Muskegon County Wastewater Management System

SEWER USE ORDINANCE

AN ORDINANCE TO CONTROL AND REGULATE DISCHARGES

County of Muskegon

Sewer Use Ordinance	Board of Public Works	Board of Commissioners
Document Adopted:	January 14, 1999	January 26, 1999
Revision #1 Adopted:	June 24, 2003	June 24, 2003
Revision #2 Adopted:	July 10, 2003	July 22, 2003
Revision #3 Adopted:	October 14, 2004	October 26, 2004

Sewer Use Ordinance Effective Dates

Document:	February 04, 1999
Revision #1:	July 01, 2003
Revision #2:	December 10, 2003
Revision #3:	April 1, 2005

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SECTION 1 GENERAL PROVISIONS

1.1 Purpose and Policy

This is a County ordinance, intended to supersede in its entirety the previous ordinance entitled "An Ordinance to Control and Regulate Discharges" adopted January 14, 1999, by the Muskegon County Board of Public Works and adopted January 26, 1999, by the Muskegon County Board of Commissioners with an effective date of February 4, 1999. This ordinance also supersedes the subsequent ordinance revisions which were adopted by those County Boards in the year of 2003. Accordingly, such documents are repealed as of the effective date of this County ordinance. This ordinance supersedes any conflicting limits established by contract, exemptions, or letters of agreement/understanding.

This ordinance sets forth requirements for users of the Publicly Owned Treatment Works for the County of Muskegon and enables the County to comply with all applicable federal and State, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (Title 40, Code of Federal Regulations, Part 403). The objectives of this ordinance are:

A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation, alone or in combination with other discharges;

B. To preserve and maintain the sewage collection and treatment facilities of the Municipalities and County;

C. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works when discharged alone or in combination with other users;

D. To protect both the general public and Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment;

E. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;

F. To enable the County to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or State laws to which the Publicly Owned Treatment Works is subject;

G. To prevent the pollution of the public waters;

H. To preserve the public health, safety and welfare; and

I. To preserve the hydraulic capacity of the Publicly Owned Treatment Works for the treatment of industrial, residential, and commercial waste.

This ordinance shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

The County of Muskegon, by and through its Public Works Board, is empowered pursuant to Access Rights and Service Agreement, and pursuant to federal and State governing law, to manage, supervise, and control the Publicly Owned Treatment Works. The County is also empowered to establish and enforce standards, rules and regulations, as necessary, for the attainment of the purposes set forth in subsection 1.1

Except as otherwise provided herein; the Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other County personnel.

1.3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

°C	Degrees Centigrade (or Celsius)
°F	Degrees Fahrenheit
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency or its successor
ERP	Enforcement Response Plan
gpd	gallons per day
lbs/day	pounds per day
mg/L	milligrams per liter
MDEQ	Michigan Department of Environmental Quality or its successor
MDL	Method Detection Limit
MRP	Mercury Reduction Plan
MCL	Michigan Compiled Laws
MSA	Michigan Statutes Annotated
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SNC	Significant Noncompliance
s.u.	standard units
TSS	Total Suspended Solids
U.S.C.	United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

B. Approval authority. The Chief of the Water Division or successor, Michigan Department of Environmental Quality or its successor, or his/her designated appointee.

C. Authorized representative of the user.

1. If the user is a corporation: the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.

2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

3. If the user is a federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or their designee.

4. The individuals described in paragraphs C.1. through C.3. of this subsection may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates, such as the position of plant manager, operator of a well or well field, or superintendent or a position of equivalent responsibility or that has overall responsibility for environmental matters for the company, and the written authorization is submitted to the County.

D. Average daily flow. A reasonable measure of the average daily flow for a (30) day period or more.

E. Biochemical oxygen demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter for a five (5) day period at 20° centigrade, usually expressed as a concentration (e.g., mg/L) using any approved procedures listed in 40 CFR 136 as amended. Some categorical pretreatment standards may require a seven (7) day period.

F. Bypass. For the purposes of subsection13.3, this is the intentional diversion of wastestreams from any portion of a user's treatment facility needed for compliance with pretreatment standards.

G. Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

H. Categorical user or categorical industrial user. A user subject to categorical pretreatment standards.

I. Composite sample. A collection of individual samples which are obtained at regular intervals, collected on a time-proportional or flow-proportional basis, over a specific time period and which provides a representative sample of the average wastestream during the sampling period.

J. County. The County of Muskegon.

K. Daily maximum. The maximum allowable discharge of pollutant during a calendar day or any 24-hour period that reasonably represents the calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day/24-hour period. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day/24-hour period unless the Director authorizes flow-weighted or sample-weighted averaging.

L. Director. The person designated by the County to supervise the operation of the Public Works Department of the County of Muskegon, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.

M. Discharge. Any sewered or hauled discharge to the County treatment plant of any waste, waste effluent, wastewater, pollutant, or any combination into any of the publicly owned sewage collection systems serviced by the County treatment plant.

N. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

O. Enforcement Response Plan or ERP. The ERP, in order to provide consistent enforcement responses for similar violations and circumstances, describes violations, defines a range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors, and identifies personnel responsible for finalizing POTW enforcement responses.

P. Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Q. Grab sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

R. Indirect discharge or discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

S. Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the County's NPDES permit (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

T. Local limit. A specific prohibition or limit, including a specific alternative limit, set by a POTW on discharges by a user.

U. Medical waste. Discharges from medical care facilities that may contain isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

V. Mercury Reduction Plan or MRP. A plan outlining how the user intends to reduce mercury wastes from entering the wastewater treatment plant.

W. Method detection limit or MDL. The minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

X. Monthly average. Unless the Director authorizes flow-weighted averaging, the arithmetic mean of the values for effluent samples collected during a calendar month.

Y. New source.

1. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

    a. The building, structure, facility, or installation is constructed at a site at which no other source is located;

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of items 1.b. or c. above but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous on-site construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(3) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Z. NPDES permit. A National Pollution Discharge Elimination System (NPDES) permit, which is a permit issued by the MDEQ pursuant to Section 3112(1) of the act to control wastewater discharges to the surface waters.

AA. Noncontact cooling water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

BB. Nondomestic user. A manufacturer, commercial establishment, or other entity that discharges wastewater to a publicly owned treatment works other than, or in addition to, sewage.

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

DD. Permit. An authorization, license, or equivalent control document which is issued by the POTW.

EE. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, State, and local governmental entities.

FF. pH. A measure of the intensity of the acidic or basic character of a solution expressed in standard units.

GG. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand, toxicity, or odor).

HH. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

II. Pretreatment requirements. Any substantive or procedural requirement related to pretreatment imposed on a user other than a pretreatment standard.

JJ. Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local or specific alternative limits as provided for in subsection 2.4.

KK. Prohibited discharge standards or prohibited discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in subsection 2.1 of this ordinance.

LL. Publicly owned treatment works or POTW. A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by a municipality [as defined by State Rule 2 at R 323.2302(q) and by Section 502(4) of the Act]. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which carry wastewater to a treatment plant.

MM. Septic tank waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

NN. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

OO. Severe property damage. For the purposes of subsection 13.3, this is any substantial physical damage to property, damage to the treatment facilities of a user 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.

PP. Significant industrial user.

1. A user subject to categorical pretreatment standards; or

2. A user that:

   a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

   b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW;

   c. Is designated as such by the County on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or

   d. Is designated as such by the County on the basis that it has a significant administrative need to place the user under permit or other control document. This designation is subject to MDEQ approval.

3. Upon a finding that a user meeting the criteria in item 2. has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the County may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

QQ. Slug load or slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in subsection 2.1 of this ordinance.

RR. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

SS. State. The State of Michigan.

TT. Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

UU. Total suspended solids or TSS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering using any procedure listed in 40 CFR 136 as amended.

VV. Trade secret. The whole or any portion of any manufacturing proprietary process or method which is not patented, which is secret, which is useful in compounding an article of trade having commercial value, and the secrecy of which the owner has taken reasonable measure to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes. Trade secret shall not be construed, for purposes of these rules, to include any information regarding the quantum or character of waste products or their constituents discharged, or sought to be discharged, into the publicly owned treatment works.

WW. Upset. For the purposes of subsection 13.1, this is an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards or local limits because of factors beyond the reasonable control of the 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.

