the hazardous waste notification requirements during a calendar month in which they discharge fifteen kg. or less of nonacute hazardous wastes. Discharge of any quantity of acute hazardous waste, as specified in 40 CFR, Sections 261.30(d) and 261.33(3), requires an on-time notification.

(k) Inspection and Sampling (Right of Entry). The City shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Representatives of the POTW, the State and the EPA, upon showing proper identification, shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this chapter. Industrial users shall allow authorized representatives of the POTW, the State and the EPA access to all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the POTW, the State and the EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements, at its own expense, to enable authorized representatives of the POTW, the State, and the EPA to enter and inspect the premises without delay as guaranteed by this subsection.

(l) Pretreatment Requirements.

- (1) Industrial users shall provide necessary wastewater treatment as required to comply with the most stringent requirements of this chapter, Federal pretreatment standards, as established by 40 CFR, Chapter I, Subchapter N, State standards and permit conditions, and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the Federal pretreatment regulations, and with any other pretreatment standards, by applicable deadlines.

- (2) Any facilities required to pretreat wastewater shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be approved by the POTW before construction of the facility. The review and approval of plans and operating procedures does not relieve the industrial user from complying with the provisions of this chapter and permit conditions. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by the POTW prior to the industrial user's initiation of the changes.

The City shall publish in a local newspaper of general circulation a list of all users which were not in compliance with any pretreatment standard or requirement at least once during the previous twelve months.

Users shall retain and make available upon the request of authorized representatives of the POTW, the State, or the EPA all records required to be collected by the user pursuant to this chapter or any permit or order issued pursuant to this chapter. These records shall remain available for inspection for a period of at least three years after their collection. This period shall be extended during any litigation concerning compliance with this chapter or permit conditions.

(m) Confidential Information. Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose a trade secret or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System Permit, the State Disposal System Permit, and/or the pretreatment program, provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the City as confidential shall not be transmitted to any governmental agency or to the general public by the City until, and unless, a ten-day notification is given to the user.

(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.)