XX. User or industrial user. A source of indirect discharge. A municipality operating a public sewage collection system should not be deemed a user or industrial user merely by virtue of such fact.

YY. Wastewater. Liquid and water-carried industrial wastes, including cooling and condensing waters, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

ZZ. Wastewater treatment plant or treatment plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial wastewater.

SECTION 2 GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes or may cause pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, State, or local pretreatment standards or requirements.

B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 °F (60 °C) using the test methods specified in 40 CFR 261.21.

2. Wastewater having an instantaneous pH value less than 5.0 s.u. and hauled industrial waste with an instantaneous pH value greater than or equal to 12.5 s.u., or otherwise causing corrosive structural damage to the POTW or equipment;

3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

5. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through;

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

8. Hauled pollutants, except at discharge points designated by the Director in accordance with subsection 3.5 of this ordinance, but only when hauled in compliance with the federal and State, hazardous waste and liquid industrial waste laws;

9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent;

11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable federal and State regulations and specifically authorized by a wastewater discharge permit unless the Director exempts the requirement for such permit;

12. Stormwater, including roof runoff, surface water, uncontaminated groundwater, condensate, noncontact cooling water, and unpolluted water in excess of a yearly average of 2,500 gallons per user's work day or in the case of stormwater from an area of no greater than 4,000 square feet, unless specifically authorized by a wastewater discharge permit;

13. Contaminated groundwater is prohibited unless it is specifically authorized in a wastewater discharge permit;

14. Sludges, screenings, or other residues from the pretreatment of industrial waste unless authorized by the Director;

15. Medical wastes except as specifically authorized in a wastewater discharge permit unless the requirement for such a permit is exempted by the Director;

16. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

17. Detergents, surface-active agents, or other substances in concentrations that cause excessive foaming in the POTW;

18. Fats, oils, or greases of animal or vegetable origin in amounts that will cause a disruption in the sewage collection system, disruption of treatment components, interference or pass-through;

19. Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than twenty percent (20%) of the Lower Explosive Limit of the meter;

20. Wastewater which may cause or does cause impairment of the strength or durability of structures in the sewage collection system or the treatment facilities.

Pollutants, substances, or wastewater prohibited by this subsection shall not be processed or stored in such a manner that they could be discharged to the POTW.

2.2 National Categorical Pretreatment Standards

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 - 471 are hereby incorporated.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c). When possible, where concentration limits are specified in standards, equivalent mass limits will be provided so that federal, state, or local authorities responsible for enforcement may use either concentration or mass limits.

B. When wastewater at a sample point is subject to a categorical pretreatment standard and is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e) or any other approved methodology.

C. A user may request a variance from a categorical pretreatment standard if it can be proven, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to the discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

D. A user may obtain a net/gross adjustment to a categorical standard to reflect the presence of pollutants in the user's intake water in accordance with 40 CFR 403.15 insofar as the requirements of paragraphs 40 CFR 403.15(b) or (c) are met.

E. The POTW may, at its discretion, and subject to the condition of 40 CFR 403.7, grant removal credits to reflect removal by the POTW of pollutants specified in a categorical standard to the extent permitted by federal and State regulations.

F. Future conditions imposed on the County by jurisdictional agencies may require subsequent amendment of these regulations by the County. Where federal or State promulgated pretreatment standards require limits on pollutants not covered in this regulation or limits more stringent than those specified, the federal or State limits shall have precedence and take effect with respect to the applicable user on the latter of: (1) their promulgation date, or (2) the date specified for compliance with such standard.

2.3 Category Determination Request

A. Within sixty (60) days after the effective date of a pretreatment standard for a subcategory under which a user may be included, the user or the POTW may request that the MDEQ, as appropriate, provide written certification on whether the user falls within that particular subcategory. If an existing user adds or changes a process or operation that may be included in a subcategory, the existing user shall request the certification before commencing to discharge from the added or changed process or operation. A new source shall request the certification before commencing discharge. Where a certification is submitted by a POTW, the POTW shall notify any affected user of the submission. The user may provide written comments on the POTW submission to the MDEQ within thirty (30) days of notification.

B. The procedures governing deficient requests and final determination are specified in 40 CFR 403.6(a)(3) and (4). Each request shall contain both of the following:

1. A statement describing what subcategories might be applicable; and

2. A statement citing evidence and reasons why others are not applicable. Any person signing the application statement submitted pursuant to this subdivision shall make the certification of subsection 4.6.

Within thirty (30) days following the date of receipt of notice of the final determination as provided for by the MDEQ, the requester may submit a petition to reconsider or contest the decision to the EPA regional administrator, who shall act on the petition expeditiously and state the reasons for his or her determination in writing.

2.4 Local Limits

A. The maximum allowable headworks' loading (MAHL) for the wastewater plant has been established in accordance with MDEQ guidance. This procedure resulted in MAHLs which, after final approval by the MDEQ, are used in the calculation of local limits. The Director shall periodically perform a technical evaluation to determine whether the MAHLs and any subsequent limitations set forth under this subsection need to be amended. The approved MAHLs for the effective local limits are provided in the following table.

POLLUTANT OR POLLUTANT PROPERTY	Daily Maximum (lbs/day)	Monthly Average (lbs/day)
Physical Properties		
Suspended Solids, Total		248,000
Metals, (Total)		
Cadmium	229	37.8
Chromium	1,650	135
Copper	96.6	32.8
Lead	22.9	19.3
Mercury [1]		
Nickel	229	63.7
Silver	57.3	4.74
Zinc	754	396
Inorganic Nonmetallic Constituents		
Ammonia		28,700
Cyanide, Total	29.0	10.8
Phosphorus, Total		688
Aggregate Organic Constituents		
Biochemical Oxygen Demand		130,304
Individual Organic Compounds		
Acetone	122,000	
Bis(2-ethylhexyl)phthalate		58.2
Naphthalene		15.7
Tetrachloroethylene	1,230	
Toluene	6,380	
Trichloroethane(1,1,1,-)	1,030	

[1] No available MAHL, source limit established at method detection level (EPA Method 245.1 or 245.2 or Standard Methods 3112B.).

B. Technically based local limits were established in accordance with EPA guidance and MDEQ approval criteria. Those limits were derived from the preceding MAHLs. Those limits and the specific prohibitions, with wastewater numerical limits, are provided in the table that follows. Noncompliance with an instantaneous limit at any time shall constitute a violation. Noncompliance with a daily maximum limit during any calendar day, or any appropriate twenty-four (24) hour representation thereof, shall constitute a violation. Noncompliance with a monthly average limit during any calendar month, regardless of the number of daily results available for that month, shall constitute a violation.

POLLUTANT OR POLLUTANT PROPERTY	Instantaneous Limit	Daily Maximum Limit (mg/L)	Monthly Average Limit (mg/L)
Physical Properties			
Flashpoint, Lower	140 °F		
Suspended Solids, Total			500
Metals, (Total)			
Cadmium		17.7	2.84
Chromium		119	7.87
Copper		5.10	1.12
Lead		0.560	0.466
Mercury [1]		<0.0002	
Nickel		14.0	3.44
Silver		7.02	0.572
Zinc		18.0	9.05
Inorganic Nonmetallic Constituents			
Ammonia			133
Cyanide, Total		0.665	0.245
pH, Lower	5.0 s.u.		
pH, Upper (hauled waste) [2]	12.5 s.u.		
Phosphorus, Total			17.3
Aggregate Organic Constituents			
Biochemical Oxygen Demand			300
Individual Organic Compounds			
Acetone		713	
Bis(2-ethylhexyl)phthalate			0.351
Naphthalene			0.0988
Tetrachloroethylene		4.28	
Toluene		22.2	
Trichloroethane(1,1,1,-)		3.59	

[1] The discharge of total mercury above the ordinance limit, unless a discharge specific MDL based limit has been authorized, shall represent an exceedence of the local limit. Total mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with an EPA approved, cold vapor method such as method 245.1, 245.2, or the approved version of Standard Method 3112 B. The quantification level shall be 0.0002 mg/L, unless higher levels are appropriate due to sample matrix interference.

The evaluation of potential matrix interference(s) shall include, at a minimum, the following:

- A demonstration that the laboratory conducting the analysis is capable of achieving the MDL of 0.0002 mg/L in reagent water;
- A demonstration that the MDL of 0.0002 mg/L cannot be achieved in the effluent; and
- A demonstration that an attempt has been made to resolve the matrix interference(s).

In cases where true matrix interference(s) can be demonstrated, a discharge-specific MDL will be developed in accordance with the procedures in EPA Methods 245.1 or 245.2. Discharge specific MDLs will be incorporated into the wastewater discharge permit of the nondomestic user.

[2] This discharge limit is a greater than or equal to instantaneous limit applicable to hauled waste alone.

C. The limits for pH and flash point in paragraphs B.(1) and B.(2) of subsection 2.1 and paragraph B. of this subsection shall apply to all nondomestic users. The remaining limits stated in subsection 2.4 B. shall apply to all nondomestic users except for users under the following situations:

1. County and municipal agencies in the routine maintenance and cleaning of the public sewage collection system and associated lift stations;

2. Septic waste haulers transporting authorized nondomestic wastes;

3. Hauled waste containing only fats, oils, or greases of animal or vegetable origin and hauled waste containing only sludge from a sewage treatment system; and

4. Cases where a specific alternative limit has been applied for and approved by the Director in accordance with this provision.

Any user may request that the uniform concentration limits be increased. By so doing, the user shall be deemed to have acknowledged that the Director shall not be obligated to approve any such increase in limits but may do so in the Director's sole discretion and that the approval of any such request shall not create any vested right or property rights for the user. Accordingly, no right of appeal from such a determination will exist; and the approval may be terminated, modified, or subjected to special condition either at time of approval or thereafter, at the discretion of the Director. Provided, however, Director shall not consider any request for an increase for any uniform concentration limit which was calculated based upon health or safety.

The Director, using discretion, may develop specific alternative limits applicable to any group of users. Such groups may include, but are not limited to, infrequent dischargers, temporary dischargers, and new dischargers. Inclusion of any user into such groups is at the sole discretion of the Director and shall not be construed to create any vested rights or property rights for the user.

Specific alternative limits shall only be approved when all of the following conditions are met: (1) the user provides a written acknowledgment whereby user consents to comply with all terms and conditions which may be imposed by the Director prior to consideration, (2) the Director makes a determination that adequate treatment capacity allowing for the specific alternative limit exists consistent with the maximum

allowable headworks' loading (MAHL), (3) the MDEQ has approved the technical basis for the establishment of special alternative limits, (4) the proposed limit has been determined to not violate any applicable categorical pretreatment standard, (5) the proposed specific alternative limit has been publicly noticed by the Director in accordance with approved industrial pretreatment program procedures developed to satisfy 40 CFR 403.5(c)(3), and (6) the Director determines that all comments received during the public comment period have been adequately addressed.

Specific alternative limits developed and approved in accordance with the preceding paragraph become local limits upon the effective date of the permit incorporating those limits and shall be considered pretreatment standards.

Unless otherwise specified, all local or specific alternative limits apply at the point where the wastewater is discharged to the POTW, including the public sewage collection system. Where an adequate sampling site does not exist for the user's discharges, the Director may either require the user to install a sample site or apply the local limits to an upstream sampling point. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

A limit is considered absolute. Any measurement of a pollutant or pollutant property which is in excess of a limit is a violation of that limit insofar as the measurement of that pollutant or pollutant property is performed using an approved analytical methodology. This principal is equally applicable to all federal, State, and local limits that are to be enforced under the authority of this ordinance. In addition to the limits provided in this section, those limits may be associated with a wastewater discharge permit or an order issued under the authority of this ordinance.

The Director reserves the right to establish local initiatives pursuant to the protection of the POTW and administration of the obligations under its NPDES permit.

2.5 County's Right of Revision

The County reserves the right to establish, by ordinance, by wastewater discharge permits, or by orders, more stringent standards or requirements on discharges to the POTW.

2.6 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

2.7 Mercury Reduction Plans

To ensure that the maximum allowable mercury loading to the treatment plant is not exceeded, the POTW may require any user with a reasonable potential to discharge mercury to develop, submit for approval, and implement a mercury reduction plan (MRP). If the POTW has determined that a reasonable potential for violating the total mercury local limit exists, then a MRP may be required by permit even if the user has not violated the total mercury limit. MRPs may be required in a notice of violation, an order, or any other enforcement actions when the user has violated the total mercury local limit.

A. At a minimum, an approvable MRP shall contain the following:

1. A written commitment by the user to reduce all nondomestic discharges of mercury to levels below the applicable method detection limit (MDL) within five (5) years of the MRP's original approval date unless an alternative deadline is established by the Director;

2. Within sixty (60) days of notification by the POTW that a MRP is required, the user shall supply an initial identification of all potential sources of mercury which could be discharged to the POTW;

3. Specific strategies for mercury reduction with reasonable time frames for implementation, capable of ensuring that mercury discharges will be below the specified MDL within the applicable deadline;

4. A program for quarterly sampling and analysis of the nondomestic discharge for total mercury in accordance with an EPA approved, cold vapor method such as method 245.1, 245.2, or the approved version of Standard Method 3112 B.;

5. A demonstration of specific, measurable and/or otherwise quantifiable mercury reductions consistent with the goal of reducing mercury discharges below the specified MDL. Where such reductions can not be demonstrated through normal effluent monitoring (e.g., total mercury discharges are near the MDL), the demonstration should incorporate the following:

    a. Internal process monitoring, documenting the results of mercury reduction strategies at sampling locations within the facility (e.g., A program of regular monitoring of sink traps where mercury containing reagents had previously been disposed, but have since been substituted by non-mercury containing compounds);

    b. Internal and/or effluent sampling utilizing clean and/or ultra-clean sampling and analytical methods. The results of such monitoring will not be used for compliance purposes unless performed in accordance with an EPA approved, cold vapor method such as method 245.1, 245.2, or the approved version of Standard Method 3112 B and collected at the appropriate compliance measurement location.

c. Loading calculations wherein the user calculates the total mass of mercury reduced from the sanitary sewer discharge through reagent substitutions, changes in disposal practices and/or other approved MRP strategies implemented.

6. A semiannual report on the status of the mercury reduction efforts. At a minimum, these reports shall:

   a. Identify compliance or noncompliance with specific reduction commitments in the MRP;

   b. Summarize the analytical, mass-based, or other quantifiable demonstrations of mercury reductions performed to-date;

   c. Provide all applicable analytical data;

   d. Provide an evaluation of the effectiveness of actions taken to-date;

   e. Provide updates to the initial list of mercury-containing compounds discharged to the sanitary sewer; and

   f. Propose for approval new strategies and/or modifications to the current MRP to continue and improve mercury reduction efforts.

7. Any other conditions that the POTW deems necessary to ensure that mercury reduction efforts are effective in achieving the goals of this subsection.

B. Failure to submit an approvable MRP within thirty (30) days of the required due date shall constitute significant noncompliance in accordance with this subsection and will result in publication as a significant violator.

C. A MRP may be evaluated for adequacy at any time by the POTW. If such an evaluation determines that the mercury reduction plan is inadequate, or the user has not complied with its approved MRP, the user will be notified. Failure to comply with the MRP requirement constitutes noncompliance.

D. A user may request a release from MRP requirements if:

1. All samples of the discharge for a period of one year are less than the specified MDL;

2. The user has complied with the minimum monitoring frequency of quarterly sampling events; and

3. The POTW deems that MRP commitments have been fulfilled sufficiently to ensure continued compliance with the total mercury limitation.

The POTW shall notify the user of any release from MRP requirements in writing. If the MRP requirement is waived by the POTW, the user remains subject to the local limitations for total mercury in accordance with the requirements of this subsection. Rediscovery of mercury in the user's discharge subjects the user to the submission of a new MRP or escalation of enforcement.

SECTION 3 PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment, as necessary, to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in subsection 2.1 of this ordinance within the time limitations specified by the EPA, the State, or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review. Any review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities, as necessary, to produce a discharge acceptable to the County under the provisions of this ordinance.

3.2 Additional Pretreatment Measures

A. Whenever deemed necessary, the Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

B. The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow.

3.3 Accidental Discharge/Slug Control Plans

A. At least once every two (2) years, the Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Director may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including nonroutine batch discharges;

2. Description of stored chemicals;

3. Procedures for immediately notifying the Director of any accidental or slug discharge, as required by subsection 6.8 of this ordinance; and

4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, 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.

B. Where the Director has determined that secondary containment is necessary to prevent adverse impact from any accidental or slug discharge, the user shall comply with all of the following procedures:

1. Be constructed of materials that are compatible with, and impervious to, or otherwise capable of containing, any spilled, leaked, or discharged polluting materials so that the materials can be recovered and so that polluting materials cannot escape directly or indirectly to any public sanitary sewer.

2. Provide a capacity that is not less than 10% of the total volume of the tanks or containers within the secondary containment structure or provide a capacity of 100% of the largest single tank or container within the secondary containment structure, whichever is larger.

3. Allow surveillance of the tanks or containers, the timely detection of any leaks and recovery of any spillage, and the removal and proper disposal of any captured precipitation so that the minimum required capacity is maintained at all times. Captured precipitation may be removed by drainage through normally closed valves if all of the following procedures are met:

   a. The drainage is conducted under the direct supervision of qualified facility personnel;

   b. The valves are secured closed at all times, except during precipitation removal; and

   c. The drainage to the POTW is performed in full compliance with all applicable federal, State, and local requirements.

4. All use areas and indoor storage areas shall be designed, constructed, maintained, and operated to prevent the release of polluting materials through sewers, drains, or otherwise directly or indirectly into any public sanitary sewer.

5. Polluting materials in solid form shall be enclosed, covered, contained, or otherwise protected to prevent runon and runoff, seepage, or leakage to any public sanitary sewer.

6. Alternate secondary containment, control, or treatment systems other then those required by this subsection that provide adequate protection may be used upon written approval of the POTW. Requests for alternative secondary containment, control, or treatment systems shall be submitted in writing to the Director.

3.4 Facility Closure Plan

A. Should a user plan to cease operation at its facility, the Director may require the user to submit a closure plan for approval. That plan, among other POTW needs, is to ensure that wastes or unused chemicals that could potentially be discharged to the POTW are properly disposed. Unless otherwise indicated, that plan must be submitted for approval a minimum of sixty (60) days prior to the final day of operation.

B. Should the Director determine that if the Closure Plan for the user's facility is not followed and, as a result, the user has the potential to violate any applicable federal, State, or County regulation over which the POTW has enforcement authority, the Director may issue a compliance order directing that the user implement that Closure Plan.

C. Once the facility has been properly closed in accordance with the approved Closure Plan, any wastewater discharge permit for that facility will be retired.

3.5 Hauled Wastewater

A. Septic tank waste and other wastes hauled by septage waste haulers may be introduced into the POTW only at locations designated by the Director and at such times as are established by the Director. The Director shall require septage waste haulers to obtain wastewater discharge permits.

B. The Director shall require haulers of industrial waste which is discharged to the POTW to obtain wastewater discharge permits. The Director also may prohibit the discharge of hauled industrial waste to the POTW.

C. With the exception of grease traps for fats, oils, and greases of animal or vegetable nature; the Director shall require generators of hauled industrial waste which is discharged to the POTW to obtain wastewater discharge permits.

D. With the exceptions of paragraph 2.4 C., the discharge of hauled waste is subject to all other requirements of this ordinance and written POTW protocols.

E. The Director shall have the authority to waive the requirements of this subsection in cases of emergency insofar as the waiving of requirements do not result in, or contribute to, categorical standards noncompliance, interference, pass-through, sludge contamination, or will cause acute worker health and safety problems.

SECTION 4 WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Wastewater Discharge Permit Requirement

A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director except for:

1. A significant industrial user that is subject to newly promulgated categorical standards; or

2. A user that has been newly identified as a significant industrial user pursuant to item PP.2. of subsection 1.4.

In both preceding exceptions, a user may continue to discharge to the POTW until final action is taken on its permit application so long as that application has been filed in a timely manner pursuant to subsection 4.2 of this ordinance.

B. The Director may require other users to obtain wastewater discharge permits, as necessary, to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance subject to the provisions of Section 13. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and State pretreatment standards or requirements or with any other requirements of federal, State, and local law.

4.2 Wastewater Discharge Permitting: Existing Discharges

Any user who is subject to categorical pretreatment standards which are newly promulgated and who wishes to continue such discharges in the future, shall, within one hundred eighty (180) days after the effective date of those standards, apply to the Director for a wastewater discharge permit in accordance with subsection 4.5 of this ordinance unless a later baseline date is established for the user's baseline information pursuant to a category determination request under subsection 2.3. The user need not submit the baseline report of subsection 6.1, in addition to the permit application, when the user's permit application includes all of the necessary contents of the baseline report.

4.3 Wastewater Discharge Permitting: New and Recommenced Discharges

Any user required to obtain a wastewater discharge permit who proposes to discharge for the first time (including the introduction of discharges which are subject to a different set of categorical standards) or recommence discharging after a period of six months of no discharge into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with subsection 4.5 of this ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge is scheduled to begin or recommence. The Director may waive or modify this due date

where such a change does not conflict with federal or State requirements.

4.4 Groundwater Permitting Conditions

Notwithstanding anything to the contrary, new or additional discharges of contaminated groundwater under subsection 2.1 B.13. and uncontaminated groundwater under subsection 2.1 B.12. after February 4, 1992, are absolutely prohibited, unless approved by the Director and evidenced by a permit, which permit, in addition to other requirements provided for herein, shall: (a) be limited to a term not to exceed twelve (12) months, subject to the Director's renewal; (b) provide for withdrawal of authorization upon six (6) months notice in the event capacity is needed for other customer use; and (c) contain discharger written acknowledgment and acceptance of such conditions for termination. Provided, however, Director shall not issue any new or modified permits for additional discharges of groundwater without approval from the Muskegon County Board of Public Works if unused hydraulic capacity is less than ten percent (10%) of treatment plant hydraulic capacity. Provided further, this provision shall not be construed to limit or prohibit the Director from issuing permits to discharge waters associated with, or derived from, construction dewatering, so long as said permits do not extend for periods greater than six (6) months.

4.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. The Director may require all users to submit the following information as part of an application:

A. All information required by subsection 6.1 B. of this ordinance if available;

B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

C. Total number of employees and breakdown by classification and proposed or actual hours of operation;

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

E. Type and amount of raw materials processed (average and maximum per day);

F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

G. Time and duration of discharges;

H. Sampling and analytical results of all regulated pollutants for the proposed discharge(s); and

I. Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

4.6 Signatories and Certification

All user reports, inclusive of wastewater discharge permit applications, must be signed by an authorized representative of the user and contain the following certification statements, as applicable:

A. All reports shall contain the following certification statement:

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

B. All user self-monitoring reports and wastewater permit applications, where such applications contain the results of self-monitoring, shall either certify the self-monitoring sampling and analysis or provide a written explanation why it cannot so certify the results. The referenced certification shall state:

"I certify that the sampling and analysis conducted is representative of the discharges of normal work cycles and expected pollutant discharges to the public sanitary sewer."

C. All Baseline Reports and Compliance Deadline Reports must contain the certification statement in paragraph B. of this subsection for a least one complete set of pollutants where those reports require monitoring results.

D. Users shall provide all other certification statements that may be required by the categorical pretreatment standards or the wastewater discharge permit.

If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matter for the company, a new authorization satisfying the requirements of subsection 1.4 C. shall be provided to the Director before any reports are signed or with any reports signed by a new authorized representative.

4.7 Wastewater Discharge Permit Decisions

The Director will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application for a new connection or a recommenced discharge as outlined in subsection 4.3 and

for wastewater discharges involving a permit reissuance as outlined in subsection 5.7, the Director will determine whether or not to issue a wastewater discharge permit. For discharges from existing sources with newly promulgated pretreatment standards as outlined in subsection 4.2, the Director will determine whether or not to issue a wastewater discharge permit within sixty (60) days of receipt of a complete wastewater discharge permit application. The Director may issue or deny a wastewater discharge permit.

SECTION 5 WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the POTW, protect ambient air quality, preserve the useful life of the POTW, and protect against accumulation of pollutants within the POTW.

A. Wastewater discharge permits must contain:

1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

2. A statement that the wastewater discharge permit is nontransferable without prior notification to the County in accordance with subsection 5.5 of this ordinance and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

3. Effluent limits based on applicable pretreatment standards;

4. Monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, State, and local law; and

5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable subsection, State, or local law.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

3. Requirements for the development and implementation of slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

8. Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, and federal and State laws, rules, and regulations.

5.3 Wastewater Discharge Permit Appeals

The user or any third party may petition the Director to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

C. The permit being appealed will be executed as of its effective date and remain in effect unless the appeal is successful.

D. If the Director fails to act within sixty (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of administrative hearing/judicial review.

E. Nondomestic users seeking administrative hearing/judicial review of the final administrative wastewater discharge permit decision must do so in accordance with subsection 10.9.

5.4 Wastewater Discharge Permit Modification

The Director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. To incorporate any new or revised applicable subsection, State, or local pretreatment standards or requirements;

B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

C. A change that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Information indicating that the permitted discharge poses a threat to the County's POTW, County personnel, or the receiving waters;

E. Violation of any terms or conditions of the wastewater discharge permit;

F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

H. To correct typographical or other errors in the wastewater discharge permit; or

I. To reflect a transfer of the facility ownership or operation to a new owner or operator if allowed under subsection 5.5.

5.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The Director shall, upon request, keep notification confidential until completion of transfer. The notice to the Director must include a written certification by the new owner or operator which:

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

5.6 Wastewater Discharge Permit Revocation

The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. Failure to provide prior notification to the Director of changed conditions pursuant to subsection 6.6 of this ordinance;

B. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

C. Falsifying self-monitoring reports;

D. Tampering with monitoring equipment;

E. Refusing to allow the Director timely access to the facility premises and records as requested by this ordinance;

F. Failure to meet effluent limitations;

G. Failure to pay fines;

H. Failure to pay sewer charges, surcharges, sampling and analytical charges, and other cost recovery charges;

I. Failure to complete the wastewater discharge permit application, or other reporting requirements;

J. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance;

K. Failure to provide advance notice of the transfer of a business to a new owner or operator of a permitted facility; or

L. Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations for periods greater than six months or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the effective date of a new wastewater discharge permit.

5.7 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with subsection 4.5 of this ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

5.8 Municipal Ordinances

A. Each municipality which discharges wastewaters into the County POTW may adopt an ordinance or adopt an amendment to their respective existing ordinance regulating the discharge of wastewaters to the municipality's collecting sewers to conform to these regulations pertaining to discharges from nondomestic users.

B. Each municipality's ordinance shall contain provisions therein which are not less stringent than those contained in these regulations, provided, however, that the municipality may adopt provisions more stringent than those established by these regulations.

C. Where the municipality adopts provisions that are more stringent than those established by these regulations and where those regulations, through due process, are approved by the MDEQ as pretreatment standards or requirements, those provisions shall be enforced by the POTW.

D. The failure of any municipality to adopt an ordinance or adopt an amendment to their respective existing ordinance to conform to this ordinance shall not have the effect of limiting the County's authority to enforce its ordinance as against any user.

SECTION 6 REPORTING REQUIREMENTS

6.1 Baseline Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users to whom it applies currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in paragraph B. of this subsection. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director a report which contains the information listed in paragraph B. of this subsection. A new source shall report the method of pretreatment, if any; it intends to use to meet applicable

categorical standards. A new source must have in operating condition and shall start up all pretreatment equipment required prior to commencement of discharge. Within the shortest feasible time, but not more than ninety (90) days from commencement of the discharge of categorical wastewater, new sources shall meet all applicable pretreatment standards. New sources which do not have a representative year of historic data, shall also give projected estimates of anticipated flow and quantity of pollutants to be discharged; and production, if the user is subject to production-based standards.

B. Users described above shall submit the information set forth below:

1. Identifying Information. The name and address of the facility, including the name of the operator and owner.

2. Environmental Permits. A list of any environmental control permits held by or for the facility.

3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classification (SIC) codes of the operation(s) carried out by such user. The average rate of production shall be based not upon the designed production capacity, but rather upon a reasonable measure of the user's actual long-term daily production, such as the average daily production during a representative year. The description should also include a facility drawing and schematic process diagram which indicates applicable sample sites and points of discharge to the POTW from the regulated processes.

4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e). Where justified by cost or feasibility considerations and with the POTW's permission, verifiable estimates may be used in lieu of measured flows under conditions found in 40 CFR 403.12(b)(4).

5. Measurement of Pollutants.

   a. The pretreatment standards, including State or local standards, applicable to each regulated process or discharge.

   b. The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 6.13 of this ordinance.

c. Sampling must be performed in accordance with procedures set out in subsection 6.14 of this ordinance. With the exception of the pollutants specified in subsection 6.14 B. of this ordinance, the user shall provide data from a minimum of one representative sample for the pollutants subject to pretreatment standards. For those pollutants which must be grab sampled as noted in subsection 6.14 B., a minimum of four (4) grabs must be collected to give a representative sample. In cases when the Director authorizes the use of grab samples in place of composites, a minimum of four (4) grab samples may be used where the user demonstrates that this will provide a representative sample.

d. Samples should be taken immediately downstream from pretreatment facilities or immediately downstream from the regulated process if no pretreatment exists.

e. The Director may allow the submission of a baseline report that utilizes only historic data if the data provides information sufficient to determine the need for industrial pretreatment measures.

f. Where such information has not yet been supplied in accordance with the self-monitoring reporting requirements of subsection 6.11 B., the baseline report shall indicate the time, date, and place of sampling and the methods of analysis. The baseline report shall also certify that the sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

6. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this subsection must meet the requirements set out in subsection 6.3 of this ordinance.

8. Signature and Certification. All baseline reports must be signed and certified in accordance with subsection 4.6 of this ordinance.

A similar report may also be required of users who are not subject to categorical pretreatment standards or requirements but meet the criteria for a significant industrial user.

6.2 Notice of Baseline Change

Any changes to the user's baseline information as provided by the user within any applicable permit application submitted in accordance with subsection 4.1 or, in its absence, any applicable baseline report submitted in accordance with subsection 6.1 shall be submitted by the nondomestic user to the Director within sixty (60) days. The baseline information shall include the user's identifying information, environmental permits, operational descriptions, flow measurement, measure of pollutants, and any additional baseline requirements where required by the POTW.

6.3 Compliance Schedule Conditions

The following conditions shall apply to the compliance schedule required by subsection 6.1 B.7. and any schedule submitted as part of the compliance plan of subsection 10.1:

A. Compliance Schedule:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events may include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation, and other similar major events);

2. No increment referred to above shall exceed nine (9) months.

B. Compliance Progress Report:

1. The user shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance, including, as a minimum whether or not it complied with the increment of progress and, if not, the date on which the user expects to comply with the increments of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return construction and other major milestones necessary to meet the final milestone date of the established schedule.

2. In no event shall more than nine (9) months elapse between such progress reports to the Director.

6.4 Compliance Deadline Report

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in subsection 6.1 B. (4. - 6.) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c)(2), this

report shall contain a reasonable measure of the user's long-term production rate. New sources which do not have a representative year of historic data, shall also give projected estimates of average rates of production, anticipated flow and quantity of pollutants discharged. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 4.6 of this ordinance.

6.5 Continued Compliance Reports

A. All significant industrial users shall on or before February 28th and August 31st of each year or on alternate dates as specified by the Director, submit a report to the POTW, unless required more frequently in the pretreatment standard or by the Director. That report shall indicate the nature and concentration, or production and mass where required by paragraph C. of this subsection, of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period, except where the POTW requires more detailed reporting of flows. Unless the Director specifies otherwise, the respective reporting periods shall be for July through December of the previous year for the report due February 28th and January through June of the current year for the report due August 31st. All continued compliance reports must be signed and certified in accordance with subsection 4.6 of this ordinance. Any certification required by a categorical pretreatment standard shall also be included with the continued compliance reports. These reporting requirements must comply with 40 CFR 403.12(e) and/or (h).

B. Where the user has already submitted the nature and concentration of pollutants in accordance with the self-monitoring requirements of subsection 6.11, that information need not be resubmitted in the Continued Compliance Report.

C. Where the POTW has imposed mass limitations on users as provided for by subsection 2.2 A., the report required by this subsection shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the user unless otherwise specified by the Director.

D. For users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate reporting period.

6.6 Reports of Changed Conditions

Each user must notify the Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change so that the Director may evaluate all new or changed discharges with respect to the general and specific prohibitions contained in subsection 2.1 of this ordinance before acceptance by the publicly owned treatment works. Such changes shall include, but are not limited to, all of the following as applicable:

A. The listed or characteristic hazardous wastes for which the nondomestic user has submitted initial notification under subsection 6.12 of this ordinance;

B. The discharge of any previously unreported, limited pollutant or any toxic pollutant of Appendix A; and

C. Unless an alternative standard has been authorized by the Director, flow increases or decreases of twenty percent (20%) or greater over last value contained in the user's permit, or in the absence of a permit, the value provided in the user's Baseline Report.

The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 4.5 of this ordinance. The Director may issue a wastewater discharge permit under subsection 4.1 of this ordinance or modify an existing wastewater discharge permit under subsection 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.

6.7 Reports of Changed Production

A user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Director within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. A nondomestic user that does not notify the Director of the anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

6.8 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, date and time thereof, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Within five (5) days following such discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of

damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A. of this subsection. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

6.9 User Requirements for Reports with Modified Limits

A. In some cases, an industrial user's Pretreatment Standard may be modified by the combined wastestream formula (40 CFR 403.6(e)), by removal credit allowance (40 CFR 403.7), by the fundamentally different factors variance (40 CFR 403.13), and/or by any method approved by the Director. If this modification occurs after the user has submitted any applicable Compliance Certification, Compliance Schedule, or Compliance Plan, then any necessary amendments to those items shall be submitted to the Director within sixty (60) days after the modified limit is approved.

B. Where the industrial user submits any required reports (inclusive of reports known as notices, plans, and schedules) addressing compliance issues and:

1. Where the industrial user's categorical Pretreatment Standard has been modified by a removal allowance (subsection 2.2 E.), the combined wastestream formula (subsection 2.2 B.), a fundamentally different factors variance (subsection 2.2 C.), or any other applicable modification, the user's subsequent submitted reports shall address that modified limit except where an applicable local limit is more stringent.

2. Where the industrial user's ordinance Pretreatment Standard has been modified by a specific alternative limit (subsection 2.4 C.) or a local initiative (subsection 2.4 C.), or any other applicable modification, the user's subsequent submitted reports shall address that modified limit except where an applicable categorical limit is more stringent.

6.10 Industrial Waste Surveys

A. Sewer Use Survey

Each discharger that has been notified of the obligation to file a Sewer Use Report shall return the completed report within thirty (30) days from the date of the correspondence.

B. Industrial Waste Survey

Each discharger that has been notified of the obligation to file an Industrial Waste Report shall return the completed report within sixty (60) days from the date of the correspondence.

C. At the Directors discretion, the due dates for the preceding reports may be modified for good cause.

6.11 Industrial User Self-Monitoring

A. If self-monitoring sampling or resampling performed by a user indicates noncompliance, the user must notify the Director within twenty-four (24) hours of becoming aware of the noncompliance. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the noncompliance. The user is not required to resample if the County monitors at the user's facility at least once a month or if the County samples between the user's initial sampling and when the user receives the results of this sampling.

B. If a user self-monitors any pollutant from a sample collected by itself, the POTW, or any third party where the pollutant is regulated by this ordinance or permit and where the self-monitoring uses the applicable procedures prescribed in subsections 6.13 - 6.14 of this ordinance, the results of this monitoring shall be reported in a periodic, self-monitoring report submitted to the Director on or before the 15th of the month following the sampling unless the Director authorizes an alternate date. Self-monitoring data received after compliance evaluation reports are issued by the POTW will not be used in the re-evaluation of a user's compliance except for data points showing violations.

C. The user shall comply with the POTW protocols for the submission of the self-monitoring reports including the issues of signatories and certification as cited in subsection 4.6.

D. Where there is a conflict of due dates for the submission of the self-monitoring reports specified in the preceding requirements, the earlier of the two due dates shall take precedence.

6.12 Notification of the Discharge of Hazardous Waste

A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents

in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences.

Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection 6.6 of this ordinance. The notification requirement in this subsection does not apply to pollutants already reported by users subject to pretreatment standards under the monitoring requirements of subsections 6.1, 6.4, and 6.5 of this ordinance.

B. Dischargers are exempt from the requirements of paragraph A. of this subsection during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this subsection, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or State law; nor does it limit the Director's right to acquire additional information, as necessary, to effectively administer this ordinance or comply with the NPDES permit issued to the POTW.

6.13 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques approved for wastewater prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If neither 40 CFR Part 136 nor the categorical standard contain sampling or analytical techniques for the pollutant in question or where the EPA determines that the part 136 sampling or analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical procedures, including procedures suggested by the POTW or other parties if those procedures are

subsequently approved by EPA. The approved analytical method used to analyze for a pollutant must also be able to demonstrate compliance with the applicable limit.

6.14 Sample Collection

A. Except as indicated in paragraph B. of this subsection, the user must collect wastewater samples using flow-proportional composite collection techniques. In the event flow-proportional sampling is infeasible, the Director may authorize the use of time-proportional sampling or grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. All required wastewater samples must be representative of the user's discharge at time of sampling. Access to wastewater monitoring and flow measurement facilities shall be kept safe for POTW sampling and inspection personnel. Those facilities shall be properly operated, kept clean, secure from tampering, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

6.15 Timing

Written reports will be deemed to have been submitted on the date postmarked by the United States Postal Service ("U.S.P.S."). For reports that do not have a postmark date by the U.S.P.S., the date the report was received shall govern.

For the reporting requirements of subsections 6.11, 13.2, and 13.3, which require a notice within twenty-four (24) hours of becoming aware of the event, the user is deemed to have been aware of the event upon receipt of the information. Failure of the user to review the information or to appropriately contact the Director within 24 hours shall be a violation of this requirement.

Where the due date of a report falls on a weekend or national holiday, the reports are due the following day. This provision does not include emergency notifications involving interference, pass-through, or the safety of workers of the treatment plant or sewage collection system.

6.16 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements if performed in accordance with 40 CFR 136 or other validated methods approved by EPA. Records shall include the date, exact place, method, time of sampling and preservation techniques, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the

analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the County or where the user has been specifically notified of a longer retention period by the Director.

SECTION 7 COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The Director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. At the request of the user, split samples will be provided.

A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. The Director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow shall be calibrated at least annually to ensure their accuracy. All equipment provided to monitor the discharge shall be made available to the Director as needed.

D. Any temporary or permanent obstruction to access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be born by the user.

E. Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this ordinance.

7.2 Failure to Permit Access

If the Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the County designed to verify compliance with this ordinance or any permit

or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek issuance of a search warrant from the Muskegon County Circuit Court and take any one of the following actions:

A. Issue a notice of violation for noncompliance with this regulation;

B. Issue a municipal civil infraction citation in accordance with subsection 11.2;

C. Order the user to permit access within a time certain;

D. Seek issuance of a search warrant from the Muskegon County Circuit Court; or

E. Order the termination of the discharge of wastes to the POTW.

7.3 Sampling and Analysis

The sampling and analysis required for the baseline report, the compliance deadline report, and the continued compliance report may be performed by the County in lieu of the industrial user as specified in 40 CFR 403.12(g)(1).

SECTION 8 CONFIDENTIAL INFORMATION

Information and data on a user in the possession of the POTW shall be made available to the public in accordance with the Michigan Freedom of Information Act (Act 442 of the Public Acts of 1976, as amended) unless the user specifically requests, in writing, at the time of submission, and is able to demonstrate to the satisfaction of the Director, that such information or data is entitled to protection as trade secrets under Michigan law. Information or data deemed by the Director to be entitled to trade secret protection shall not be made available to the public but shall be made available to governmental agencies for uses relating to the NPDES program, or pretreatment program, and in enforcement proceedings involving the user.

Provided, however, wastewater constituents and characteristics and other “effluent data,” as defined by 40 CFR 2.302, shall not be recognized by the Director as confidential and shall, therefore, be made available to the public in accordance with Michigan law.

The user shall identify what document the request for confidentially applies, the nature of information, the reason for the request, the efforts the user made to keep the information confidential and the harm of disclosure. The user shall clearly identify, by markings, any and all documents sought to be confidential. The confidential documents must be separate from non-confidential information at the time of submission.

SECTION 9 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Director shall publish annually, in the largest daily newspaper published in the County, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

9.1 Significant Noncompliance Criteria

A. The term significant noncompliance for significant industrial users shall mean:

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

2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for fats, oils, and grease; BOD; and TSS; and 1.2 for all other pollutants except pH);

3. Any other discharge violation that the Director believes has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;

4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

6. Failure to provide within thirty (30) days after the due date the following reports: Baseline reports, compliance progress reports, compliance deadline reports, continued compliance reports, self-monitoring reports, reports of changed conditions, reports of changed production, reports of potential problems, periodic self-monitoring reports, upset and bypass notices, and any other report or notice required by the Director.

7. Failure to accurately report noncompliance; or

8. Any other violation(s) which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

9.2 Significant Noncompliance Procedures

A. SNC Data Evaluation Procedures

1. In accordance with EPA and MDEQ applications, the POTW shall evaluate all applicable data generated by the user, the POTW, or other parties for a user's compliance status under the criteria specified in the preceding items A.1. and A.2. using a six month rolling average ending with each quarter of the pretreatment year. Unless otherwise specified by the Director, the pretreatment year shall be the calendar year. Under this system, each industrial user is evaluated for SNC four (4) times during the year, and the total period for those four evaluations covers fifteen (15) months (i.e., beginning with the last quarter of the previous pretreatment year through the end of the current year being evaluated). When the POTW decides to publish its annual summation, it will list all industrial users which have been identified as SNC during the previous year (i.e., the SNC criteria were met during any one of the previous four quarterly evaluations).

2. If a facility has been determined to be in SNC based solely on a daily maximum, a monthly average, or other limit violation which occur in the first quarter of the fifteen (15) month evaluation period (i.e., the last quarter of the previous pretreatment year) and the facility has demonstrated consistent compliance in the subsequent four quarters, then the POTW need not republish the user in the newspaper if the user was published in the previous year for the same limit violation.

B. SNC Reporting Evaluation Procedures

1. Where a user is found to be in SNC with any deadline date for a milestone event, report, directive, citation, or order; the date that the noncompliance became SNC will be used to place the violation in the correct SNC quarter.

SECTION 10 ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the Director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation. Within the time specified in the Notice, an explanation of the violation and a compliance plan for the satisfactory correction and prevention thereof, to include specific required actions and a final date of completion, shall be submitted by the user to the Director. 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. Nothing in this subsection shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

The Director may order a user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five (5) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show-cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

10.4 Compliance Orders

When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to restrict the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement; nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.5 Cease and Desist Orders

When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.6 Administrative Fines

A. When the Director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may fine such user in an amount not to exceed $1,000 or maximum allowed under State law. Such fines shall be assessed on a per violation per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. The Director may add the costs of preparing or prosecuting administrative enforcement actions, such as notices and orders, to the fine.

B. Fines and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of twenty percent (20%) of the unpaid balance; and interest shall accrue thereafter consistent with subsection 14.3. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.7 Emergency Suspensions

The Director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director may 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.

A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.

The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in subsection 10.8 of this ordinance are initiated against the user.

Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this subsection.

10.8 Termination of Discharge

Any user whose discharge permit has been revoked under subsection 5.6 or who violates the following conditions is subject to discharge termination:

A. Violation of wastewater discharge 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 volume, constituents, and characteristics prior to discharge;

D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

10.9 Administrative Hearing/Judicial Review

A user may seek judicial review from the Muskegon County Circuit Court of any final administrative action taken by the POTW as provided for under Michigan Administrative Procedures Act, the same being Act 306 of 1969; MCL 24.201 *et. seq.*

Provided, however, a user aggrieved by a final administrative action may, within ten (10) days of notice of such action being taken, request in writing that the matter be referred to a Hearings Officer to be appointed by the Board of Public Works. Such hearings are limited to matters pertaining to cease and desist order, administrative fees, discharge permits or appeals on issues therefrom, and permit revocations. A request for hearing shall not toll or otherwise extend the period for the user to pursue judicial review, as provided above.

The Director shall make the determination whether to grant the request; however, failure by the Director to issue a written determination within ten (10) days of the request shall be regarded as a denial. In the event the Director elects to grant the request, the hearing shall be conducted without undue delay.

Such hearing and judicial review therefrom shall be in accordance with Chapter 4, governing contested case hearings in the above-referenced Administrative Procedures Act. Provided, however, nothing herein shall be construed as staying or delaying the effectiveness of any final administrative action. The Hearing Officer may, upon a showing of irreparable harm by the user, order a stay with or without limitation.

SECTION 11 JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the Director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition the Muskegon County Circuit Court through the County's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

11.2 Municipal Civil Infractions

A. Pursuant to Public Act 21 of 1994 and except as provided in subsection 11.3, a person who has violated, or continues to violate, any provision of this ordinance, (including without limitation, any notice, order, permit, decision or determination promulgated, issued, or made by the County under this ordinance), shall be liable for a municipal civil infraction.

1. Violations. A civil fine of not less than $1,000 per day but not more than $10,000 per day, plus costs and other sanctions, shall be imposed for each infraction.

2. Repeat Offenses. Increased fines shall be imposed for repeat offenses. A “repeat offense” means a second or any subsequent municipal civil infraction violation of the same requirement or provision of this ordinance committed by a person within any one-year period and for which the person admits responsibility or is determined to be responsible.

   a. The civil fine for any first repeat offense shall not be less than $1,500 per day for each infraction, plus costs and other sanctions.

b. The civil fine for any second repeat offense or any subsequent repeat offense shall not be less than $2,000 per day for each infraction, plus costs and other sanctions.

B. Subject to the minimum fine amounts specified in subsection 11.2 A., the court shall take into account, in determining the amount of civil liability, all relevant circumstances, including, but not limited to: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the user of the violation; the user's recalcitrance or efforts to comply; the economic impacts of the fine on the user; the number of past violations; the corrective actions taken by the user and such other matters as justice requires.

1. The user shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. Mitigating factors shall not be considered unless it is determined that the user has made all good faith efforts to correct and terminate all violations.

C. The Director or representative designated by the Director is authorized to issue municipal civil infraction citations for violations of this ordinance. In addition, reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including the sampling and monitoring expenses and the cost of any actual damages incurred by the County, may be recovered.

D. Issuing a municipal civil infraction citation shall not be a bar against, or prerequisite for, taking any other action against a user.

E. This provision shall not affect the sections provided for by State law or by this ordinance for a violator's failure to comply with a judgment of the 60th District Court, nor shall this section in any way limit or restrict the authority of the court to enforce its orders by appropriate sanctions or actions. This section shall not restrict, limit or bar any action permitted under any other provision of law.

11.3 Criminal Prosecution

A. A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of $500 per violation, per day, or the maximum allowed by State law, or imprisonment for not more than ninety (90) days, or both.

B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of $500 per violation, per day, or the maximum allowed by State law, or be subject to imprisonment for not more than ninety (90) days or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than $500 per violation, per day, or the maximum allowed by State law, or imprisonment for not more than ninety (90) days, or both.

11.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant user. The County's Enforcement Response Plan indicates the minimum enforcement action which will be taken against the user for a given violation. At the Director's discretion, a more severe response may be taken when circumstances warrant.

SECTION 12 SUPPLEMENTAL ENFORCEMENT ACTIONS

12.1 Performance Bonds

The Director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the County, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

12.2 Public Nuisances

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director.

SECTION 13 AFFIRMATIVE DEFENSES, UPSETS, AND BYPASSES

13.1 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subsection 2.1 A. of this ordinance or the specific prohibitions in subsections 2.1 B.3. through 6. of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

A. A local limit exists for each pollutant discharged, and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or

B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the County was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

13.2 Upset

A. For the purposes of this subsection, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards or local limits because of factors beyond the reasonable control of the 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 categorical pretreatment standards or local limits if the requirements of paragraph C. of this subsection are met.

C. A 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 user can identify the cause(s) of the upset;

2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

3. The user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset; however, if this information is provided orally, a written submission must be provided within five (5) days:

   a. A description of the indirect discharge and cause of noncompliance;

   b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

   c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

E. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards or local limits upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in a situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

13.3 Bypass

A. For the purposes of this subsection,

1. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility needed for compliance with pretreatment standards.

2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities of a user 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.

B. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director. Where possible, this notice is to be submitted at least ten (10) days before the date of the bypass. Where a ten (10) day prior notice of an anticipated bypass is not possible, prior notice shall be provided to the Director as soon as possible.

C. A user shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass such as the reduction of production, use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under paragraph B. of this subsection.

4. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph D. of this subsection.

13.4 Limitations of Affirmative Defense

This affirmative defense shall bar administrative fines and any other punitive actions from being imposed; however, it shall not preclude the POTW from recovering its or any County municipality's costs caused by the event, including but not limited to repairs and restoration, sampling and analysis, equipment and personnel, and any necessary public notice.

Pursuant to the application of the Rules of the State, the Permittee does not have an affirmative defense for the discharge of pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health or safety problems.

SECTION 14 SURCHARGES, FEES, INTEREST, AND MISCELLANEOUS PROVISIONS

14.1 Surcharges

A. A surcharge rate will be applied to discharges with a measured biochemical oxygen demand ("BOD") concentration in excess of a threshold for extra strength wastewater.

B. A surcharge rate will be applied to discharges with a measured total suspended solids ("TSS") concentration in excess of a threshold for extra strength wastewater.

C. The surcharge cost (surcharge) for paragraph's A. and B. of this subsection will be calculated for a calendar month using the average pollutant concentration in milligrams per liter (mg/L), the surcharge threshold (threshold), the total wastewater flow in million gallons per month (MGM), and the applicable surcharge rate (rate). These factors are applied in a surcharge formula as surcharge = (mg/L - threshold) × MGM × 8.345 × rate).

D. Discharges that are in excess of the BOD or TSS thresholds are not subject to the enforcement actions of the County's Enforcement Response Plan. However, when applicable limits for BOD or TSS are exceeded as identified in subsection 2.4 B., the user's wastewater permit, an order, or the categorical pretreatment standards; the industrial user will be subject to enforcement action in accordance with the County's Enforcement Response Plan and this ordinance. This action is in addition to an appropriate surcharge fee.

E. Upon recommendation of the Director, the Board of Public Works may establish surcharge provisions for accepting other waste fluids, solids, pollutants, or materials.

F. Surcharges provided for under paragraphs A. through D. of this subsection shall be limited in amount to that reasonably estimated as necessary and appropriate to recover the incremental costs of handling such waste fluids, solids, pollutants or materials. The surcharge rates and thresholds shall be annually determined by Board of Public Works, based upon Director's budgeting recommendation.

14.2 Fees

The County may adopt reasonable fees for reimbursement of costs of setting up and operating the County's Pretreatment Program which may include:

A. Fees for wastewater discharge permit applications, including the cost of processing such applications;

B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

C. Fees for reviewing and responding to accidental discharge procedures and construction;

D. Fees for filing appeals; and

E. Other fees as the County may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the County.

14.3 Interest

All users, contractees, and those local units of government participating in the POTW pursuant to Access Rights or Service Agreement shall be assessed interest on any unpaid charges whether for cost of treatment, debt service, monitoring or otherwise, which interest shall commence to accrue on any unpaid balance sixty (60) days after submission of invoice by County, and continue to accrue on any unpaid arrearage at the rate of one (1%) percent per month.

14.4 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

SECTION 15 EFFECTIVE DATE

This ordinance, upon approval by the Muskegon County Board of Public Works and the Muskegon County Board of Commissioners, shall be in full force and effect the day following the notice of adoption is published by the County in accordance with the provisions of MCL 46.11

Unless waived by the Director, users who have an existing discharge permit which does not incorporate the changes from the new Sewer Use Ordinance shall request and obtain from the Director an updated permit, which incorporates those changes, within ninety (90) days after its effective date. Failure to request an updated discharge permit by this date will result in termination of the existing permit, thereby subjecting the user to all applicable fines and penalties under the new Sewer Use Ordinance for discharging wastewater without a permit. Pending the issuance of an updated permit by the Director, the existing permit issued under the previous Sewer Use Ordinance shall remain enforceable.

ATTACHMENT A

U.S. EPA List of Priority Toxic Pollutants

CAS Number	Priority Toxic Pollutant	CAS Number	Priority Toxic Pollutant
83329	Acenaphthene	75003	Chloroethane
208968	Acenaphthylene	110758	Chloroethylvinyl Ether (2-)
107028	Acrolein	67663	Chloroform
107131	Acrylonitrile	91587	Chloronaphthalene (2-)
309002	Aldrin	95578	Chlorophenol (2-)
120127	Anthracene	7005723	Chlorophenyl Phenyl Ether (4-)
7440360	Antimony	16065831	Chromium (III)
7440382	Arsenic	18540299	Chromium (VI)
1332214	Asbestos	218019	Chrysene
71432	Benzene	7440508	Copper
92875	Benzidine	57125	Cyanide
56553	Benzo(a)Anthracene	72548	DDD (4,4'-)
50328	Benzo(a)Pyrene	72559	DDE (4,4'-)
205992	Benzo(b)Fluoranthene	50293	DDT (4,4'-)
191242	Benzo(ghi)Perylene	84742	Di-n-Butyl Phthalate
207089	Benzo(k)Fluoranthene	117840	Di-n-Octyl Phthalate
7440417	Beryllium	53703	Dibenzo(ah)Anthracene
319846	BHC (alpha-)	95501	Dichlorobenzene (1,2-)
319857	BHC (beta-)	541731	Dichlorobenzene (1,3-)
319868	BHC (delta-)	106467	Dichlorobenzene (1,4-)
58899	BHC (gamma-)	91941	Dichlorobenzidine (3,3'-)
111911	Bis(2-Chloroethoxy)Methane	75274	Dichlorobromomethane
111444	Bis(2-Chloroethyl)Ether	75343	Dichloroethane (1,1-)
108601	Bis(2-Chloroisopropyl)Ether	107062	Dichloroethane (1,2-)
117817	Bis(2-Ethylhexyl)Phthalate	75354	Dichloroethylene (1,1-)
75252	Bromoform	156605	Dichloroethylene (trans-1,2-)
101553	Bromophenyl Phenyl Ether (4-)	120832	Dichlorophenol (2,4-)
85687	Butylbenzyl Phthalate	78875	Dichloropropane (1,2-)
7440439	Cadmium	542756	Dichloropropylene (1,3-)
56235	Carbon Tetrachloride	60571	Dieldrin
57749	Chlordane	84662	Diethyl Phthalate
108907	Chlorobenzene	131113	Dimethyl Phthalate

CAS Number	Priority Toxic Pollutant	CAS Number	Priority Toxic Pollutant
124481	Chlorodibromomethane	105679	Dimethylphenol (2,4-)
51285	Dinitrophenol (2,4-)	7440020	Nickel
121142	Dinitrotoluene (2,4-)	98953	Nitrobenzene
606202	Dinitrotoluene (2,6-)	88755	Nitrophenol (2-)
122667	Diphenylhydrazine (1,2-)	100027	Nitrophenol (4-)
959988	Endosulfan (alpha-)	87865	Pentachlorophenol
33213659	Endosulfan (beta-)	85018	Phenanthrene
1031078	Endosulfan Sulfate	108952	Phenol
72208	Endrin	n/a	Polychlorinated biphenyls [PCBs]
7421934	Endrin Aldehyde	12674112	PCB - 1016
100414	Ethylbenzene	11104282	PCB - 1221
206440	Fluoranthene	11141165	PCB - 1232
86737	Fluorene	53469219	PCB - 1242
76448	Heptachlor	12672296	PCB - 1248
1024573	Heptachlor Epoxide	11097691	PCB - 1254
118741	Hexachlorobenzene	11096825	PCB - 1260
87683	Hexachlorobutadiene	129000	Pyrene
77474	Hexachlorocyclopentadiene	7782492	Selenium
67721	Hexachloroethane	7440224	Silver
193395	Indeno(1,2,3-cd)Pyrene	1746016	TCDD (2,3,7,8-) [Dioxin]
78591	Isophorone	79345	Tetrachloroethane (1,1,2,2-)
7439921	Lead	127184	Tetrachloroethylene
7439976	Mercury	7440280	Thallium
74839	Methyl Bromide	108883	Toluene
74873	Methyl Chloride	8001352	Toxaphene
534521	Methyl-4, 6-Dinitrophenol (2-)	120821	Trichlorobenzene (1,2,4-)
59507	Methyl-4-Chlorophenol (3-)	71556	Trichloroethane (1,1,1-)
75092	Methylene Chloride	79005	Trichloroethane (1,1,2-)
621647	N-Nitrosodi-n-Propylamine	79016	Trichloroethylene
62759	N-Nitrosodimethylamine	88062	Trichlorophenol (2,4,6-)
86306	N-Nitrosodiphenylamine	75014	Vinyl Chloride
91203	Naphthalene	7440666	Zinc